

2013-14 NEW YORK STATE EXECUTIVE BUDGET

**HEALTH AND MENTAL HYGIENE
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission
12571-01-3

S. -----
Senate

IN SENATE--Introduced by Sen

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

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

BUDGBI

(Amends various provisions of law
relating to implementing the health
and mental hygiene budget for the
2013-2014 state fiscal year)

BUDGBI. HMH

AN ACT

to amend chapter 59 of the laws of
2011, amending the public health law
and other laws relating to general
hospital reimbursement for annual
rates, in relation to the cap on
local Medicaid expenditures; to
amend the public health law, in
relation to general hospital inpa-
tient reimbursement; to amend the
social services law, in relation to
the medical assistance information
and payment system; to amend the

IN SENATE

Senate introducer's signature

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

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

IN ASSEMBLY

Assembly introducer's signature

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

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

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

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

social services law, in relation to certain contracts entered into by the commissioner of health for the purpose of implementing the Medicaid redesign team initiatives; to amend the public health law, in relation to the preferred drug program; to amend the public health law, in relation to antipsychotic therapeutic drugs; to amend the social services law, in relation to reducing pharmacy reimbursement for name brand drugs; to amend the public health law, in relation to eliminating the summary posting requirement for the pharmacy and therapeutic committee; to amend the social services law, in relation to early refill of prescriptions; to amend the social services law, in relation to authorizing the commissioner of health to implement an incontinence supply utilization management program; to amend the social services law, in relation to certain individual psychotherapy services; to amend the social services law, in relation to the funding of health home infrastructure development; to amend the public health law, in relation to general hospital inpatient reimbursement; to amend the social services law, in relation to managed care programs; to amend section 2 of 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 the effectiveness thereof; to amend the public health law, in relation to rates of payment for residential health care facilities and in relation to rates of reimbursement for inpatient detoxification and withdrawal services; to amend the public health law, in relation to hospital inpatient base years; to amend the public health law, in relation to the Medicaid managed care inpatient psychiatric care default rate; to amend the public health law, in relation to the Medicaid managed care default

rate; to amend the public health law, in relation to moving rate setting for child health plus to the department of health; to amend the social services law and the public health law, in relation to requiring the use of an enrollment broker for counties that are mandated Medicaid managed care and managed long term care; to amend the public health law, in relation to repealing the twentieth day of the month enrollment cut-off for managed long term care enrollees; to amend the public health law, in relation to the nursing home financially disadvantaged program; to amend the public health law, in relation to eliminating the recruitment and retention attestation requirement for certain certified home health agencies; to amend the public health law, in relation to extending the office of the Medicaid inspector general's power to audit rebasing rates; to amend the public health law, in relation to rebasing transition payments; to amend the public health law, in relation to capital cost reimbursement for nursing homes; to amend the public health law, in relation to eliminating the bed hold requirement; to amend the public health law, in relation to authorizing upper payment limits for certain nursing homes; to amend the public health law, in relation to rates for specialty nursing homes; to amend the social services law, in relation to eliminating spousal refusal of medical care; to amend the social services law, in relation to eligibility for Medicaid; to amend the social services law, in relation to treatment of income and resources of institutionalized persons; to amend the public health law, in relation to certain payments for certain home care agencies and services; to amend the social services law, in relation to Medicaid eligibility; to amend subdivision (a) of section 90 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to general hospital inpatient reimbursement, in

relation to the effectiveness thereof; to amend subdivision 1 of section 92 of 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 funds Medicaid expenditures, in relation to the effectiveness thereof; in relation to eliminating the 2013-2014 trend factor and thereafter; to repeal certain provisions of the social services law and the public health law relating to managed care programs; and to repeal certain provisions of the public health law and the social services law relating to the pharmacy and therapeutics committee; providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the public health law, in relation to payments to hospital assessments; to amend part C of chapter 58 of the laws of 2009 amending the public health law relating to payment by governmental agencies for general hospital inpatient services, in relation to the effectiveness of eligibility for medical assistance and the family health plus program; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursements; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend the long term care integration and finance act of 1997, in relation to extending the expiration of operating demonstrations operating a managed long term care plan; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to reimbursements and the effectiveness thereof; to amend the public health law, in relation to capital related inpatient expenses;

to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to rates of payment by state governmental agencies and the effectiveness of certain provisions of such chapter; to amend the social services law, in relation to reports on chronic illness demonstration projects; to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to extending the effectiveness of certain provisions thereof; to amend the public health law, in relation to rates of payment for long term home health care programs; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness of certain provisions thereof; to amend chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings and chapter 582 of the laws of 1984, amending the public health law relating to regulating activities of physicians, in relation to making such provisions permanent; to amend the public health law, in relation to extending a demonstration program for physicians suffering from alcoholism, drug abuse or mental illness; to amend part X2 of chapter 62 of the laws of 2003 amending the public health law relating to allowing the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness of certain provisions thereof; to repeal subdivision 8 of section 364-1 of the social services law relating thereto; to repeal certain provisions of chapter 81 of

the laws of 1995 amending the public health law and other laws relating to medical reimbursement and welfare relating to the effectiveness thereof (Part B); to amend the public health law, in relation to indigent care (Part C); to amend the social services law, in relation to eligibility conditions; to amend the social services law, in relation to permitting online and telephone Medicaid applications; to amend the social services law, in relation to allowing administrative renewals and self-attestation of residency; to amend the social services law, in relation to ending applications for family health plus; to amend the social services law, in relation to modified adjusted gross income and Medicaid eligibility groups; to amend the public health law, in relation to establishing methodology for modified adjusted gross income; to amend the public health law, in relation to centralizing child health plus eligibility determinations; to amend the public health law, in relation to requiring audit standards for eligibility; to amend the public health law, in relation to residency and income attestation and verification for child health plus; to amend the public health law, in relation to eliminating temporary enrollment in child health plus; to amend the public health law, in relation to expanding the child health plus social security number requirement to lawfully residing children; to amend the public health law, in relation to modified adjusted gross income under child health plus; to amend the public health law, in relation to personal interviews under child health plus; to amend the social services law, in relation to amendment of contracts awarded by the commissioner of health; to amend the insurance law, in relation to clarifying the identity of persons to whom insurance licensing requirements apply; to amend the insurance law, in relation to coverage limitations requirements and student acci-

dent and health insurance; to amend the insurance law, in relation to standardization of individual enrollee direct payment contracts; to amend the insurance law, in relation to ensuring that group and individual insurance policy provisions conform to applicable requirements of federal law and to make conforming changes; to repeal sections 369-ee and 369-ff of the social services law, relating to the family health plus program; to repeal certain other provisions of the social services law relating thereto; to repeal certain provisions of the insurance law relating thereto; providing for the repeal of certain provisions upon expiration thereof (Part D); to amend the public health law and the insurance law, in relation to the early intervention program for infants and toddlers with disabilities and their families; to amend the public health law, in relation to the general public health work program; to amend chapter 577 of the laws of 2008 amending the public health law, relating to expedited partner therapy for persons infected with chlamydia trachomatis, in relation to the effectiveness of such chapter; to amend the public health law, in relation to outcome based contracting and outcome based health planning; to amend the public health law, the mental hygiene law and the executive law, in relation to consolidating the excess medical malpractice liability coverage pool; to amend the insurance law, in relation to the appointment of members of the board of the New York state health foundation and the investment of funds; to amend the insurance law and the general municipal law, in relation to malpractice and professional misconduct; to amend the administrative code of the city of New York, in relation to the definition of a certified first responder; to amend the workers' compensation law, in relation to an injury incurred by an emergency medical technician; to amend the

education law and the state finance law, in relation to medical malpractice reform; and to repeal sections 3002, 3002-a, 3003-a, 3005-b, 3009, 3017 and articles 30-B and 30-C of the public health law relating to emergency medical services; to amend chapter 420 of the laws of 2002 amending the education law relating to the profession of social work; chapter 676 of the laws of 2002 amending the education law relating to the practice of psychology; and chapter 130 of the laws of 2010 amending the education law and other laws relating to the registration of entities providing certain professional services and the licensure of certain professions, in relation to reporting requirements and expiration dates; and to amend the public health law, in relation to consolidating the excess medical malpractice liability coverage pool; and to repeal section 18 of chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to medical and dental malpractice, relating thereto; to repeal certain provisions of the public health law relating to state aid for certain public health programs and provisions relating to sexually transmitted diseases (Part E); to amend the mental hygiene law, in relation to the addition to the methadone registry of dosage and such other information as is necessary to facilitate disaster management (Part F); to amend the mental hygiene law, in relation to state aid funding authorization of services funded by the office of alcoholism and substance abuse services; to repeal article 26 of such law relating thereto (Part G); to amend the mental hygiene law and chapter 56 of the laws of 2012, amending the mental hygiene law relating to the closure and the reduction in size of certain facilities serving persons with mental illness, in relation to references to certain former children's psychiatric centers in the city of New York, and in relation to the expira-

tion and repeal of certain provisions thereof; to authorize the office of mental health to close, consolidate, reduce, transfer and otherwise redesign its programs; to amend chapter 62 of the laws of 2003, amending the mental hygiene law and the state finance law relating to the community mental health support and workforce reinvestment program, the membership of subcommittees for mental health of community services boards and the duties of such subcommittees and creating the community mental health and workforce reinvestment account, in relation to extending such provisions relating thereto (Part H); to amend the mental hygiene law, in relation to the recovery of exempt income by the office of mental health for community residential programs (Part I); to amend the mental hygiene law, in relation to vesting all authority to appoint and remove officers and employees of the office of mental health (Part J); to amend the mental hygiene law, in relation to an annual examination and notice of rights provided to respondent sex offenders who are confined in a secure treatment facility (Part K); to amend the mental hygiene law and the education law, in relation to creating mental health incident review panels (Part L); to repeal certain provisions of the mental hygiene law and certain provisions of chapter 723 of the laws of 1989, amending the mental hygiene law and other laws relating to the establishment of comprehensive psychiatric emergency programs, relating to eliminating the annual reports on the comprehensive psychiatric emergency program; family care; and the confinement, care and treatment of persons with developmental disabilities (Part M); and to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to foregoing such adjustment during the 2013-2014 state fiscal year (Part N)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2013-2014
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through N. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Subdivision (a) of section 90 of part H of chapter 59 of
14 the laws of 2011, amending the public health law and other laws, relat-
15 ing to general hospital inpatient reimbursement for annual rates, is
16 amended to read as follows:

17 (a) Notwithstanding any other provision of law to the contrary, for
18 the state fiscal years beginning April 1, 2011 and ending on March 31,
19 [2013] 2015, all Medicaid payments made for services provided on and
20 after April 1, 2011, shall, except as hereinafter provided, be subject
21 to a uniform two percent reduction and such reduction shall be applied,
22 to the extent practicable, in equal amounts during the fiscal year,
23 provided, however, that an alternative method may be considered at the
24 discretion of the commissioner of health and the director of the budget
25 based upon consultation with the health care industry including but not
26 limited to, a uniform reduction in Medicaid rates of payments or other

1 reductions provided that any method selected achieves up to \$345,000,000
2 in Medicaid state share savings in state fiscal year 2011-12 and up to
3 \$357,000,000 annually in state fiscal [year] years 2012-13, 2013-14 and
4 2014-15 except as hereinafter provided, for services provided on and
5 after April 1, 2011 through March 31, [2013] 2015. Any alternative
6 methods to achieve the reduction must be provided in writing and shall
7 be filed with the senate finance committee and the assembly ways and
8 means committee not less than thirty days before the date on which
9 implementation is expected to begin. Nothing in this section shall be
10 deemed to prevent all or part of such alternative reduction plan from
11 taking effect retroactively, to the extent permitted by the federal
12 centers for medicare and medicaid services.

13 § 2. Subdivision 1 of section 91 of part H of chapter 59 of the laws
14 of 2011, amending the public health law and other laws relating to
15 general hospital reimbursement for annual rates, as amended by section 5
16 of part F of chapter 56 of the laws of 2012, is amended to read as
17 follows:

18 1. Notwithstanding any inconsistent provision of state law, rule or
19 regulation to the contrary, subject to federal approval, the year to
20 year rate of growth of department of health state funds Medicaid spend-
21 ing shall not exceed the ten year rolling average of the medical compo-
22 nent of the consumer price index as published by the United States
23 department of labor, bureau of labor statistics, for the preceding ten
24 years[.]; provided, however, that for state fiscal year 2013-14 and for
25 each fiscal year thereafter, the maximum allowable annual increase in
26 the amount of department of health state funds Medicaid spending shall
27 be calculated by multiplying the department of health state funds Medi-
28 caid spending for the previous year, minus the amount of any department

1 of health state operations spending included therein, by such ten year
2 rolling average.

3 § 3. Subdivision 1 of section 92 of part H of chapter 59 of the laws
4 of 2011, amending the public health law and other laws relating to known
5 and projected department of health state funds Medicaid expenditures, as
6 amended by section 57 of part D of chapter 56 of the laws of 2012, is
7 amended to read as follows:

8 1. For state fiscal years 2011-12 through [2013-14] 2014-2015, the
9 director of the budget, in consultation with the commissioner of health
10 referenced as "commissioner" for purposes of this section, shall assess
11 on a monthly basis, as reflected in monthly reports pursuant to subdivi-
12 sion five of this section known and projected department of health state
13 funds medicaid expenditures by category of service and by geographic
14 regions, as defined by the commissioner, and if the director of the
15 budget determines that such expenditures are expected to cause medicaid
16 disbursements for such period to exceed the projected department of
17 health medicaid state funds disbursements in the enacted budget finan-
18 cial plan pursuant to subdivision 3 of section 23 of the state finance
19 law, the commissioner of health, in consultation with the director of
20 the budget, shall develop a medicaid savings allocation plan to limit
21 such spending to the aggregate limit level specified in the enacted
22 budget financial plan, provided, however, such projections may be
23 adjusted by the director of the budget to account for any changes in the
24 New York state federal medical assistance percentage amount established
25 pursuant to the federal social security act, changes in provider reven-
26 ues, reductions to local social services district medical assistance
27 administration, and beginning April 1, 2012 the operational costs of the
28 New York state medical indemnity fund.

1 § 4. Subdivision 10 of section 2807-c of the public health law is
2 amended by adding a new paragraph (d) to read as follows:

3 (d)(i) Notwithstanding any inconsistent provision of this section or
4 any other contrary provision of law and subject to the availability of
5 federal financial participation, effective for Medicaid rate periods on
6 and after April first, two thousand thirteen, no trend factor adjust-
7 ments shall be available with regard to reimbursement for inpatient
8 services otherwise subject to the provisions of this section.

9 (ii) Notwithstanding any inconsistent provision of this section,
10 section twenty-one of chapter one of the laws of nineteen hundred nine-
11 ty-nine, or any other contrary provision of law and subject to the
12 availability of federal financial participation, effective for Medicaid
13 rate periods on and after April first, two thousand thirteen, no trend
14 factor adjustments shall be available with regard to reimbursement for
15 the following:

16 (A) residential health care facility inpatient services and adult day
17 health care outpatient services provided pursuant to this article;

18 (B) hospital outpatient services and diagnostic and treatment center
19 services provided pursuant to this article, except as required by feder-
20 al law with regard to services reimbursed pursuant to subdivision eight
21 of section twenty-eight hundred seven of this article;

22 (C) certified home health agencies and long term home health care
23 programs pursuant to section thirty-six hundred fourteen of this chap-
24 ter;

25 (D) personal care services provided pursuant to section three hundred
26 sixty-seven-i of the social services law;

27 (E) adult day health care services provided to patients diagnosed with
28 AIDS as defined by applicable regulations;

1 (F) personal care services provided in those local social services
2 districts, including New York city, whose rates of payment for such
3 services are established by such local social services districts pursu-
4 ant to a rate-setting exemption issued by the commissioner to such local
5 social services districts in accordance with applicable regulations;
6 (G) assisted living program services; and
7 (H) hospice services.

8 § 5. Paragraph (a) of subdivision 8 of section 367-b of the social
9 services law, as amended by chapter 109 of the laws of 2007, is amended
10 to read as follows:

11 (a) For the purpose of orderly and timely implementation of the
12 medical assistance information and payment system, the department is
13 hereby authorized to enter into agreements with fiscal intermediaries or
14 fiscal agents for the design, development, implementation, operation,
15 processing, auditing and making of payments, subject to audits being
16 conducted by the state in accordance with the terms of such agreements,
17 for medical assistance claims under the system described by this section
18 in any social services district. Such agreements shall specifically
19 provide that the state shall have complete oversight responsibility for
20 the fiscal intermediaries' or fiscal agents' performance and shall be
21 solely responsible for establishing eligibility requirements for recipi-
22 ents, provider qualifications, rates of payment, investigation of
23 suspected fraud and abuse, issuance of identification cards, establish-
24 ing and maintaining recipient eligibility files, provider profiles, and
25 conducting state audits of the fiscal intermediaries' or agents' at
26 least once annually. The system described in this subdivision shall be
27 operated by [a] one or more fiscal [intermediary] intermediaries or
28 fiscal [agent] agents in accordance with this subdivision unless the

1 department is otherwise authorized by a law enacted subsequent to the
2 effective date of this subdivision to operate the system in another
3 manner. In no event shall such intermediary or agent be a political
4 subdivision of the state or any other governmental agency or entity.
5 Notwithstanding the foregoing, the department may make payments to a
6 provider upon the commissioner's determination that the provider is
7 temporarily unable to comply with billing requirements. The department
8 shall consult with the office of Medicaid inspector general regarding
9 any activities undertaken by the fiscal intermediaries or fiscal agents
10 regarding investigation of suspected fraud and abuse.

11 § 6. Section 365-1 of the social services law is amended by adding a
12 new subdivision 9 to read as follows:

13 9. Any contract or contracts entered into by the commissioner of
14 health prior to January first, two thousand thirteen pursuant to subdi-
15 vision eight of this section may be amended or modified without the need
16 for a competitive bid or request for proposal process, and without
17 regard to the provisions of sections one hundred twelve and one hundred
18 sixty-three of the state finance law, section one hundred forty-two of
19 the economic development law, or any other provision of law, to allow
20 the purchase of additional personnel and services, subject to available
21 funding, for the purpose of implementing Medicaid Redesign Team initi-
22 atives, including those related to managed care, managed long term care,
23 medical assistance waivers, and the medical assistance global spending
24 cap.

25 § 7. Section 368-d of the social services law is amended by adding a
26 new subdivision 7 to read as follows:

27 7. Any contract or contracts entered into by the commissioner of
28 health prior to January first, two thousand thirteen pursuant to subdi-

1 vision five of this section or subdivision four of section three hundred
2 sixty-eight-e of this title may be amended or modified without the need
3 for a competitive bid or request for proposal process, and without
4 regard to the provisions of sections one hundred twelve and one hundred
5 sixty-three of the state finance law, section one hundred forty-two of
6 the economic development law, or any other provision of law, to allow
7 the purchase of additional personnel and services, subject to available
8 funding, for the purpose of implementing Medicaid Redesign Team initi-
9 atives, including those related to managed care, managed long term care,
10 medical assistance waivers, and the medical assistance global spending
11 cap.

12 § 8. Intentionally Omitted

13 § 9. Intentionally Omitted

14 § 10. Subdivision 25 of section 364-j of the social services law is
15 REPEALED.

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

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

1 § 12. Paragraph (g-1) of subdivision 2 of section 365-a of the social
2 services law, as amended by section 23 of part H of chapter 59 of the
3 laws of 2011, is amended to read as follows:

4 (g-1) drugs provided on an in-patient basis, those drugs contained on
5 the list established by regulation of the commissioner of health pursu-
6 ant to subdivision four of this section, and those drugs which may not
7 be dispensed without a prescription as required by section sixty-eight
8 hundred ten of the education law and which the commissioner of health
9 shall determine to be reimbursable based upon such factors as the avail-
10 ability of such drugs or alternatives at low cost if purchased by a
11 medicaid recipient, or the essential nature of such drugs as described
12 by such commissioner in regulations, provided, however, that such drugs,
13 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
14 ties no greater than a thirty day supply or one hundred doses, whichever
15 is greater; provided further that the commissioner of health is author-
16 ized to require prior authorization for any refill of a prescription
17 when [less than seventy-five percent of the previously dispensed amount
18 per fill should have been used] more than a six day supply of the previ-
19 ously dispensed amount should remain were the product used as normally
20 indicated; provided further that the commissioner of health is author-
21 ized to require prior authorization of prescriptions of opioid analges-
22 ics in excess of four prescriptions in a thirty-day period in accordance
23 with section two hundred seventy-three of the public health law, except
24 that prior authorization may be denied if the department of health,
25 after giving the prescriber a reasonable opportunity to present a justi-
26 fication, determines that the additional prescription is not medically
27 necessary; medical assistance shall not include any drug provided on
28 other than an in-patient basis for which a recipient is charged or a

1 claim is made in the case of a prescription drug, in excess of the maxi-
2 mum reimbursable amounts to be established by department regulations in
3 accordance with standards established by the secretary of the United
4 States department of health and human services, or, in the case of a
5 drug not requiring a prescription, in excess of the maximum reimbursable
6 amount established by the commissioner of health pursuant to paragraph
7 (a) of subdivision four of this section;

8 § 13. Subparagraph (ii) of paragraph (b) of subdivision 9 of section
9 367-a of the social services law, as amended by section 10 of part H of
10 chapter 59 of the laws of 2011, is amended to read as follows:

11 (ii) if the drug dispensed is a multiple source prescription drug or a
12 brand-name prescription drug for which no specific upper limit has been
13 set by such federal agency, the lower of the estimated acquisition cost
14 of such drug to pharmacies, the average acquisition cost if available or
15 the dispensing pharmacy's usual and customary price charged to the
16 general public. For sole and multiple source brand name drugs, estimated
17 acquisition cost means the average wholesale price of a prescription
18 drug based upon the package size dispensed from, as reported by the
19 prescription drug pricing service used by the department, less seventeen
20 and six-tenths percent thereof or the wholesale acquisition cost of a
21 prescription drug based upon package size dispensed from, as reported by
22 the prescription drug pricing service used by the department, minus zero
23 and forty-one hundredths percent thereof, and updated monthly by the
24 department. For multiple source generic drugs, estimated acquisition
25 cost means the lower of the average acquisition cost, the average whole-
26 sale price of a prescription drug based on the package size dispensed
27 from, as reported by the prescription drug pricing service used by the

1 department, less twenty-five percent thereof, or the maximum acquisition
2 cost, if any, established pursuant to paragraph (e) of this subdivision.

3 § 14. Section 271 of the public health law is REPEALED.

4 § 15. Subdivision 3 of section 270 of the public health law is
5 REPEALED, subdivision 2 is renumbered subdivision 3 and a new subdivi-
6 sion 2 is added to read as follows:

7 2. "Board" shall mean the drug utilization review board.

8 § 16. Section 272 of the public health law, as added by section 10 of
9 part C of chapter 58 of the laws of 2005, subdivision 4 as amended by
10 section 30 of part A of chapter 58 of the laws of 2008, subdivision 8 as
11 amended by section 5 of part B of chapter 109 of the laws of 2010, para-
12 graph (d) of subdivision 10 as added by section 17 of part H of chapter
13 59 of the laws of 2011, subdivision 11 as amended by section 36 of part
14 C of chapter 58 of the laws of 2009, paragraph (b) of subdivision 11 as
15 amended by section 9 of part H of chapter 59 of the laws of 2011, is
16 amended to read as follows:

17 § 272. Preferred drug program. 1. There is hereby established a
18 preferred drug program to promote access to the most effective
19 prescription drugs while reducing the cost of prescription drugs for
20 persons in state public health plans.

21 2. When a prescriber prescribes a non-preferred drug, state public
22 health plan reimbursement shall be denied unless prior authorization is
23 obtained, unless no prior authorization is required under this article.

24 3. The commissioner shall establish performance standards for the
25 program that, at a minimum, ensure that the preferred drug program and
26 the clinical drug review program provide sufficient technical support
27 and timely responses to consumers, prescribers and pharmacists.

1 4. Notwithstanding any other provision of law to the contrary, no
2 preferred drug program or prior authorization requirement for
3 prescription drugs, except as created by this article, paragraph (a-1)
4 or (a-2) of subdivision four of section three hundred sixty-five-a of
5 the social services law, paragraph (g) of subdivision two of section
6 three hundred sixty-five-a of the social services law, subdivision one
7 of section two hundred forty-one of the elder law and shall apply to the
8 state public health plans.

9 5. The [pharmacy and therapeutics committee] drug utilization review
10 board shall consider and make recommendations to the commissioner for
11 the adoption of a preferred drug program. (a) In developing the
12 preferred drug program, the [committee] board shall, without limitation:
13 (i) identify therapeutic classes or drugs to be included in the
14 preferred drug program; (ii) identify preferred drugs in each of the
15 chosen therapeutic classes; (iii) evaluate the clinical effectiveness
16 and safety of drugs considering the latest peer-reviewed research and
17 may consider studies submitted to the federal food and drug adminis-
18 tration in connection with its drug approval system; (iv) consider the
19 potential impact on patient care and the potential fiscal impact that
20 may result from making such a therapeutic class subject to prior author-
21 ization; and (v) consider the potential impact of the preferred drug
22 program on the health of special populations such as children, the
23 elderly, the chronically ill, persons with HIV/AIDS and persons with
24 mental health conditions.

25 (b) In developing the preferred drug program, the [committee] board
26 may consider preferred drug programs or evidence based research operated
27 or conducted by or for other state governments, the federal government,
28 or multi-state coalitions. Notwithstanding any inconsistent provision of

1 section one hundred twelve or article eleven of the state finance law or
2 section one hundred forty-two of the economic development law or any
3 other law, the department may enter into contractual agreements with the
4 Oregon Health and Science University Drug Effectiveness Review Project
5 to provide technical and clinical support to the [committee] board and
6 the department in researching and recommending drugs to be placed on the
7 preferred drug list.

8 (c) The [committee] board shall from time to time review all therapeu-
9 tic classes included in the preferred drug program, and may recommend
10 that the commissioner add or delete drugs or classes of drugs to or from
11 the preferred drug program, subject to this subdivision.

12 (d) The [committee] board shall establish procedures to promptly
13 review prescription drugs newly approved by the federal food and drug
14 administration.

15 6. The [committee] board shall recommend a procedure and criteria for
16 the approval of non-preferred drugs as part of the prior authorization
17 process. In developing these criteria, the [committee] board shall
18 include consideration of the following:

19 (a) the preferred drug has been tried by the patient and has failed to
20 produce the desired health outcomes;

21 (b) the patient has tried the preferred drug and has experienced unac-
22 ceptable side effects;

23 (c) the patient has been stabilized on a non-preferred drug and tran-
24 sition to the preferred drug would be medically contraindicated; and

25 (d) other clinical indications for the use of the non-preferred drug,
26 which shall include consideration of the medical needs of special popu-
27 lations, including children, the elderly, the chronically ill, persons
28 with mental health conditions, and persons affected by HIV/AIDS.

1 7. The commissioner shall provide thirty days public notice on the
2 department's website prior to any meeting of the [committee] board to
3 develop recommendations concerning the preferred drug program. Such
4 notice regarding meetings of the [committee] board shall include a
5 description of the proposed therapeutic class to be reviewed, a listing
6 of drug products in the therapeutic class, and the proposals to be
7 considered by the [committee] board. The [committee] board shall allow
8 interested parties a reasonable opportunity to make an oral presentation
9 to the [committee] board related to the prior authorization of the ther-
10 apeutic class to be reviewed. The [committee] board shall consider any
11 information provided by any interested party, including, but not limited
12 to, prescribers, dispensers, patients, consumers and manufacturers of
13 the drug in developing their recommendations.

14 8. The commissioner shall provide notice of any recommendations devel-
15 oped by the [committee] board regarding the preferred drug program, at
16 least five days before any final determination by the commissioner, by
17 making such information available on the department's website. Such
18 public notice [shall] may include: a summary of the deliberations of the
19 [committee] board; a summary of the positions of those making public
20 comments at meetings of the [committee] board; the response of the
21 [committee] board to those comments, if any; and the findings and recom-
22 mendations of the [committee] board. Alternatively, the commissioner
23 may provide such notice of the board's recommendations by making a video
24 or audio of the board's meetings available on the department's website
25 at least five days before any final determination by the commissioner.

26 9. Within ten days of a final determination regarding the preferred
27 drug program, the commissioner shall provide public notice on the
28 department's website of such determinations, including: the nature of

1 the determination; and analysis of the impact of the commissioner's
2 determination on state public health plan populations and providers; and
3 the projected fiscal impact to the state public health plan programs of
4 the commissioner's determination.

5 10. The commissioner shall adopt a preferred drug program and amend-
6 ments after considering the recommendations from the [committee] board
7 and any comments received from prescribers, dispensers, patients,
8 consumers and manufacturers of the drug.

9 (a) The preferred drug list in any therapeutic class included in the
10 preferred drug program shall be developed based initially on an evalu-
11 ation of the clinical effectiveness, safety and patient outcomes,
12 followed by consideration of the cost-effectiveness of the drugs.

13 (b) In each therapeutic class included in the preferred drug program,
14 the [committee] board shall determine whether there is one drug which is
15 significantly more clinically effective and safe, and that drug shall be
16 included on the preferred drug list without consideration of cost. If,
17 among two or more drugs in a therapeutic class, the difference in clin-
18 ical effectiveness and safety is not clinically significant, then cost
19 effectiveness (including price and supplemental rebates) may also be
20 considered in determining which drug or drugs shall be included on the
21 preferred drug list.

22 (c) In addition to drugs selected under paragraph (b) of this subdivi-
23 sion, any prescription drug in the therapeutic class, whose cost to the
24 state public health plans (including net price and supplemental rebates)
25 is equal to or less than the cost of another drug in the therapeutic
26 class that is on the preferred drug list under paragraph (b) of this
27 subdivision, may be selected to be on the preferred drug list, based on
28 clinical effectiveness, safety and cost-effectiveness.

1 (d) Notwithstanding any provision of this section to the contrary, the
2 commissioner may designate therapeutic classes of drugs, including
3 classes with only one drug, as all preferred prior to any review that
4 may be conducted by the [committee] board pursuant to this section.

5 11. (a) The commissioner shall provide an opportunity for pharmaceu-
6 tical manufacturers to provide supplemental rebates to the state public
7 health plans for drugs within a therapeutic class; such supplemental
8 rebates shall be taken into consideration by the [committee] board and
9 the commissioner in determining the cost-effectiveness of drugs within a
10 therapeutic class under the state public health plans.

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

18 (b) The commissioner may designate a pharmaceutical manufacturer as
19 one with whom the commissioner is negotiating or has negotiated a
20 manufacturer agreement, and all of the drugs it manufactures or markets
21 shall be included in the preferred drug program. The commissioner may
22 negotiate directly with a pharmaceutical manufacturer for rebates relat-
23 ing to any or all of the drugs it manufactures or markets. A manufactur-
24 er agreement shall designate any or all of the drugs manufactured or
25 marketed by the pharmaceutical manufacturer as being preferred or non
26 preferred drugs. When a pharmaceutical manufacturer has been designated
27 by the commissioner under this paragraph but the commissioner has not
28 reached a manufacturer agreement with the pharmaceutical manufacturer,

1 then the commissioner may designate some or all of the drugs manufac-
2 tured or marketed by the pharmaceutical manufacturer as non preferred
3 drugs. However, notwithstanding this paragraph, any drug that is
4 selected to be on the preferred drug list under paragraph (b) of subdi-
5 vision ten of this section on grounds that it is significantly more
6 clinically effective and safer than other drugs in its therapeutic class
7 shall be a preferred drug.

8 (c) Supplemental rebates under this subdivision shall be in addition
9 to those required by applicable federal law and subdivision seven of
10 section three hundred sixty-seven-a of the social services law. In order
11 to be considered in connection with the preferred drug program, such
12 supplemental rebates shall apply to the drug products dispensed under
13 the Medicaid program and the EPIC program. The commissioner is prohibit-
14 ed from approving alternative rebate demonstrations, value added
15 programs or guaranteed savings from other program benefits as a substi-
16 tution for supplemental rebates.

17 13. The commissioner may implement all or a portion of the preferred
18 drug program through contracts with administrators with expertise in
19 management of pharmacy services, subject to applicable laws.

20 14. For a period of eighteen months, commencing with the date of
21 enactment of this article, and without regard to the preferred drug
22 program or the clinical drug review program requirements of this arti-
23 cle, the commissioner is authorized to implement, or continue, a prior
24 authorization requirement for a drug which may not be dispensed without
25 a prescription as required by section sixty-eight hundred ten of the
26 education law, for which there is a non-prescription version within the
27 same drug class, or for which there is a comparable non-prescription
28 version of the same drug. Any such prior authorization requirement shall

1 be implemented in a manner that is consistent with the process employed
2 by the commissioner for such authorizations as of one day prior to the
3 date of enactment of this article. At the conclusion of the eighteen
4 month period, any such drug or drug class shall be subject to the
5 preferred drug program requirements of this article; provided, however,
6 that the commissioner is authorized to immediately subject any such drug
7 to prior authorization without regard to the provisions of subdivisions
8 five through eleven of this section.

9 § 17. Subdivisions 4, 5 and 6 of section 274 of the public health law,
10 as added by section 10 of part C of chapter 58 of the laws of 2005, are
11 amended to read as follows:

12 4. The commissioner shall obtain an evaluation of the factors set
13 forth in subdivision three of this section and a recommendation as to
14 the establishment of a prior authorization requirement for a drug under
15 the clinical drug review program from the [pharmacy and therapeutics
16 committee] drug utilization review board. For this purpose, the commis-
17 sioner and the [committee] board, as applicable, shall comply with the
18 following meeting and notice processes established by this article:

19 (a) the open meetings law and freedom of information law provisions of
20 subdivision six of section two hundred seventy-one of this article; and

21 (b) the public notice and interested party provisions of subdivisions
22 seven, eight and nine of section two hundred seventy-two of this arti-
23 cle.

24 5. The [committee] board shall recommend a procedure and criteria for
25 the approval of drugs subject to prior authorization under the clinical
26 drug review program. Such criteria shall include the specific approved
27 clinical indications for use of the drug.

1 6. The commissioner shall identify a drug for which prior authori-
2 zation is required, as well as the procedures and criteria for approval
3 of use of the drug, under the clinical drug review program after consid-
4 ering the recommendations from the [committee] board and any comments
5 received from prescribers, dispensers, consumers and manufacturers of
6 the drug. In no event shall the prior authorization criteria for
7 approval pursuant to this subdivision result in denial of the prior
8 authorization request based on the relative cost of the drug subject to
9 prior authorization.

10 § 18. Section 277 of the public health law, as added by section 10 of
11 part C of chapter 58 of the laws of 2005, is amended to read as follows:

12 § 277. Review and reports. 1. The commissioner, in consultation with
13 the [pharmacy and therapeutics committee] drug utilization review board,
14 shall undertake periodic reviews, at least annually, of the preferred
15 drug program which shall include consideration of:

16 (a) the volume of prior authorizations being handled, including data
17 on the number and characteristics of prior authorization requests for
18 particular prescription drugs;

19 (b) the quality of the program's responsiveness, including the quality
20 of the administrator's responsiveness;

21 (c) complaints received from patients and providers;

22 (d) the savings attributable to the state, and to each county and the
23 city of New York, due to the provisions of this article;

24 (e) the aggregate amount of supplemental rebates received in the
25 previous fiscal year and in the current fiscal year, to date; and such
26 amounts are to be broken out by fiscal year and by month;

27 (f) the education and outreach program established by section two
28 hundred seventy-six of this article.

1 2. The commissioner and the [panel] board shall, beginning March thir-
2 ty-first, two thousand six and annually thereafter, submit a report to
3 the governor and the legislature concerning each of the items subject to
4 periodic review under subdivision one of this section.

5 3. The commissioner and the [panel] board shall, beginning with the
6 commencement of the preferred drug program and monthly thereafter,
7 submit a report to the governor and the legislature concerning the
8 amount of supplemental rebates received.

9 § 19. Subdivision 5 of section 369-bb of the social services law is
10 REPEALED and a new subdivision 5 is added to read as follows:

11 5. (a) The functions, powers and duties of the former pharmacy and
12 therapeutics committee as established in article two-A of the public
13 health law shall now be considered a function of the drug utilization
14 review board, including but not limited to:

15 (i) conducting an executive session for the purpose of receiving and
16 evaluating drug pricing information related to supplemental rebates, or
17 receiving and evaluating trade secrets, or other information which, if
18 disclosed, would cause substantial injury to the competitive position of
19 the manufacturer; and

20 (ii) evaluating and providing recommendations to the commissioner of
21 health on other issues relating to pharmacy services under Medicaid or
22 EPIC, including, but not limited to: therapeutic comparisons; enhanced
23 use of generic drug products; enhanced targeting of physician prescrib-
24 ing patterns; and

25 (iii) collaborating with managed care organizations to address drug
26 utilization concerns and to implement consistent management strategies
27 across the fee-for-service and managed care pharmacy benefits.

1 (b) Any business or other matter undertaken or commenced by the phar-
2 macy and therapeutics committee pertaining to or connected with the
3 functions, powers, obligations and duties are hereby transferred and
4 assigned to the drug utilization review board and pending on the effec-
5 tive date of this subdivision, may be conducted and completed by the
6 drug utilization review board in the same manner and under the same
7 terms and conditions and with the same effect as if conducted and
8 completed by the pharmacy and therapeutics committee. All books, papers,
9 and property of the pharmacy and therapeutics committee shall continue
10 to be maintained by the drug utilization review board.

11 (c) All rules, regulations, acts, orders, determinations, and deci-
12 sions of the pharmacy and therapeutics committee pertaining to the func-
13 tions and powers herein transferred and assigned, in force at the time
14 of such transfer and assumption, shall continue in full force and effect
15 as rules, regulations, acts, orders, determinations and decisions of the
16 drug utilization review board until duly modified or abrogated by the
17 commissioner of health.

18 § 20. Subdivision 2 of section 369-bb of the social services law, as
19 added by chapter 632 of the laws of 1992, paragraph (a) as amended by
20 chapter 843 of the laws of 1992, is amended to read as follows:

21 2. The members of the DUR board shall be appointed by the commissioner
22 and shall serve a three-year term. Members may be reappointed upon the
23 completion of other terms. The membership shall be comprised of the
24 following:

25 (a) [Five] Six persons licensed and actively engaged in the practice
26 of medicine in the state, [at least one of whom shall have expertise in
27 the area of mental health, who shall be selected from a list of nominees
28 provided by the medical society of the state of New York and other

1 medical associations] with expertise in the areas of mental health,
2 HIV/AIDS, geriatrics, pediatrics or internal medicine and who may be
3 selected based on input from professional associations and/or advocacy
4 groups in New York state.

5 (b) [Five] Six persons licensed and actively practicing in [community]
6 pharmacy in the state who [shall] may be selected [from a list of nomi-
7 nees provided by pharmaceutical societies/associations of] based on
8 input from professional associations and/or advocacy groups in New York
9 state.

10 (c) Two persons with expertise in drug utilization review who are
11 [either] health care professionals licensed under Title VIII of the
12 education law [or who are pharmacologists] at least one of whom is a
13 pharmacologist.

14 (d) [One person from the department of social services (commissioner
15 or designee).] Two persons that are consumers or consumer represen-
16 tatives of organizations with a regional or statewide constituency and
17 who have been involved in activities related to health care consumer
18 advocacy, including issues affecting Medicaid or EPIC recipients.

19 (e) One person licensed and actively practicing as a nurse practition-
20 er or midwife.

21 (f) The commissioner shall designate a person from the department to
22 serve as chairperson of the board.

23 § 21. Paragraph (g) of subdivision 2 of section 365-a of the social
24 services law, as amended by section 7 of part D of chapter 56 of the
25 laws of 2012, is amended to read as follows:

26 (g) sickroom supplies, eyeglasses, prosthetic appliances and dental
27 prosthetic appliances furnished in accordance with the regulations of
28 the department; provided further that: (i) the commissioner of health is

1 authorized to implement a preferred diabetic supply program wherein the
2 department of health will receive enhanced rebates from preferred
3 manufacturers of glucometers and test strips, and may subject non-pre-
4 ferred manufacturers' glucometers and test strips to prior authorization
5 under section two hundred seventy-three of the public health law; (ii)
6 enteral formula therapy and nutritional supplements are limited to
7 coverage only for nasogastric, jejunostomy, or gastrostomy tube feeding,
8 for treatment of an inborn metabolic disorder, or to address growth and
9 development problems in children, or, subject to standards established
10 by the commissioner, for persons with a diagnosis of HIV infection, AIDS
11 or HIV-related illness or other diseases and conditions; (iii)
12 prescription footwear and inserts are limited to coverage only when used
13 as an integral part of a lower limb orthotic appliance, as part of a
14 diabetic treatment plan, or to address growth and development problems
15 in children; [and] (iv) compression and support stockings are limited to
16 coverage only for pregnancy or treatment of venous stasis ulcers; and
17 (v) the commissioner of health is authorized to implement an inconti-
18 nence supply utilization management program to reduce costs without
19 limiting access through the existing provider network, including but not
20 limited to single or multiple source contracts or, a preferred inconti-
21 nence supply program wherein the department of health will receive
22 enhanced rebates from preferred manufacturers of incontinence supplies,
23 and may subject non-preferred manufacturers' incontinence supplies to
24 prior approval pursuant to regulations of the department, provided any
25 necessary approvals under federal law have been obtained to receive
26 federal financial participation in the costs of incontinence supplies
27 provided pursuant to this subparagraph;

1 § 22. Subdivision 2 of section 365-a of the social services law is
2 amended by adding a new paragraph (aa) to read as follows:

3 (aa) individual psychotherapy services provided by licensed social
4 workers, in accordance with licensing criteria set forth in applicable
5 regulations, to persons under the age of twenty-one and to persons
6 requiring such services as a result of or related to pregnancy or giving
7 birth, provided any necessary approvals under federal law have been
8 obtained to receive federal financial participation in the costs of
9 services provided pursuant to this paragraph; provided, however, the
10 commissioner of health is authorized to establish criteria for services
11 provided pursuant to this paragraph in accordance with all applicable
12 requirements of federal law or regulation pertaining to such services;
13 provided further nothing in this paragraph shall be construed to modify
14 any licensure, certification or scope of practice provision under title
15 eight of the education law.

16 § 23. Section 365-1 of the social services law is amended by adding a
17 new subdivision 2-a to read as follows:

18 2-a. Up to fifteen million dollars in state funding may be used to
19 fund health home infrastructure development by March thirty-first, two
20 thousand fourteen. Such funds shall be disbursed pursuant to a formula
21 established by the commissioner. Such formula may consider prior access
22 to similar funding opportunities, geographic and demographic factors,
23 including the population served, and prevalence of qualifying condi-
24 tions, connectivity to providers, and other criteria as established by
25 the commissioner.

26 § 24. Paragraph (c) of subdivision 2 of section 365-a of the social
27 services law, as amended by chapter 778 of the laws of 1977, is amended
28 to read as follows:

1 (c) out-patient hospital or clinic services in facilities operated in
2 compliance with applicable provisions of this chapter, the public health
3 law, the mental hygiene law and other laws, including any provisions
4 thereof requiring an operating certificate or license, including facili-
5 ties authorized by the appropriate licensing authority to provide inte-
6 grated mental health services, and/or alcoholism and substance abuse
7 services, and/or physical health services, and/or services to persons
8 with developmental disabilities, when such services are provided at a
9 single location or service site, or where such facilities are not
10 conveniently accessible, in any hospital located without the state and
11 care and services in a day treatment program operated by the department
12 of mental hygiene or by a voluntary agency under an agreement with such
13 department in that part of a public institution operated and approved
14 pursuant to law as an intermediate care facility for [the mentally
15 retarded] persons with developmental disabilities;

16 § 25. The opening paragraph of paragraph 1 of subdivision 4 of section
17 2807-c of the public health law, as amended by section 11 of part C of
18 chapter 58 of the laws of 2009, is amended to read as follows:

19 Notwithstanding any inconsistent provision of this section and subject
20 to the availability of federal financial participation, rates of payment
21 by governmental agencies for general hospitals which are certified by
22 the office of alcoholism and substance abuse services to provide inpa-
23 tient detoxification and withdrawal services and, with regard to inpa-
24 tient services provided to patients discharged on and after December
25 first, two thousand eight and who are determined to be in diagnosis-re-
26 lated groups [numbered seven hundred forty-three, seven hundred forty-
27 four, seven hundred forty-five, seven hundred forty-six, seven hundred
28 forty-seven, seven hundred forty-eight, seven hundred forty-nine, seven

1 hundred fifty, or seven hundred fifty-one] as identified and published
2 on the New York state department of health website, shall be made on a
3 per diem basis in accordance with the following:

4 § 26. Paragraph (c) of subdivision 35 of section 2807-c of the public
5 health law, as added by section 2 of part C of chapter 58 of the laws of
6 2009, is amended to read as follows:

7 (c) The base period reported costs and statistics used for rate-set-
8 ting for operating cost components, including the weights assigned to
9 diagnostic related groups, shall be updated no less frequently than
10 every four years and the new base period shall be no more than four
11 years prior to the first applicable rate period that utilizes such new
12 base period provided, however, that the first updated base period shall
13 begin on January first, two thousand fourteen.

14 § 27. Subparagraph (i) of paragraph (e-1) of subdivision 4 of section
15 2807-c of the public health law, as amended by section 41 of part B of
16 chapter 58 of the laws of 2010, is amended to read as follows:

17 (i) For rate periods on and after April first, two thousand ten, the
18 commissioner, in consultation with the commissioner of the office of
19 mental health, shall promulgate regulations, and may promulgate emergen-
20 cy regulations, establishing methodologies for determining the operating
21 cost components of rates of payments for services described in this
22 paragraph. Such regulations shall utilize two thousand five operating
23 costs as submitted to the department prior to July first, two thousand
24 nine and shall provide for methodologies establishing per diem inpatient
25 rates that utilize case mix adjustment mechanisms. Such regulations
26 shall contain criteria for adjustments based on length of stay and may
27 also provide for periodic base year updates, and adjustments to the
28 utilization of base year costs and statistics.

1 § 28. Subparagraph (vii) of paragraph (e-2) of subdivision 4 of
2 section 2807-c of the public health law, as added by section 13 of part
3 C of chapter 58 of the laws of 2009, is amended to read as follows:

4 (vii) The commissioner may promulgate regulations, including emergency
5 regulations, implementing the provisions of this paragraph, and further,
6 such regulations may provide for the periodic updating and adjustment of
7 the base year costs and statistics used to compute rates of payment
8 pursuant to this paragraph.

9 § 29. Paragraph (1) of subdivision 4 of section 2807-c of the public
10 health law is amended by adding a new subparagraph (v) to read as
11 follows:

12 (v) The commissioner may promulgate regulations, including emergency
13 regulations, providing for the periodic updating and adjustment of the
14 base year costs and statistics used to compute rates of payment pursuant
15 to this paragraph.

16 § 30. Subparagraph (iv) of paragraph (e-2) of subdivision 4 of section
17 2807-c of the public health law is amended by adding a new clause (D) to
18 read as follows:

19 (D) Notwithstanding any other provisions of law to the contrary and
20 subject to the availability of federal financial participation, for all
21 rate periods on and after April first, two thousand fourteen, the oper-
22 ating component of outpatient specialty rates of hospitals subject to
23 this subparagraph shall be determined by the commissioner pursuant to
24 regulations, including emergency regulations, and in consultation with
25 such specialty outpatient facilities.

26 § 31. Paragraph (a-2) of subdivision 1 of section 2807-c of the public
27 health law is amended by adding a new subparagraph (iii) to read as
28 follows:

1 (iii) Notwithstanding any contrary provision of this paragraph or any
2 other contrary provision of law, payments made pursuant to this para-
3 graph shall not reflect the implementation of the provisions of para-
4 graph (e-1) of subdivision four of this section or of regulations
5 promulgated thereunder for any services provided prior to a date to be
6 determined in accordance with regulations, including emergency regu-
7 lations, promulgated by the commissioner, provided, however, that until
8 such regulations are promulgated the payments required to be paid pursu-
9 ant to this paragraph shall be such payments as are required pursuant to
10 this paragraph for services provided on October nineteenth, two thousand
11 ten.

12 § 32. Subparagraph (i) of paragraph (a-2) of subdivision 1 of section
13 2807-c of the public health law, as amended by section 6 of part 00 of
14 chapter 57 of the laws of 2008, is amended to read as follows:

15 (i) With the exception of those enrollees covered under a payment rate
16 methodology agreement negotiated with a general hospital, payments for
17 inpatient hospital services provided to patients eligible for medical
18 assistance pursuant to title eleven of article five of the social
19 services law made by organizations operating in accordance with the
20 provisions of article forty-four of this chapter or by health mainte-
21 nance organizations organized and operating in accordance with article
22 forty-three of the insurance law shall be the rates of payment that
23 would be paid for such patients under the medical assistance program[,
24 (i)] as determined pursuant to this section, excluding (i) adjustments
25 pursuant to subdivision fourteen-f of this section, and (ii) excluding
26 medical education costs that are reimbursed directly to the general
27 hospital in accordance with paragraph (a-3) of this subdivision, and

1 (iii) excluding adjustments made pursuant to paragraphs (c) and (e) of
2 subdivision eight of this section.

3 § 33. Subdivision 8 of section 2807-c of the public health law is
4 amended by adding a new paragraph (h) to read as follows:

5 (h) Notwithstanding any inconsistent provision of this section, subdi-
6 vision two of section twenty-eight hundred seven of this article, or any
7 other contrary provision of law and subject to the availability of
8 federal financial participation, the capital cost components of rates of
9 payment by governmental agencies for inpatient and outpatient services,
10 including emergency services, provided by general hospitals on and after
11 January first, two thousand fourteen shall be determined in accordance
12 with regulations, including emergency regulations, promulgated by the
13 commissioner. Such regulations shall be developed in consultation with
14 the hospital industry.

15 § 34. Section 364-i of the social services law is amended by adding a
16 new subdivision 7 to read as follows:

17 7. Notwithstanding the provisions of section one hundred thirty-three
18 of this chapter or any law to the contrary, no medical assistance, as
19 defined in section three hundred sixty-five-a of this title, shall be
20 authorized or required to be furnished to an individual prior to the
21 date the individual is determined eligible for assistance under this
22 title, except as provided for in this section or pursuant to the regu-
23 lations of the department.

24 § 35. Section 4406-c of the public health law is amended by adding a
25 new subdivision 9 to read as follows:

26 9. (a) Notwithstanding any inconsistent provision of law, contracts
27 with nursing homes to provide inpatient services shall ensure that the
28 resources made available by such contracts will support compensation for

1 persons providing such inpatient nursing home services sufficient to
2 ensure the retention of a qualified workforce capable of providing high
3 quality care to the residents of such nursing homes.

4 (b) Such contracts shall require that standard rates of compensation
5 be paid to employees who provide inpatient nursing home services,
6 including nurses, nursing aides, orderlies, attendants, therapists and,
7 in addition, to any other occupations determined by the commissioner, in
8 consultation with the commissioner of labor, to provide inpatient nurs-
9 ing home services.

10 (c) Such standard rates of compensation shall include a basic hourly
11 cash rate of pay and a supplemental benefit rate, which may be paid or
12 provided. Such rates shall be annually determined by the commissioner
13 of labor, in consultation with the commissioner, utilizing wage and
14 fringe benefit data from various sources, including but not limited to,
15 data and determinations of federal, state or other governmental agen-
16 cies.

17 (d) The commissioner shall distribute notice of such rates to all such
18 nursing homes, which shall be deemed to be a term of, and included as
19 part of, all contracts subject to this section.

20 (e) A failure to comply with these provisions of this subdivision or
21 with regulations promulgated thereunder shall subject non-compliant
22 employers to the sanctions and enforcement processes set forth in the
23 labor law and regulations for a failure to pay wages or to pay or
24 provide supplements, in addition to any penalties available under this
25 title.

26 (f) In the event the commissioner determines, in consultation with the
27 commissioner of labor, that a nursing home is materially out of compli-
28 ance with the provisions of this subdivision the commissioner shall

1 require that such nursing home not accept new admissions pending remedi-
2 ation of such non-compliance, provided, however, that the commissioner
3 may waive such action if the commissioner determines that continued
4 admissions to such nursing home is required to maintain sufficient
5 access to nursing home services in the relevant geographic area.

6 (g) This subdivision shall apply to contracts with nursing homes that
7 are subject to review by the department under this article that are
8 issued, renewed, modified, altered or amended on or after October first,
9 two thousand thirteen.

10 (h) The commissioner and the commissioner of labor may each promulgate
11 regulations, in consultation with each other, to implement the
12 provisions of this subdivision.

13 § 35-a. Subparagraph (i) of paragraph (b) of subdivision 1 of section
14 364-j of the social services law, as amended by chapter 433 of the laws
15 of 1997, is amended to read as follows:

16 (i) is authorized to operate under article forty-four of the public
17 health law or article forty-three of the insurance law and provides or
18 arranges, directly or indirectly (including by referral) for covered
19 comprehensive health services on a full capitation basis, including a
20 special needs managed care plan or comprehensive HIV special needs plan;
21 or

22 § 36. Paragraphs (c), (m) and (p) of subdivision 1 of section 364-j of
23 the social services law, paragraph (c) as amended by section 12 of part
24 C of chapter 58 of the laws of 2004, paragraph (m) as amended by section
25 42-b of part H of chapter 59 of the laws of 2011, and paragraph (p) as
26 amended by chapter 649 of the laws of 1996, are amended and a new para-
27 graph (z) is added to read as follows:

1 (c) "Managed care program". A statewide program in which medical
2 assistance recipients enroll on a voluntary or mandatory basis to
3 receive medical assistance services, including case management, directly
4 and indirectly (including by referral) from a managed care provider,
5 [and] including as applicable, a [mental health special needs plan]
6 special needs managed care plan or a comprehensive HIV special needs
7 plan, under this section.

8 (m) "Special needs managed care plan" [and "specialized managed care
9 plan"] shall have the same meaning as in section forty-four hundred one
10 of the public health law.

11 (p) "Grievance". Any complaint presented by a participant or a partic-
12 ipant's representative for resolution through the grievance process of a
13 managed care provider[, comprehensive HIV special needs plan or a mental
14 health special needs plan].

15 (z) "Credentialed alcoholism and substance abuse counselor (CASAC)".
16 An individual credentialed by the office of alcoholism and substance
17 abuse services in accordance with applicable regulations of the commis-
18 sioner of alcoholism and substance abuse services.

19 § 37. Paragraph (c) of subdivision 2 of section 364-j of the social
20 services law, as added by section 42-c of part H of chapter 59 of the
21 laws of 2011, is amended to read as follows:

22 (c) The commissioner of health, jointly with the commissioner of
23 mental health and the commissioner of alcoholism and substance abuse
24 services shall be authorized to establish special needs managed care
25 [and specialized managed care] plans, under the medical assistance
26 program, in accordance with applicable federal law and regulations. The
27 commissioner of health, in cooperation with such commissioners, is
28 authorized, subject to the approval of the director of the division of

1 the budget, to apply for federal waivers when such action would be
2 necessary to assist in promoting the objectives of this section.

3 § 37-a. Paragraphs (b) and (c) of subdivision 3 of section 364-j of
4 the social services law are REPEALED.

5 § 38. Paragraphs (a), (d) and (e) of subdivision 3 of section 364-j
6 of the social services law, paragraph (a) as amended by section 13 of
7 part C of chapter 58 of the laws of 2004, paragraph (d) as relettered by
8 section 77 and paragraph (e) as amended by section 77-a of part H of
9 chapter 59 of the laws of 2011, and paragraph (d) as amended by chapter
10 648 of the laws of 1999, is amended to read as follows:

11 (a) Every person eligible for or receiving medical assistance under
12 this article, who resides in a social services district providing
13 medical assistance, which has implemented the state's managed care
14 program shall participate in the program authorized by this section.
15 Provided, however, that participation in a comprehensive HIV special
16 needs plan also shall be in accordance with article forty-four of the
17 public health law and participation in a [mental health special needs]
18 special needs managed care plan shall also be in accordance with article
19 forty-four of the public health law and article thirty-one of the mental
20 hygiene law.

21 (d) [The] Until such time as program features and reimbursement rates
22 are approved by the commissioner of health, in consultation with the
23 commissioners of the office of mental health, the office for people with
24 developmental disabilities, the office of children and family services,
25 and the office of alcoholism and substance abuse services, as appropri-
26 ate, the following services shall not be provided to medical assistance
27 recipients through managed care programs established pursuant to this

1 section, and shall continue to be provided outside of managed care
2 programs and in accordance with applicable reimbursement methodologies:

3 (i) day treatment services provided to individuals with developmental
4 disabilities;

5 (ii) comprehensive medicaid case management services provided to indi-
6 viduals with developmental disabilities;

7 (iii) services provided pursuant to title two-A of article twenty-five
8 of the public health law;

9 (iv) services provided pursuant to article eighty-nine of the educa-
10 tion law;

11 (v) mental health services provided by a certified voluntary free-
12 standing day treatment program where such services are provided in
13 conjunction with educational services authorized in an individualized
14 education program in accordance with regulations promulgated pursuant to
15 article eighty-nine of the education law;

16 (vi) long term services as determined by the commissioner of mental
17 retardation and developmental disabilities, provided to individuals with
18 developmental disabilities at facilities licensed pursuant to article
19 sixteen of the mental hygiene law or clinics serving individuals with
20 developmental disabilities at facilities licensed pursuant to article
21 twenty-eight of the public health law;

22 (vii) TB directly observed therapy;

23 (viii) AIDS adult day health care;

24 (ix) HIV COBRA case management; and

25 (x) other services as determined by the commissioner of health.

26 (e) The following categories of individuals may be required to enroll
27 with a managed care program when program features and reimbursement
28 rates are approved by the commissioner of health and, as appropriate,

1 the commissioners of the [department] office of mental health, the
2 office for [persons] people with developmental disabilities, the office
3 of children and family services, and the office of [alcohol] alcoholism
4 and substance abuse services:

5 (i) an individual dually eligible for medical assistance and benefits
6 under the federal Medicare program [and enrolled in a Medicare managed
7 care plan offered by an entity that is also a managed care provider;
8 provided that (notwithstanding paragraph (g) of subdivision four of this
9 section):]; provided, however, nothing herein shall require an individ-
10 ual enrolled in a managed long term care plan, pursuant to section
11 forty-four hundred three-f of the public health law, to disenroll from
12 such program;

13 [(a) if the individual changes his or her Medicare managed care plan
14 as authorized by title XVIII of the federal social security act, and
15 enrolls in another Medicare managed care plan that is also a managed
16 care provider, the individual shall be (if required by the commissioner
17 under this paragraph) enrolled in that managed care provider;

18 (b) if the individual changes his or her Medicare managed care plan as
19 authorized by title XVIII of the federal social security act, but
20 enrolls in another Medicare managed care plan that is not also a managed
21 care provider, the individual shall be disenrolled from the managed care
22 provider in which he or she was enrolled and withdraw from the managed
23 care program;

24 (c) if the individual disenrolls from his or her Medicare managed care
25 plan as authorized by title XVIII of the federal social security act,
26 and does not enroll in another Medicare managed care plan, the individ-
27 ual shall be disenrolled from the managed care provider in which he or
28 she was enrolled and withdraw from the managed care program;

1 (d) nothing herein shall require an individual enrolled in a managed
2 long term care plan, pursuant to section forty-four hundred three-f of
3 the public health law, to disenroll from such program.]

4 (ii) an individual eligible for supplemental security income;

5 (iii) HIV positive individuals;

6 (iv) persons with serious mental illness and children and adolescents
7 with serious emotional disturbances, as defined in section forty-four
8 hundred one of the public health law;

9 (v) a person receiving services provided by a residential alcohol or
10 substance abuse program or facility for the [mentally retarded] develop-
11 mentally disabled;

12 (vi) a person receiving services provided by an intermediate care
13 facility for the [mentally retarded] developmentally disabled or who has
14 characteristics and needs similar to such persons;

15 (vii) a person with a developmental or physical disability who
16 receives home and community-based services or care-at-home services
17 through existing waivers under section nineteen hundred fifteen (c) of
18 the federal social security act or who has characteristics and needs
19 similar to such persons;

20 (viii) a person who is eligible for medical assistance pursuant to
21 subparagraph twelve or subparagraph thirteen of paragraph (a) of subdi-
22 vision one of section three hundred sixty-six of this title;

23 (ix) a person receiving services provided by a long term home health
24 care program, or a person receiving inpatient services in a state-oper-
25 ated psychiatric facility or a residential treatment facility for chil-
26 dren and youth;

27 (x) certified blind or disabled children living or expected to be
28 living separate and apart from the parent for thirty days or more;

- 1 (xi) residents of nursing facilities;
- 2 (xii) a foster child in the placement of a voluntary agency or in the
3 direct care of the local social services district;
- 4 (xiii) a person or family that is homeless; [and]
- 5 (xiv) individuals for whom a managed care provider is not geograph-
6 ically accessible so as to reasonably provide services to the person. A
7 managed care provider is not geographically accessible if the person
8 cannot access the provider's services in a timely fashion due to
9 distance or travel time[.];
- 10 (xv) a person eligible for Medicare participating in a capitated
11 demonstration program for long term care;
- 12 (xvi) an infant living with an incarcerated mother in a state or local
13 correctional facility as defined in section two of the correction law;
- 14 (xvii) a person who is expected to be eligible for medical assistance
15 for less than six months;
- 16 (xviii) a person who is eligible for medical assistance benefits only
17 with respect to tuberculosis-related services;
- 18 (xix) individuals receiving hospice services at time of enrollment;
- 19 (xx) a person who has primary medical or health care coverage avail-
20 able from or under a third-party payor which may be maintained by
21 payment, or part payment, of the premium or cost sharing amounts, when
22 payment of such premium or cost sharing amounts would be cost-effective,
23 as determined by the local social services district;
- 24 (xxi) a person receiving family planning services pursuant to subpara-
25 graph eleven of paragraph (a) of subdivision one of section three
26 hundred sixty-six of this title;

1 (xxii) a person who is eligible for medical assistance pursuant to
2 paragraph (v) of subdivision four of section three hundred sixty-six of
3 this title;

4 (xxiii) a person who is Medicare/Medicaid dually eligible and who is
5 not enrolled in a Medicare managed care plan;

6 (xxiv) individuals with a chronic medical condition who are being
7 treated by a specialist physician that is not associated with a managed
8 care provider in the individual's social services district; and

9 (xxv) Native Americans.

10 § 39. Subparagraphs (ii), (iv) and (vii) of paragraph (e), subpara-
11 graphs (i) and (v) of paragraph (f) and paragraphs (g), (h), (i), (o),
12 (p), (q) and (r) of subdivision 4 of section 364-j of the social
13 services law, subparagraphs (ii), (iv) and (vii) of paragraph (e),
14 subparagraph (v) of paragraph (f) and paragraph (g) as amended by
15 section 14 of part C of chapter 58 of the laws of 2004, subparagraph (i)
16 of paragraph (f) as amended by section 79 of part H of chapter 59 of the
17 laws of 2011, paragraph (h) as amended by chapter 433 of the laws of
18 1997, and paragraphs (i), (o), (p), (q) and (r) as amended by chapter
19 649 of the laws of 1996, are amended and a new paragraph (v) is added to
20 read as follows:

21 (ii) In any social services district which has implemented a mandatory
22 managed care program pursuant to this section, the requirements of this
23 subparagraph shall apply to the extent consistent with federal law and
24 regulations. The department of health, may contract with one or more
25 independent organizations to provide enrollment counseling and enroll-
26 ment services, for participants required to enroll in managed care
27 programs, for each social services district requesting the services of
28 an enrollment broker. To select such organizations, the department of

1 health shall issue a request for proposals (RFP), shall evaluate
2 proposals submitted in response to such RFP and, pursuant to such RFP,
3 shall award a contract to one or more qualified and responsive organiza-
4 tions. Such organizations shall not be owned, operated, or controlled by
5 any governmental agency, managed care provider, [comprehensive HIV
6 special needs plan, mental health special needs plan,] or medical
7 services provider.

8 (iv) Local social services districts or enrollment organizations
9 through their enrollment counselors shall provide participants with the
10 opportunity for face to face counseling including individual counseling
11 upon request of the participant. Local social services districts or
12 enrollment organizations through their enrollment counselors shall also
13 provide participants with information in a culturally and linguistically
14 appropriate and understandable manner, in light of the participant's
15 needs, circumstances and language proficiency, sufficient to enable the
16 participant to make an informed selection of a managed care provider.
17 Such information shall include, but shall not be limited to: how to
18 access care within the program; a description of the medical assistance
19 services that can be obtained other than through a managed care provid-
20 er[, mental health special needs plan or comprehensive HIV special needs
21 plan]; the available managed care providers[, mental health special
22 needs plans and comprehensive HIV special needs plans] and the scope of
23 services covered by each; a listing of the medical services providers
24 associated with each managed care provider; the participants' rights
25 within the managed care program; and how to exercise such rights.
26 Enrollment counselors shall inquire into each participant's existing
27 relationships with medical services providers and explain whether and
28 how such relationships may be maintained within the managed care

1 program. For enrollments made during face to face counseling, if the
2 participant has a preference for particular medical services providers,
3 enrollment counselors shall verify with the medical services providers
4 that such medical services providers whom the participant prefers
5 participate in the managed care provider's network and are available to
6 serve the participant.

7 (vii) Any marketing materials developed by a managed care provider[,
8 comprehensive HIV special needs plan or mental health special needs
9 plan] shall be approved by the department of health or the local social
10 services district, and the commissioner of mental health and the commis-
11 sioner of alcoholism and substance abuse services, where appropriate,
12 within sixty days prior to distribution to recipients of medical assist-
13 ance. All marketing materials shall be reviewed within sixty days of
14 submission.

15 (i) Participants shall choose a managed care provider at the time of
16 application for medical assistance; if the participant does not choose
17 such a provider the commissioner shall assign such participant to a
18 managed care provider in accordance with subparagraphs (ii), (iii), (iv)
19 and (v) of this paragraph. Participants already in receipt of medical
20 assistance shall have no less than thirty days from the date selected by
21 the district to enroll in the managed care program to select a managed
22 care provider[, and as appropriate, a mental health special needs plan,]
23 and shall be provided with information to make an informed choice. Where
24 a participant has not selected such a provider [or mental health special
25 needs plan,] the commissioner of health shall assign such participant to
26 a managed care provider[, and] which, if as appropriate, [to] may be a
27 [mental health special needs plan] special needs managed care plan,
28 taking into account capacity and geographic accessibility. The commis-

1 sioner may after the period of time established in subparagraph (ii) of
2 this paragraph assign participants to a managed care provider taking
3 into account quality performance criteria and cost. Provided however,
4 cost criteria shall not be of greater value than quality criteria in
5 assigning participants.

6 (v) The commissioner shall assign all participants not otherwise
7 assigned to a managed care plan pursuant to subparagraphs (ii), (iii)
8 and (iv) of this paragraph equally among each of the managed care
9 providers that meet the criteria established in subparagraph (i) of this
10 paragraph; provided, however, that the commissioner shall assign indi-
11 viduals meeting the criteria for enrollment in a special needs managed
12 care plan to such plan or plans where available.

13 (g) If another managed care provider[, mental health special needs
14 plan or comprehensive HIV special needs plan] is available, participants
15 may change such provider or plan without cause within thirty days of
16 notification of enrollment or the effective date of enrollment, whichever
17 is later with a managed care provider[, mental health special needs
18 plan or comprehensive HIV special needs plan] by making a request of the
19 local social services district except that such period shall be forty-
20 five days for participants who have been assigned to a provider by the
21 commissioner of health. However, after such thirty or forty-five day
22 period, whichever is applicable, a participant may be prohibited from
23 changing managed care providers more frequently than once every twelve
24 months, as permitted by federal law except for good cause as determined
25 by the commissioner of health through regulations.

26 (h) If another medical services provider is available, a participant
27 may change his or her provider of medical services (including primary
28 care practitioners) without cause within thirty days of the partic-

1 ipant's first appointment with a medical services provider by making a
2 request of the managed care provider[, mental health special needs plan
3 or comprehensive HIV special needs plan]. However, after that thirty day
4 period, no participant shall be permitted to change his or her provider
5 of medical services other than once every six months except for good
6 cause as determined by the commissioner through regulations.

7 (i) A managed care provider[, mental health special needs plan, and
8 comprehensive HIV special needs plan] requesting a disenrollment shall
9 not disenroll a participant without the prior approval of the local
10 social services district in which the participant resides, provided that
11 disenrollment from a [mental health special needs plan] special needs
12 managed care plan must comply with the standards of the commissioner of
13 health, the commissioner of alcoholism and substance abuse services, and
14 the commissioner of mental health. A managed care provider[, mental
15 health special needs plan or comprehensive HIV special needs plan] shall
16 not request disenrollment of a participant based on any diagnosis,
17 condition, or perceived diagnosis or condition, or a participant's
18 efforts to exercise his or her rights under a grievance process,
19 provided however, that a managed care provider may, where medically
20 appropriate, request permission to refer participants to a [mental
21 health special needs plan] managed care provider that is a special needs
22 managed care plan or a comprehensive HIV special needs plan after
23 consulting with such participant and upon obtaining his/her consent to
24 such referral, and[,] provided further that a [mental health special
25 needs plan] special needs managed care plan may, where clinically appro-
26 priate, disenroll individuals who no longer require the level of
27 services provided by a [mental health special needs plan] special needs
28 managed care plan.

1 (o) A managed care provider shall provide or arrange, directly or
2 indirectly, (including by referral) for the full range of covered
3 services to all participants, notwithstanding that such participants may
4 be eligible to be enrolled in a comprehensive HIV special needs plan or
5 [mental health special needs plan] special needs managed care plan.

6 (p) A managed care provider[, comprehensive HIV special needs plan and
7 mental health special needs plan] shall implement procedures to communi-
8 cate appropriately with participants who have difficulty communicating
9 in English and to communicate appropriately with visually-impaired and
10 hearing-impaired participants.

11 (q) A managed care provider[, comprehensive HIV special needs plan and
12 mental health special needs plan] shall comply with applicable state and
13 federal law provisions prohibiting discrimination on the basis of disa-
14 bility.

15 (r) A managed care provider[, comprehensive HIV special needs plan and
16 mental health special needs plan] shall provide services to participants
17 pursuant to an order of a court of competent jurisdiction, provided
18 however, that such services shall be within such provider's or plan's
19 benefit package and are reimbursable under title xix of the federal
20 social security act.

21 (v) A managed care provider must allow enrollees to access chemical
22 dependence treatment services from facilities certified by the office of
23 alcoholism and substance abuse services, even if such services are
24 rendered by a practitioner who would not otherwise be separately reim-
25 bursed, including but not limited to a credentialed alcoholism and
26 substance abuse counselor (CASAC).

1 § 40. Paragraph (a) of subdivision 5 of section 364-j of the social
2 services law, as amended by section 15 of part C of chapter 58 of the
3 laws of 2004, is amended to read as follows:

4 (a) The managed care program shall provide for the selection of quali-
5 fied managed care providers by the commissioner of health [and, as
6 appropriate, mental health special needs plans and comprehensive HIV
7 special needs plans] to participate in the program, including comprehen-
8 sive HIV special needs plans and special needs managed care plans in
9 accordance with the provisions of section three hundred sixty-five-m of
10 this title; provided, however, that the commissioner of health may
11 contract directly with comprehensive HIV special needs plans consistent
12 with standards set forth in this section, and assure that such providers
13 are accessible taking into account the needs of persons with disabili-
14 ties and the differences between rural, suburban, and urban settings,
15 and in sufficient numbers to meet the health care needs of participants,
16 and shall consider the extent to which major public hospitals are
17 included within such providers' networks.

18 § 41. The opening paragraph of subdivision 6 of section 364-j of the
19 social services law, as added by chapter 649 of the laws of 1996, is
20 amended to read as follows:

21 6. A managed care provider[, mental health special needs plan or
22 comprehensive HIV special needs plan provider] shall not engage in the
23 following practices:

24 § 42. Subdivision 17 of section 364-j of the social services law, as
25 amended by section 94 of part B of chapter 436 of the laws of 1997, is
26 amended to read as follows:

27 17. (a) The provisions of this section regarding participation of
28 persons receiving family assistance and supplemental security income in

1 managed care programs shall be effective if, and as long as, federal
2 financial participation is available for expenditures for services
3 provided pursuant to this section.

4 (b) The provisions of this section regarding the furnishing of health
5 and behavioral health services through a special needs managed care plan
6 shall be effective if, and as long as, federal financial participation
7 is available for expenditures for services provided by such plans pursu-
8 ant to this section.

9 § 43. Subdivision 20 of section 364-j of the social services law, as
10 added by chapter 649 of the laws of 1996, is amended to read as follows:

11 20. Upon a determination that a participant appears to be suitable for
12 admission to a comprehensive HIV special needs plan or a [mental health
13 special needs plan] special needs managed care plan, a managed care
14 provider shall inform the participant of the availability of such plans,
15 where available and appropriate.

16 § 44. Paragraph (a) of subdivision 23 of section 364-j of the social
17 services law, as added by section 65 of part A of chapter 57 of the laws
18 of 2006, is amended to read as follows:

19 (a) As a means of protecting the health, safety and welfare of recipi-
20 ents, in addition to any other sanctions that may be imposed, the
21 commissioner, in consultation with the commissioners of the office of
22 mental health and the office of alcoholism and substance abuse services,
23 where appropriate, shall appoint temporary management of a managed care
24 provider upon determining that the managed care provider has repeatedly
25 failed to meet the substantive requirements of sections 1903(m) and 1932
26 of the federal Social Security Act and regulations. A hearing shall not
27 be required prior to the appointment of temporary management.

1 § 45. The opening paragraph of subdivision 4 of section 365-m of the
2 social services law, as added by section 42-d of part H of chapter 59 of
3 the laws of 2011, is amended to read as follows:

4 The commissioners of the office of mental health, the office of alco-
5 holism and substance abuse services and the department of health, shall
6 have the responsibility for jointly designating on a regional basis,
7 after consultation with the local social services district and local
8 governmental unit, as such term is defined in the mental hygiene law, of
9 a city with a population of over one million persons, and after consul-
10 tation of other affected counties, a limited number of [specialized
11 managed care plans under section three hundred sixty-four-j of this
12 title,] special [need] needs managed care plans under section three
13 hundred sixty-four-j of this title[, and/or integrated physical and
14 behavioral health provider systems certified under article twenty-nine-E
15 of the public health law] capable of managing the behavioral and phys-
16 ical health needs of medical assistance enrollees with significant
17 behavioral health needs. Initial designations of such plans [or provider
18 systems] should be made no later than April first, two thousand [thir-
19 teen] fourteen, provided, however, such designations shall be contingent
20 upon a determination by such state commissioners that the entities to be
21 designated have the capacity and financial ability to provide services
22 in such plans [or provider systems], and that the region has a suffi-
23 cient population and service base to support such plans [and systems].
24 Once designated, the commissioner of health shall make arrangements to
25 enroll such enrollees in such plans [or integrated provider systems] and
26 to pay such plans [or provider systems] on a capitated or other basis to
27 manage, coordinate, and pay for behavioral and physical health medical
28 assistance services for such enrollees. Notwithstanding any inconsistent

1 provision of section one hundred twelve and one hundred sixty-three of
2 the state finance law, and section one hundred forty-two of the economic
3 development law, or any other law to the contrary, the designations of
4 such plans [and provider systems], and any resulting contracts with such
5 plans[,] or providers [or provider systems] are authorized to be entered
6 into by such state commissioners without a competitive bid or request
7 for proposal process, provided however that:

8 § 46. Subdivision 8 of section 4401 of the public health law, as added
9 by section 42 of part H of chapter 59 of the laws of 2011, is amended to
10 read as follows:

11 8. "Special needs managed care plan" [or "specialized managed care
12 plan"] shall mean a combination of persons natural or corporate, or any
13 groups of such persons, or a county or counties, who enter into an
14 arrangement, agreement or plan, or combination of arrangements, agree-
15 ments or plans, to provide health and behavioral health services to
16 enrollees with significant behavioral health needs.

17 § 47. Section 4403-d of the public health law, as added by section
18 42-a of part H of chapter 59 of the laws of 2011, is amended to read as
19 follows:

20 § 4403-d. Special needs managed care plans [and specialized managed
21 care plans]. No person, group of persons, county or counties may operate
22 a special needs managed care plan [or specialized managed care plan]
23 without first obtaining a certificate of authority from the commission-
24 er, issued jointly with the commissioner of the office of mental health
25 and the commissioner of the office of alcoholism and substance abuse
26 services.

27 § 47-a. Subparagraphs (iii) and (iv) of paragraph (b) of subdivision
28 7 of section 4403-f of the public health law are REPEALED.

1 § 48. Subparagraph (v) of paragraph (b) of subdivision 7 of section
2 4403-f of the public health law, as amended by section 41-b of part H of
3 chapter 59 of the laws of 2011, is amended to read as follows:

4 (v) The following medical assistance recipients shall not be eligible
5 to participate in a managed long term care program or other care coordi-
6 nation model established pursuant to this paragraph until program
7 features and reimbursement rates are approved by the commissioner and,
8 as applicable, the commissioner of developmental disabilities:

9 (1) a person enrolled in a managed care plan pursuant to section three
10 hundred sixty-four-j of the social services law;

11 (2) a participant in the traumatic brain injury waiver program;

12 (3) a participant in the nursing home transition and diversion waiver
13 program;

14 (4) a person enrolled in the assisted living program;

15 (5) a person enrolled in home and community based waiver programs
16 administered by the office for people with developmental
17 disabilities[.];

18 (6) a person who is expected to be eligible for medical assistance for
19 less than six months, for a reason other than that the person is eligi-
20 ble for medical assistance only through the application of excess income
21 toward the cost of medical care and services;

22 (7) a person who is eligible for medical assistance benefits only with
23 respect to tuberculosis-related services;

24 (8) a person receiving hospice services at time of enrollment;

25 (9) a person who has primary medical or health care coverage available
26 from or under a third-party payor which may be maintained by payment, or
27 part payment, of the premium or cost sharing amounts, when payment of

1 such premium or cost sharing amounts would be cost-effective, as deter-
2 mined by the social services district;

3 (10) a person receiving family planning services pursuant to subpara-
4 graph eleven of paragraph (a) of subdivision one of section three
5 hundred sixty-six of the social services law;

6 (11) a person who is eligible for medical assistance pursuant to para-
7 graph (v) of subdivision four of section three hundred sixty-six of the
8 social services law; and

9 (12) Native Americans.

10 § 48-a. Notwithstanding any contrary provision of law, the commission-
11 er of alcoholism and substance abuse services is authorized, subject to
12 the approval of the director of the budget, to transfer to the commis-
13 sioner of health state funds to be utilized as the state share for the
14 purpose of increasing payments under the medicaid program to managed
15 care organizations licensed under article 44 of the public health law or
16 under article 43 of the insurance law. Such managed care organizations
17 shall utilize such funds for the purpose of reimbursing hospital-based
18 and free-standing chemical dependence outpatient and opioid treatment
19 clinics licensed pursuant to article 28 of the public health law or
20 article 32 of the mental hygiene law for chemical dependency services,
21 as determined by the commissioner of health, in consultation with the
22 commissioner of alcoholism and substance abuse services, provided to
23 medicaid eligible outpatients. Such reimbursement shall be in the form
24 of fees for such services which are equivalent to the payments estab-
25 lished for such services under the ambulatory patient group (APG) rate-
26 setting methodology as utilized by the department of health or by the
27 office of alcoholism and substance abuse services for rate-setting
28 purposes; provided, however, that the increase to such fees that shall

1 result from the provisions of this section shall not, in the aggregate
2 and as determined by the commissioner of health, in consultation with
3 the commissioner of alcoholism and substance abuse services, be greater
4 than the increased funds made available pursuant to this section. The
5 commissioner of health may, in consultation with the commissioner of
6 alcoholism and substance abuse services, promulgate regulations, includ-
7 ing emergency regulations, as are necessary to implement the provisions
8 of this section.

9 § 49. Section 2 of part H of chapter 111 of the laws of 2010 relating
10 to increasing Medicaid payments to providers through managed care organ-
11 izations and providing equivalent fees through an ambulatory patient
12 group methodology, is amended to read as follows:

13 § 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2010, and shall
15 expire on March 31, 2015.

16 § 50. Paragraph (e) of subdivision 8 of section 2511 of the public
17 health law, as added by section 21-a of part B of chapter 109 of the
18 laws of 2010, is amended and a new paragraph (h) is added to read as
19 follows:

20 (e) The commissioner shall adjust subsidy payments to approved organ-
21 izations made on and after April first, two thousand ten through March
22 thirty-first, two thousand thirteen, so that the amount of each such
23 payment, as otherwise calculated pursuant to this subdivision, is
24 reduced by twenty-eight percent of the amount by which such calculated
25 payment exceeds the statewide average subsidy payment for all approved
26 organizations in effect on April first, two thousand ten. Such statewide
27 average subsidy payment shall be calculated by the commissioner and
28 shall not reflect adjustments made pursuant to this paragraph.

1 (h) Notwithstanding any inconsistent provision of this title, articles
2 thirty-two and forty-three of the insurance law and subsection (e) of
3 section eleven hundred twenty of the insurance law, effective April
4 first, two thousand thirteen:

5 (i) The commissioner shall, subject to approval of the director of the
6 division of the budget, develop reimbursement methodologies for deter-
7 mining the amount of subsidy payments made to approved organizations for
8 the cost of covered health care services coverage provided pursuant to
9 this title.

10 (ii) The commissioner, in consultation with entities representing
11 approved organizations, shall select and contract with an independent
12 actuary to review such reimbursement methodologies; provided, however,
13 notwithstanding section one hundred sixty-three of the state finance
14 law, the commissioner may select and contract with the independent actu-
15 ary selected pursuant to subdivision eighteen of section three hundred
16 sixty-four-j of the social services law, without a competitive bid or
17 request for proposal process. Such independent actuary shall review and
18 make recommendations concerning appropriate actuarial assumptions rele-
19 vant to the establishment of reimbursement methodologies, including but
20 not limited to the adequacy of subsidy payment amounts in relation to
21 the population to be served adjusted for case mix, the scope of services
22 approved organizations must provide, the utilization of such services
23 and the network of providers required to meet state standards.

24 (iii) For the period April first, two thousand thirteen through Decem-
25 ber thirty-first, two thousand thirteen, subsidy payments made to
26 approved organizations shall be at amounts approved prior to April
27 first, two thousand thirteen. On and after January first, two thousand
28 fourteen, subsidy payments made to approved organizations shall be at

1 amounts determined by the commissioner in accordance with this para-
2 graph.

3 § 51. Paragraph (b) of subdivision 7 of section 2511 of the public
4 health law, as amended by chapter 923 of the laws of 1990, is amended to
5 read as follows:

6 (b) The commissioner, in consultation with the superintendent, shall
7 make a determination whether to approve, disapprove or recommend modifi-
8 cation of the proposal. In order for a proposal to be approved by the
9 commissioner, the proposal must also be approved by the superintendent
10 with respect to the provisions of subparagraphs (viii) [through], (ix)
11 and (xii) of paragraph (a) of this subdivision.

12 § 52. Subparagraph (ii) of paragraph (e) of subdivision 4 of section
13 364-j of the social services law, as amended by section 14 of part C of
14 chapter 58 of the laws of 2004, is amended to read as follows:

15 (ii) In any social services district which has implemented a mandatory
16 managed care program pursuant to this section, the requirements of this
17 subparagraph shall apply to the extent consistent with federal law and
18 regulations. The department of health, may contract with one or more
19 independent organizations to provide enrollment counseling and enroll-
20 ment services, for participants required to enroll in managed care
21 programs, for each social services district [requesting the services of
22 an enrollment broker] which has implemented a mandatory managed care
23 program. To select such organizations, the department of health shall
24 issue a request for proposals (RFP), shall evaluate proposals submitted
25 in response to such RFP and, pursuant to such RFP, shall award a
26 contract to one or more qualified and responsive organizations. Such
27 organizations shall not be owned, operated, or controlled by any govern-

1 mental agency, managed care provider, comprehensive HIV special needs
2 plan, mental health special needs plan, or medical services provider.

3 § 53. Subparagraph (vii) of paragraph (b) of subdivision 7 of section
4 4403-f of the public health law, as amended by section 40-a of part D of
5 chapter 56 of the laws of 2012, is amended to read as follows:

6 (vii) Managed long term care provided and plans certified or other
7 care coordination model established pursuant to this paragraph shall
8 comply with the provisions of paragraphs (d), (i), (t), and (u) and
9 subparagraph (iii) of paragraph (a) and [subparagraph] subparagraphs
10 (ii) and (iv) of paragraph (e) of subdivision four of section three
11 hundred sixty-four-j of the social services law.

12 § 54. Subparagraph (iii) of paragraph (g) of subdivision 7 of section
13 4403-f of the public health law, as amended by section 41-b of part H of
14 chapter 59 of the laws of 2011, is amended to read as follows:

15 (iii) The enrollment application shall be submitted by the managed
16 long term care plan or demonstration to the entity designated by the
17 department prior to the commencement of services under the managed long
18 term care plan or demonstration. [For purposes of reimbursement of the
19 managed long term care plan or demonstration, if the enrollment applica-
20 tion is submitted on or before the twentieth day of the month, the
21 enrollment shall commence on the first day of the month following the
22 completion and submission and if the enrollment application is submitted
23 after the twentieth day of the month, the enrollment shall commence on
24 the first day of the second month following submission.] Enrollments
25 conducted by a plan or demonstration shall be subject to review and
26 audit by the department or a contractor selected pursuant to paragraph
27 (d) of this subdivision.

1 § 55. Paragraph (a) of subdivision 8 of section 3614 of the public
2 health law, as added by section 54 of part J of chapter 82 of the laws
3 of 2002, is amended to read as follows:

4 (a) Notwithstanding any inconsistent provision of law, rule or regu-
5 lation and subject to the provisions of paragraph (b) of this subdivi-
6 sion and to the availability of federal financial participation, the
7 commissioner shall adjust medical assistance rates of payment for
8 services provided by certified home health agencies for such services
9 provided to children under eighteen years of age and for services
10 provided to a special needs population of medically complex and fragile
11 children, adolescents and young disabled adults by a CHHA operating
12 under a pilot program approved by the department, long term home health
13 care programs and AIDS home care programs in accordance with this para-
14 graph and paragraph (b) of this subdivision for purposes of improving
15 recruitment and retention of non-supervisory home care services workers
16 or any worker with direct patient care responsibility in the following
17 amounts for services provided on and after December first, two thousand
18 two.

19 (i) rates of payment by governmental agencies for certified home
20 health agency services for such services provided to children under
21 eighteen years of age and for services provided to a special needs popu-
22 lation of medically complex and fragile children, adolescents and young
23 disabled adults by a CHHA operating under a pilot program approved by
24 the department (including services provided through contracts with
25 licensed home care services agencies) shall be increased by three
26 percent;

27 (ii) rates of payment by governmental agencies for long term home
28 health care program services (including services provided through

1 contracts with licensed home care services agencies) shall be increased
2 by three percent; and

3 (iii) rates of payment by governmental agencies for AIDS home care
4 programs (including services provided through contracts with licensed
5 home care services agencies) shall be increased by three percent.

6 § 56. The opening paragraph of subdivision 9 of section 3614 of the
7 public health law, as amended by section 5 of part C of chapter 109 of
8 the laws of 2006, is amended to read as follows:

9 Notwithstanding any law to the contrary, the commissioner shall,
10 subject to the availability of federal financial participation, adjust
11 medical assistance rates of payment for certified home health agencies
12 for such services provided to children under eighteen years of age and
13 for services provided to a special needs population of medically complex
14 and fragile children, adolescents and young disabled adults by a CHHA
15 operating under a pilot program approved by the department, long term
16 home health care programs, AIDS home care programs established pursuant
17 to this article, hospice programs established under article forty of
18 this chapter and for managed long term care plans and approved managed
19 long term care operating demonstrations as defined in section forty-four
20 hundred three-f of this chapter. Such adjustments shall be for purposes
21 of improving recruitment, training and retention of home health aides or
22 other personnel with direct patient care responsibility in the following
23 aggregate amounts for the following periods:

24 § 57. Paragraph (a) of subdivision 10 of section 3614 of the public
25 health law, as amended by section 24 of part C of chapter 59 of the laws
26 of 2011, is amended to read as follows:

27 (a) Such adjustments to rates of payments shall be allocated propor-
28 tionally based on each certified home health [agency's] agency, long

1 term home health care program, AIDS home care and hospice program's home
2 health aide or other direct care services total annual hours of service
3 provided to medicaid patients, as reported in each such agency's most
4 recently available cost report as submitted to the department or for the
5 purpose of the managed long term care program a suitable proxy developed
6 by the department in consultation with the interested parties. Payments
7 made pursuant to this section shall not be subject to subsequent adjust-
8 ment or reconciliation; provided that such adjustments to rates of
9 payments to certified home health agencies shall only be for that
10 portion of services provided to children under eighteen years of age and
11 for services provided to a special needs population of medically complex
12 and fragile children, adolescents and young disabled adults by a CHHA
13 operating under a pilot program approved by the department.

14 § 58. Paragraph (h) of subdivision 21 of section 2808 of the public
15 health law, as amended by section 8 of part D of chapter 58 of the laws
16 of 2009, is amended to read as follows:

17 (h) The total amount of funds to be allocated and distributed as
18 medical assistance for financially disadvantaged residential health care
19 facility rate adjustments to eligible facilities for a rate period in
20 accordance with this subdivision shall be thirty million dollars for the
21 period October first, two thousand four through December thirty-first,
22 two thousand four and thirty million dollars on an annualized basis for
23 rate periods on and after January first, two thousand five through
24 December thirty-first, two thousand eight and thirty million dollars on
25 an annualized basis on and after January first, two thousand nine
26 through December thirty-first, two thousand twelve. The nonfederal share
27 of such rate adjustments shall be paid by the state, with no local
28 share, from allocations made pursuant to paragraph (hh) of subdivision

1 one of section twenty-eight hundred seven-v of this article. In the
2 event the statewide total of the annual rate adjustments determined
3 pursuant to paragraph (g) of this subdivision varies from the amounts
4 set forth in this paragraph, each qualifying facility's rate adjustment
5 shall be proportionately increased or decreased such that the total of
6 the annual rate adjustments made pursuant to this subdivision is equal
7 to the amounts set forth in this paragraph on a statewide basis.

8 § 59. Paragraph (d) of subdivision 2-b of section 2808 of the public
9 health law, as added by section 47 of part C of chapter 109 of the laws
10 of 2006, is amended to read as follows:

11 (d) Cost reports submitted by residential health care facilities for
12 the two thousand two calendar year or any part thereof shall, notwith-
13 standing any contrary provision of law, be subject to audit through
14 December thirty-first, two thousand [fourteen] eighteen and facilities
15 shall retain for the purpose of such audits all fiscal and statistical
16 records relevant to such cost reports, provided, however, that any such
17 audit commenced on or before December thirty-first, two thousand [four-
18 teen] eighteen, may be completed and used for the purpose of adjusting
19 any Medicaid rates which utilize such costs.

20 § 60. Subparagraph (ii) of paragraph (a) of subdivision 2-b of section
21 2808 of the public health law, as added by section 47 of part C of chap-
22 ter 109 of the laws of 2006, is amended to read as follows:

23 (ii) Rates for the periods two thousand seven and two thousand eight
24 shall be further adjusted by a per diem add-on amount, as determined by
25 the commissioner, reflecting the proportional amount of each facility's
26 projected Medicaid benefit to the total projected Medicaid benefit for
27 all facilities of the imputed use of the rate-setting methodology set
28 forth in paragraph (b) of this subdivision, provided, however, that for

1 those facilities that do not receive a per diem add-on adjustment pursu-
2 ant to this subparagraph, rates shall be further adjusted to include the
3 proportionate benefit, as determined by the commissioner, of the expira-
4 tion of the opening paragraph and paragraph (a) of subdivision sixteen
5 of this section and of paragraph (a) of subdivision fourteen of this
6 section, provided, further, however, that the aggregate total of the
7 rate adjustments made pursuant to this subparagraph shall not exceed one
8 hundred thirty-seven million five hundred thousand dollars for the two
9 thousand seven rate period and one hundred sixty-seven million five
10 hundred thousand dollars for the two thousand eight rate period and
11 provided further, however, that such rate adjustments as made pursuant
12 to this subparagraph prior to two thousand twelve shall not be subject
13 to subsequent adjustment or reconciliation.

14 § 61. Subparagraph (i) of paragraph (b) of subdivision 2-b of section
15 2808 of the public health law, as amended by section 94 of part H of
16 chapter 59 of the laws of 2011, is amended to read as follows:

17 (i) (A) Subject to the provisions of subparagraphs (ii) through (xiv)
18 of this paragraph, for periods on and after April first, two thousand
19 nine the operating cost component of rates of payment shall reflect
20 allowable operating costs as reported in each facility's cost report for
21 the two thousand two calendar year, as adjusted for inflation on an
22 annual basis in accordance with the methodology set forth in paragraph
23 (c) of subdivision ten of section twenty-eight hundred seven-c of this
24 article, provided, however, that for those facilities which [do not
25 receive a per diem add-on adjustment pursuant to subparagraph (ii) of
26 paragraph (a) of this subdivision] are determined by the commissioner to
27 be qualifying facilities in accordance with the provisions of clause (B)
28 of this subparagraph, rates shall be further adjusted to include the

1 proportionate benefit, as determined by the commissioner, of the expira-
2 tion of the opening paragraph and paragraph (a) of subdivision sixteen
3 of this section and of paragraph (a) of subdivision fourteen of this
4 section, and provided further that the operating cost component of rates
5 of payment for those facilities which [did not receive a per diem
6 adjustment in accordance with subparagraph (ii) of paragraph (a) of this
7 subdivision] are determined by the commissioner to be qualifying facili-
8 ties in accordance with the provisions of clause (B) of this subpara-
9 graph shall not be less than the operating component such facilities
10 received in the two thousand eight rate period, as adjusted for
11 inflation on an annual basis in accordance with the methodology set
12 forth in paragraph (c) of subdivision ten of section twenty-eight
13 hundred seven-c of this article and further provided, however, that
14 rates for facilities whose operating cost component reflects base year
15 costs subsequent to January first, two thousand two shall have rates
16 computed in accordance with this paragraph, utilizing allowable operat-
17 ing costs as reported in such subsequent base year period, and trended
18 forward to the rate year in accordance with applicable inflation
19 factors.

20 (B) For the purposes of this subparagraph qualifying facilities are
21 those facilities for which the commissioner determines that their
22 reported two thousand two base year operating cost component, as defined
23 in accordance with the regulations of the department as set forth in 10
24 NYCRR 86-2.10(a)(7); is less than the operating component such facili-
25 ties received in the two thousand eight rate period, as adjusted by
26 applicable trend factors.

27 § 62. Subdivision 2-c of section 2808 of the public health law is
28 amended by adding a new paragraph (e) to read as follows:

1 (e) Notwithstanding any inconsistent provision of this section or any
2 contrary provision of law and subject to the availability of federal
3 financial participation, the capital cost components of rates of payment
4 by governmental agencies for inpatient services provided by residential
5 health care facilities on and after January first, two thousand fourteen
6 shall be determined in accordance with regulations, including emergency
7 regulations, promulgated by the commissioner. Such regulations shall be
8 developed in consultation with the nursing home industry.

9 § 63. Paragraph (e-1) of subdivision 12 of section 2808 of the public
10 health law, as amended by section 1 of part D of chapter 59 of the laws
11 of 2011, is amended to read as follows:

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

1 April first, two thousand eleven, and for the state fiscal years begin-
2 ning April first, two thousand twelve and April first, two thousand
3 thirteen. The amount allocated to each eligible public residential
4 health care facility for this period shall be computed in accordance
5 with the provisions of paragraph (f) of this subdivision, provided,
6 however, that patient days shall be utilized for such computation
7 reflecting actual reported data for two thousand three and each repre-
8 sentative succeeding year as applicable, and provided further, however,
9 that, in consultation with impacted providers, of the funds allocated
10 for distribution in the state fiscal year beginning April first, two
11 thousand thirteen, up to sixteen million dollars may be allocated in
12 accordance with paragraph (f-1) of this subdivision.

13 § 64. Subdivision 12 of section 2808 of the public health law is
14 amended by adding a new paragraph (f-1) to read as follows:

15 (f-1) Funds allocated by the provisions of paragraph (e-1) of this
16 subdivision for distribution pursuant to this paragraph, shall be allo-
17 cated proportionally to those public residential health care facilities
18 which were subject to retroactive reductions in payments made pursuant
19 to this subdivision for state fiscal year periods beginning April first,
20 two thousand six.

21 § 65. Paragraph (a) of subdivision 6 of section 4403-f of the public
22 health law, as amended by section 41-b of part H of chapter 59 of the
23 laws of 2011, is amended to read as follows:

24 (a) An applicant shall be issued a certificate of authority as a
25 managed long term care plan upon a determination by the commissioner
26 that the applicant complies with the operating requirements for a
27 managed long term care plan under this section. [The commissioner shall

1 issue no more than seventy-five certificates of authority to managed
2 long term care plans pursuant to this section.]

3 § 66. Paragraph (c) of subdivision 2-c of section 2808 of the public
4 health law, as added by section 95 of part H of chapter 59 of the laws
5 of 2011, is amended to read as follows:

6 (c) The non-capital component of the rates for: (i) AIDS facilities or
7 discrete AIDS units within facilities; (ii) discrete units for residents
8 receiving care in a long-term inpatient rehabilitation program for trau-
9 matic brain injured persons; (iii) discrete units providing specialized
10 programs for residents requiring behavioral interventions; (iv) discrete
11 units for long-term ventilator dependent residents; and (v) facilities
12 or discrete units within facilities that provide extensive nursing,
13 medical, psychological and counseling support services solely to chil-
14 dren shall reflect the rates in effect for such facilities on January
15 first, two thousand nine, as adjusted for inflation and rate appeals in
16 accordance with applicable statutes, provided, however, that such rates
17 for facilities described in subparagraph (i) of this paragraph shall
18 reflect the application of the provisions of section twelve of part D of
19 chapter fifty-eight of the laws of two thousand nine, and provided
20 further, however, that insofar as such rates reflect trend adjustments
21 for trend factors attributable to the two thousand eight and two thou-
22 sand nine calendar years the aggregate amount of such trend factor
23 adjustments shall be subject to the provisions of section two of part D
24 of chapter fifty-eight of the laws of two thousand nine, as amended; and
25 provided further, however, that notwithstanding any inconsistent
26 provisions of this subdivision and subject to the availability of feder-
27 al financial participation, for all rate periods on and after April
28 first, two thousand fourteen, rates consistent with paragraphs (a) and

1 (b) of this subdivision for facilities described in this paragraph,
2 including a patient acuity adjustment for facilities described in
3 subparagraph (v) of this paragraph, shall be established by the commis-
4 sioner by regulation as authorized by paragraph (d) of this subdivision
5 and in consultation with affected providers.

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

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

20 § 68. Paragraph (a) of subdivision 2 of section 366-c of the social
21 services law, as added by chapter 558 of the laws of 1989, is amended to
22 read as follows:

23 (a) For purposes of this section an "institutionalized spouse" is a
24 person (i) who is in a medical institution or nursing facility [(i) who
25 is] and expected to remain in such facility or institution for at least
26 thirty consecutive days[,]; or (ii) who is receiving care, services and
27 supplies pursuant to a waiver pursuant to subsection (c) of section
28 nineteen hundred fifteen of the federal social security act or is

1 receiving care, services and supplies in a managed long-term care plan
2 pursuant to section eleven hundred fifteen of the social security act;
3 and [(ii)] (iii) who is married to a person who is not in a medical
4 institution or nursing facility or is not receiving waiver services
5 [pursuant to a waiver pursuant to subsection (c) of section nineteen
6 hundred fifteen of the federal social security act] described in subpar-
7 agraph (ii) of this paragraph; provided, however, that medical assist-
8 ance shall be furnished pursuant to this paragraph only if, for so long
9 as, and to the extent that federal financial participation is available
10 therefor. The commissioner of health shall make any amendments to the
11 state plan for medical assistance, or apply for any waiver or approval
12 under the federal social security act that are necessary to carry out
13 the provisions of this paragraph.

14 § 69. Paragraph (b) of subdivision 6 of section 3614 of the public
15 health law, as added by chapter 645 of the laws of 2003, is amended to
16 read as follows:

17 (b) For purposes of this subdivision, real property capital
18 construction costs shall only be included in rates of payment for
19 assisted living programs if: the facility houses exclusively assisted
20 living program beds authorized pursuant to paragraph (j) of subdivision
21 three of section four hundred sixty-one-1 of the social services law or
22 (i) the facility is operated by a not-for-profit corporation; (ii) the
23 facility commenced operation after nineteen hundred ninety-eight and at
24 least ninety-five percent of the certified approved beds are provided to
25 residents who are subject to the assisted living program; and (iii) the
26 assisted living program is in a county with a population of no less than
27 two hundred eighty thousand persons. The methodology used to calculate
28 the rate for such capital construction costs shall be the same methodol-

1 ogy used to calculate the capital construction costs at residential
2 health care facilities for such costs, provided that the commissioner
3 may adopt rules and regulations which establish a cap on real property
4 capital construction costs for those facilities that house exclusively
5 assisted living program beds authorized pursuant to paragraph (j) of
6 subdivision three of section four hundred sixty-one-1 of the social
7 services law.

8 § 70. Subdivision 3 of section 461-1 of the social services law is
9 amended by adding a new paragraph (j) to read as follows:

10 (j) The commissioner of health is authorized to add up to four thou-
11 sand five hundred assisted living program beds to the gross number of
12 assisted living program beds having been determined to be available as
13 of April first, two thousand twelve. Applicants eligible to submit an
14 application under this paragraph shall be limited to adult homes (i)
15 established pursuant to section four hundred sixty-one-b of this article
16 with, as of September first, two thousand twelve, a certified capacity
17 of eighty beds or more in which twenty-five percent or more of the resi-
18 dent population are persons with serious mental illness as defined in
19 regulations promulgated by the commissioner of health and (ii) located
20 in a city with a population of over one million persons. The commis-
21 sioner of health shall not be required to review on a comparative basis
22 applications submitted for assisted living program beds made available
23 under this paragraph.

24 § 71. Subdivision 14 of section 366 of the social services law, as
25 added by section 74 of part H of chapter 59 of the laws of 2011, is
26 amended to read as follows:

27 14. The commissioner of health may make any available amendments to
28 the state plan for medical assistance submitted pursuant to section

1 three hundred sixty-three-a of this title, or, if an amendment is not
2 possible, develop and submit an application for any waiver or approval
3 under the federal social security act that may be necessary to disregard
4 or exempt an amount of income, for the purpose of assisting with housing
5 costs, for individuals receiving coverage of nursing facility services
6 under this title, other than short-term rehabilitation services, and for
7 individuals in receipt of medical assistance while in an adult home, as
8 defined in subdivision twenty-five of section two of this chapter, who
9 [are]: are (i) discharged [from the nursing facility] to the community;
10 and (ii) if eligible, enrolled in a plan certified pursuant to section
11 forty-four hundred three-f of the public health law; and (iii) [while so
12 enrolled, not] do not meet the criteria to be considered an "institu-
13 tionalized spouse" for purposes of section three hundred sixty-six-c of
14 this title.

15 § 72. Section 364-j of the social services law is amended by adding a
16 new subdivision 27 to read as follows:

17 27. (a) The Centers for Medicare and Medicaid Services has established
18 an initiative to align incentives between Medicare and Medicaid. The
19 goal of the initiative is to increase access to seamless, quality
20 programs that integrate services for the dually eligible beneficiary as
21 well as to achieve both State and federal health care savings by improv-
22 ing health care delivery and encouraging high-quality, efficient care.
23 In furtherance of this goal, the legislature authorizes the commissioner
24 of health to establish a fully integrated duals advantage (FIDA)
25 program.

26 (b) The FIDA program shall provide targeted populations of
27 Medicare/Medicaid dually eligible persons with comprehensive health
28 services that include the full range of Medicare and Medicaid covered

1 services, including but not limited to primary and acute care,
2 prescription drugs, behavioral health services, care coordination
3 services, and long-term supports and services, as well as other
4 services, through managed care providers, as defined in subdivision one
5 of this section, including managed long term care plans certified pursu-
6 ant to section forty-four hundred three-f of the public health law.

7 (c) Under the FIDA program established pursuant to this subdivision,
8 up to three managed long term care plans may be authorized to exclusive-
9 ly enroll individuals with developmental disabilities, as such term is
10 defined in section 1.03 of the mental hygiene law. The commissioner of
11 health may waive any of the department's regulations as the commission-
12 er, in consultation with the commissioner of developmental disabilities,
13 deems necessary to allow such managed long term care plans to provide or
14 arrange for services for individuals with developmental disabilities
15 that are adequate and appropriate to meet the needs of such individuals
16 and that will ensure their health and safety. The commissioner of devel-
17 opmental disabilities may waive any of the office for people with devel-
18 opmental disabilities' regulations as such commissioner, in consultation
19 with the commissioner of health, deems necessary to allow such managed
20 long term care plans to provide or arrange for services for individuals
21 with developmental disabilities that are adequate and appropriate to
22 meet the needs of such individuals and that will ensure their health and
23 safety.

24 (d) The provisions of this subdivision shall not apply unless all
25 necessary approvals under federal law and regulation have been obtained
26 to receive federal financial participation in the costs of health care
27 services provided pursuant to this subdivision.

1 (e) The commissioner of health is authorized to submit amendments to
2 the state plan for medical assistance and/or submit one or more applica-
3 tions for waivers of the federal social security act as may be necessary
4 to obtain the federal approvals necessary to implement this subdivision.

5 (f) The commissioner of health, in consultation with the commissioner
6 of developmental disabilities, as appropriate, may contract with managed
7 care plans approved to participate in the FIDA program without the need
8 for a competitive bid or request for proposal process, and without
9 regard to the provisions of sections one hundred twelve and one hundred
10 sixty-three of the state finance law, section one hundred forty-two of
11 the economic development law, or any other provision of law.

12 § 73. The public health law is amended by adding a new section 4403-g
13 to read as follows:

14 § 4403-g. Developmental disability individual support and care coordi-
15 nation organizations. 1. Definitions. As used in this section:

16 (a) "Developmental disability individual support and care coordination
17 organization" or "DISCO" means an entity that has received a certificate
18 of authority pursuant to this section to provide, or arrange for, health
19 and long term care services, as determined by the commissioner and the
20 commissioner of developmental disabilities, on a capitated basis in
21 accordance with this section, for a population of individuals with
22 developmental disabilities, as such term is defined in section 1.03 of
23 the mental hygiene law, which the organization is authorized to enroll.

24 (b) "Eligible applicant" means an entity controlled by one or more
25 non-profit organizations which have a history of providing or coordinat-
26 ing health and long term care services to persons with developmental
27 disabilities.

1 (c) "Health and long term care services" means services including, but
2 not limited to, home and community-based and institution-based long term
3 care and ancillary services (that shall include medical supplies and
4 nutritional supplements) that are necessary to meet the needs of persons
5 whom the plan is authorized to enroll, and may include primary care and
6 acute care if the DISCO is authorized to provide or arrange for such
7 services.

8 2. Approval authority. An applicant shall be issued a certificate of
9 authority as a DISCO upon a determination by the commissioner and the
10 commissioner of developmental disabilities that the applicant complies
11 with the operating requirements for a DISCO under this section.

12 3. Application for certificate of authority; form. The commissioner
13 and the commissioner of developmental disabilities shall jointly develop
14 application forms for a certificate of authority to operate a DISCO. An
15 eligible applicant shall submit an application for a certificate of
16 authority to operate a DISCO upon forms prescribed by such commission-
17 ers. Such eligible applicant shall submit information and documentation
18 to the commissioner which shall include, but not be limited to:

19 (a) A description of the service area proposed to be served by the
20 DISCO with projections of enrollment that will result in a fiscally
21 sound plan;

22 (b) A description of the services to be covered by such DISCO;

23 (c) A description of the proposed marketing plan;

24 (d) The names of the providers proposed to be in the DISCO's network;

25 (e) Evidence of the character and competence of the applicant's
26 proposed operators;

27 (f) Adequate documentation of the appropriate licenses, certifications
28 or approvals to provide care as planned, including affiliate agreements

1 or proposed contracts with such providers as may be necessary to provide
2 the full complement of services required to be provided under this
3 section;

4 (g) A description of the proposed quality-assurance mechanisms, griev-
5 ance procedures, mechanisms to protect the rights of enrollees and care
6 coordination services to ensure continuity, quality, appropriateness and
7 coordination of care;

8 (h) A description of the proposed quality assessment and performance
9 improvement program that includes performance and outcome based quality
10 standards for enrollee health status and satisfaction, and data
11 collection and reporting for standard performance measures;

12 (i) A description of the management systems and systems to process
13 payment for covered services;

14 (j) A description of the mechanism to maximize reimbursement of and
15 coordinate services reimbursed pursuant to title XVIII of the federal
16 social security act and all other applicable benefits, with such benefit
17 coordination including, but not limited to, measures to support sound
18 clinical decisions, reduce administrative complexity, coordinate access
19 to services, maximize benefits available pursuant to such title and
20 ensure that necessary care is provided;

21 (k) A description of the systems for securing and integrating any
22 potential sources of funding for services provided by or through the
23 organization, including, but not limited to, funding available under
24 titles XVI, XVIII, XIX and XX of the federal social security act and all
25 other available sources of funding;

26 (l) A description of the proposed contractual arrangements for provid-
27 ers of health and long term care services in the benefit package; and

28 (m) Information related to the financial condition of the applicant.

1 4. Certificate of authority approval. The commissioner shall not
2 approve an application for a certificate of authority unless the appli-
3 cant demonstrates to the satisfaction of the commissioner and the
4 commissioner of developmental disabilities:

5 (a) That it will have in place acceptable quality assurance mech-
6 anisms, grievance procedures and mechanisms to protect the rights of
7 enrollees and care coordination services to ensure continuity, quality,
8 appropriateness and coordination of care;

9 (b) That it has developed a quality assessment and performance
10 improvement program that includes performance and outcome based quality
11 standards for enrollee health status and satisfaction, which shall be
12 reviewed by the commissioner and the commissioner of developmental disa-
13 bilities. The program shall include data collection and reporting for
14 standard performance measures as required by the commissioner and the
15 commissioner of developmental disabilities;

16 (c) That an otherwise eligible enrollee shall not be involuntarily
17 disenrolled without the prior approval of the commissioner of develop-
18 mental disabilities;

19 (d) That the applicant shall not use deceptive or coercive marketing
20 methods to encourage participants to enroll and that the applicant shall
21 not distribute marketing materials to potential enrollees before such
22 materials have been approved by the commissioner and the commissioner of
23 developmental disabilities;

24 (e) Satisfactory evidence of the character and competence of the
25 applicant's proposed operators;

26 (f) Reasonable assurance that the applicant will provide high quality
27 services to an enrolled population, that the applicant's network of
28 providers is adequate and that such providers have demonstrated suffi-

1 cient competency to deliver high quality services to the enrolled popu-
2 lation and that policies and procedures will be in place to address the
3 cultural and linguistic needs of the enrolled population;

4 (g) Sufficient management systems capacity to meet the requirements of
5 this section and the ability to efficiently process payment for covered
6 services;

7 (h) Readiness and capability to maximize reimbursement of and coordi-
8 nate services reimbursed pursuant to title XVIII of the federal social
9 security act and all other applicable benefits, with such benefit coor-
10 dination including, but not limited to, measures to support sound clin-
11 ical decisions, reduce administrative complexity, coordinate access to
12 services, maximize benefits available pursuant to such title and ensure
13 that necessary care is provided;

14 (i) Readiness and capability to arrange and manage covered services;

15 (j) Willingness and capability of taking, or cooperating in, all steps
16 necessary to secure and integrate any potential sources of funding for
17 services provided by or through the DISCO, including, but not limited
18 to, funding available under titles XVI, XVIII, XIX and XX of the federal
19 social security act and all other available sources of funding;

20 (k) That the contractual arrangements for providers of health and long
21 term care services in the benefit package are sufficient to ensure the
22 availability and accessibility of such services to the proposed enrolled
23 population consistent with guidelines established by the commissioner
24 and the commissioner of developmental disabilities; and

25 (l) That the applicant is financially responsible and shall be
26 expected to meet its obligations to its enrolled members.

1 5. Enrollment. (a) Only persons with developmental disabilities, as
2 determined by the office for people with developmental disabilities,
3 shall be eligible to enroll in DISCOs.

4 (b) The office for people with developmental disabilities or its
5 designee shall enroll an eligible person in the DISCO chosen by him or
6 her, his or her guardian or other legal representative, provided that
7 such DISCO is authorized to enroll such person.

8 (c) No person with a developmental disability who is receiving or
9 applying for medical assistance and who is receiving, or eligible to
10 receive, services funded, certified, authorized or approved by the
11 office for people with developmental disabilities shall be required to
12 enroll in a DISCO in order to receive such services until program
13 features and reimbursement rates are approved by the commissioner and
14 the commissioner of developmental disabilities, and until such commis-
15 sioners determine that there are a sufficient number of plans authorized
16 to coordinate care for individuals with developmental disabilities
17 pursuant to this article operating in the person's county of residence
18 to meet the needs of persons with developmental disabilities, and that
19 such DISCOs meet the standards of this section.

20 (d) Persons required to enroll in a DISCO shall have no less than
21 thirty days to select a DISCO, and such persons and their guardians or
22 other legal representatives shall be provided with information to make
23 an informed choice. Where a person, guardian or other legal represen-
24 tative has not selected a DISCO, the commissioner of developmental disa-
25 bilities or its designee shall enroll such person in a DISCO chosen by
26 such commissioner, taking into account quality, capacity and geographic
27 accessibility. The office for people with developmental disabilities or

1 its designee shall automatically re-enroll a person with the same DISCO
2 if there is a loss of Medicaid eligibility of two months or less.

3 (e) Enrolled persons may change their enrollment at any time without
4 cause, provided, however, that a person required to enroll in a DISCO in
5 order to receive services funded, licensed, authorized or approved by
6 the office for people with developmental disabilities may only disenroll
7 from a DISCO if he or she enrolls in another DISCO authorized to enroll
8 him or her. Such disenrollment shall be effective no later than the
9 first day of the second month following the request.

10 (f) A DISCO may request the involuntary disenrollment of an enrolled
11 person in writing to the office for people with developmental disabili-
12 ties. Such disenrollment shall not be effective until the request is
13 reviewed and approved by such office. The department and the office for
14 people with developmental disabilities shall adopt rules and regulations
15 governing this process.

16 6. Assessments. The office for people with developmental disabili-
17 ties, or its designee, shall complete a comprehensive assessment that
18 shall include, but not be limited to, an evaluation of the medical,
19 social and environmental needs of each prospective enrollee in a DISCO.
20 This assessment shall also serve as the basis for the development and
21 provision of an appropriate plan of care for the enrollee. The assess-
22 ment shall be completed by the office for people with developmental
23 disabilities or its designee in consultation with the prospective
24 enrollee's health care practitioner as necessary. The commissioner of
25 developmental disabilities shall prescribe the forms on which the
26 assessment shall be made. The office for people with developmental disa-
27 bilities may designate the DISCO to perform such assessments.

1 7. Program oversight and administration. (a) The commissioner and the
2 commissioner of developmental disabilities shall jointly promulgate
3 regulations to implement this section, to provide for oversight of
4 DISCOs, including on site reviews, and to ensure the quality, appropri-
5 ateness and cost-effectiveness of the services provided by DISCOs.

6 (b) The commissioner and the commissioner of developmental disabili-
7 ties may waive rules and regulations of their respective department or
8 office, including but not limited to, those pertaining to duplicative
9 requirements concerning record keeping, boards of directors, staffing
10 and reporting, when such waiver will promote the efficient delivery of
11 appropriate, quality, cost-effective services and when the health, safe-
12 ty and general welfare of DISCO enrollees will not be impaired as a
13 result of such waiver. In order to achieve DISCO system efficiencies and
14 coordination and to promote the objectives of high quality, integrated
15 and cost effective care, the commissioners may establish a single coor-
16 ordinated surveillance process, allow for a comprehensive quality improve-
17 ment and review process to meet component quality requirements, and
18 require a uniform cost report. The commissioners shall require DISCOs
19 to utilize quality improvement measures, based on health outcomes data,
20 for internal quality assessment processes and may utilize such measures
21 as part of the single coordinated surveillance process.

22 (c) Notwithstanding any inconsistent provision of the social services
23 law to the contrary, the commissioner in consultation with the commis-
24 sioner of developmental disabilities shall, pursuant to regulation,
25 determine whether and the extent to which the applicable provisions of
26 the social services law or regulations relating to approvals and author-
27 izations of, and utilization limitations on, health and long term care
28 services reimbursed pursuant to title XIX of the federal social security

1 act are inconsistent with the flexibility necessary for the efficient
2 administration of DISCOs, and such regulations shall provide that such
3 provisions shall not be applicable to enrollees of DISCOs, provided that
4 such determinations are consistent with applicable federal law and regu-
5 lation.

6 (d) The commissioner and the commissioner of developmental disabili-
7 ties shall ensure, through periodic reviews of DISCOs, that organization
8 services are promptly available to enrollees when appropriate. Such
9 periodic reviews shall be made according to standards as determined by
10 the commissioners in regulations.

11 (e) The commissioner and the commissioner of developmental disabili-
12 ties shall have the authority to conduct both on site and off site
13 reviews of DISCOs. Such reviews may include, but not be limited to, the
14 following components: governance; fiscal and financial reporting;
15 recordkeeping; internal controls; marketing; network contracting and
16 adequacy; program integrity assurances; utilization control and review
17 systems; grievance and appeals systems; quality assessment and assurance
18 systems; care management; enrollment and disenrollment; management
19 information systems, and other operational and management components.

20 8. Solvency. (a) The commissioner, in consultation with the commis-
21 sioner of developmental disabilities, shall be responsible for evaluat-
22 ing, approving and regulating all matters relating to fiscal solvency,
23 including reserves, surplus and provider contracts. The commissioner
24 shall promulgate regulations to implement this section. The commission-
25 er, in the administration of this subdivision:

26 (i) shall be guided by the standards that govern the fiscal solvency
27 of a health maintenance organization, provided, however, that the
28 commissioner shall recognize the specific delivery components, opera-

1 tional capacity and financial capability of the eligible applicant for a
2 certificate of authority;

3 (ii) shall not apply financial solvency standards that exceed those
4 required for a health maintenance organization; and

5 (iii) shall establish reasonable capitalization and contingent reserve
6 requirements.

7 (b) Standards established pursuant to this subdivision shall be
8 adequate to protect the interests of enrollees in the DISCO. The commis-
9 sioner shall be satisfied that the eligible applicant is financially
10 sound, and has made adequate provisions to pay for quality services that
11 are cost effective and appropriate to needs and the protection of the
12 health, safety, welfare and satisfaction of those served.

13 9. Role of the superintendent of financial services. (a) The super-
14 intendent of financial services shall determine and approve premiums in
15 accordance with the insurance law whenever any population of enrollees
16 not eligible under title XIX of the federal social security act is to be
17 covered. The determination and approval of the superintendent of finan-
18 cial services shall relate to premiums charged to such enrollees not
19 eligible under title XIX of the federal social security act.

20 (b) The superintendent of financial services shall evaluate and
21 approve any enrollee contracts whenever such enrollee contracts are to
22 cover any population of enrollees not eligible under title XIX of the
23 federal social security act.

24 10. Payment rates for DISCO enrollees eligible for medical assistance.
25 The commissioner shall establish payment rates for services provided to
26 enrollees eligible under title XIX of the federal social security act.
27 Such payment rates shall be subject to approval by the director of the
28 division of the budget. Payment rates shall be risk-adjusted to take

1 into account the characteristics of enrollees, or proposed enrollees,
2 including, but not limited to: frailty, disability level, health and
3 functional status, age, gender, the nature of services provided to such
4 enrollees, and other factors as determined by the commissioner and the
5 commissioner of developmental disabilities. The risk adjusted premiums
6 may also be combined with disincentives or requirements designed to
7 mitigate any incentives to obtain higher payment categories.

8 11. Continuation of certificate of authority. Continuation of a
9 certificate of authority issued under this section shall be contingent
10 upon compliance by the DISCO with applicable provisions of this section
11 and rules and regulations promulgated thereunder; the continuing fiscal
12 solvency of the DISCO; and federal financial participation in payments
13 on behalf of enrollees who are eligible to receive services under title
14 XIX of the federal social security act.

15 12. Protection of enrollees. The commissioner may, in his or her
16 discretion and with the concurrence of the commissioner of developmental
17 disabilities, for the purpose of the protection of enrollees, impose
18 measures including, but not limited to bans on further enrollments until
19 any identified problems are resolved to the satisfaction of the commis-
20 sioner, or fines upon a finding that the DISCO has failed to comply with
21 the provisions of any applicable statute, rule or regulation.

22 13. Information sharing. The commissioner and the commissioner of
23 developmental disabilities shall, as necessary and consistent with
24 federal regulations promulgated pursuant to the Health Insurance Porta-
25 bility and Accountability Act, share with such DISCO the following data
26 if it is available:

27 (a) Information concerning utilization of services and providers by
28 each of its enrollees prior to and during enrollment.

1 (b) Aggregate data concerning utilization and costs for enrollees and
2 for comparable cohorts served through the Medicaid fee-for-service
3 program.

4 14. Contracts. Notwithstanding any inconsistent provisions of this
5 section and sections one hundred twelve and one hundred sixty-three of
6 the state finance law, the commissioner, in consultation with the
7 commissioner of developmental disabilities, may contract with DISCOs
8 approved under this section without a competitive bid or request for
9 proposal process, to provide coverage for enrollees pursuant to this
10 section. Notwithstanding any inconsistent provisions of this section and
11 section one hundred forty-three of the economic development law, no
12 notice in the procurement opportunities newsletter shall be required for
13 contracts awarded by the commissioner to qualified DISCOs pursuant to
14 this section.

15 15. Applicability of other laws. DISCOs shall be subject to the
16 provisions of the insurance law and regulations applicable to health
17 maintenance organizations, this article and regulations promulgated
18 thereunder. To the extent that the provisions of this section are incon-
19 sistent with the provisions of this chapter or the provisions of the
20 insurance law, the provisions of this section shall prevail.

21 16. Effectiveness. The provisions of this section shall only be effec-
22 tive if, for so long as, and to the extent that federal financial
23 participation is available for the costs of services provided by the
24 DISCOs to enrollees who are recipients of medical assistance pursuant to
25 title eleven of article five of the social services law. The commission-
26 er shall make any necessary amendments to the state plan for medical
27 assistance submitted pursuant to section three hundred sixty-three-a of

1 the social services law, in order to ensure such federal financial
2 participation.

3 § 74. Section 4403 of the public health law is amended by adding a new
4 subdivision 8 to read as follows:

5 8. Notwithstanding any provision of law to the contrary, a health
6 maintenance organization may expand its comprehensive health services
7 plan to include services operated, certified, funded, authorized or
8 approved by the office for people with developmental disabilities, and
9 may offer such expanded plan to a population of persons with develop-
10 mental disabilities, as such term is defined in the mental hygiene law,
11 subject to the following:

12 (a) Such organization must have the ability to provide or coordinate
13 services for persons with developmental disabilities, as demonstrated by
14 criteria to be determined by the commissioner and the commissioner of
15 developmental disabilities;

16 (b) The provision by such organization of services operated, certi-
17 fied, funded, authorized or approved by the office for people with
18 developmental disabilities shall be subject to the joint oversight and
19 review of both the department and the office for people with develop-
20 mental disabilities;

21 (c) Such organization shall not provide or arrange for services oper-
22 ated, certified, funded, authorized or approved by the office for people
23 with developmental disabilities until the commissioner and commissioner
24 of developmental disabilities approve program features and rates that
25 include such services, and determine that such organization meets the
26 requirements of this paragraph;

27 (d) An otherwise eligible enrollee receiving services through the plan
28 that are operated, certified, funded, authorized or approved by the

1 office for people with developmental disabilities shall not be involun-
2 tarily disenrolled from such plan without the prior approval of the
3 commissioner of developmental disabilities;

4 (e) The office for people with developmental disabilities shall deter-
5 mine the eligibility of individuals receiving services operated, certi-
6 fied, funded, authorized or approved by such office to enroll in such a
7 plan and shall enroll individuals it determines eligible in the plan
8 chosen by such individual, guardian or other legal representative;

9 (f) The office for people with developmental disabilities, or if it so
10 designates, the health maintenance organization or other designee, shall
11 complete a comprehensive assessment for enrollees that receive services
12 operated, certified, funded, authorized or approved by such office.
13 This assessment shall include, but not be limited to, an evaluation of
14 the medical, social and environmental needs of each prospective enrol-
15 lee. This assessment shall also serve as the basis for the development
16 and provision of an appropriate plan of care for the enrollee. The
17 assessment shall be completed by such office or its designee, in consul-
18 tation with the prospective enrollee's health care practitioner as
19 necessary. The commissioner of developmental disabilities shall
20 prescribe the forms on which the assessment shall be made.

21 (g) No person with a developmental disability shall be required to
22 enroll in a comprehensive health services plan as a condition of receiv-
23 ing medical assistance and services operated, certified, funded, author-
24 ized or approved by the office for people with developmental disabili-
25 ties until program features and reimbursement rates are approved by the
26 commissioner and the commissioner of developmental disabilities and
27 until such commissioners determine that there are a sufficient number of
28 plans authorized to coordinate care for individuals with developmental

1 disabilities pursuant to this article operating in the person's county
2 of residence to meet the needs of persons with developmental disabili-
3 ties, and that such plans meet the standards of this section.

4 (h) The provisions of this subdivision shall only be effective if, for
5 so long as, and to the extent that federal financial participation is
6 available for the costs of services provided hereunder to recipients of
7 medical assistance pursuant to title eleven of article five of the
8 social services law. The commissioner shall make any necessary amend-
9 ments to the state plan for medical assistance submitted pursuant to
10 section three hundred sixty-three-a of the social services law, and/or
11 submit one or more applications for waivers of the federal social secu-
12 rity act, as may be necessary to ensure such federal financial partic-
13 ipation. To the extent that the provisions of this subdivision are
14 inconsistent with other provisions of this article or with the
15 provisions of section three hundred sixty-four-j of the social services
16 law, the provisions of this subdivision shall prevail.

17 § 75. The opening paragraph of paragraph (h) of subdivision 7 of
18 section 4403-f of the public health law, as amended by section 41-b of
19 part H of chapter 59 of the laws of 2011, is amended to read as follows:

20 The commissioner and, in the case of a plan arranging for or providing
21 services operated, certified, funded, authorized or approved by the
22 office for people with developmental disabilities, the commissioner of
23 developmental disabilities, shall, upon request by a managed long term
24 care plan or operating demonstration, and consistent with federal regu-
25 lations promulgated pursuant to the Health Insurance Portability and
26 Accountability Act, share with such plan or demonstration the following
27 data if it is available:

1 § 76. Section 4403-f of the public health law is amended by adding
2 three new subdivisions 12, 13 and 14 to read as follows:

3 12. Notwithstanding any provision to the contrary, a managed long term
4 care plan may expand the services it provides or arranges for to include
5 services operated, certified, funded, authorized or approved by the
6 office for people with developmental disabilities for a population of
7 persons with developmental disabilities, as such term is defined in the
8 mental hygiene law, subject to the following:

9 (a) Such plan must have the ability to provide or coordinate services
10 for persons with developmental disabilities as demonstrated by criteria
11 to be determined by the commissioner and the commissioner of develop-
12 mental disabilities;

13 (b) The provision by such plan of services operated, certified, fund-
14 ed, authorized or approved by the office for people with developmental
15 disabilities shall be subject to the joint oversight and review of both
16 the department and the office for people with developmental disabili-
17 ties;

18 (c) Such plan shall not provide or arrange for services operated,
19 certified, funded, authorized or approved by the office for people with
20 developmental disabilities until the commissioner and commissioner of
21 developmental disabilities approve program features and rates that
22 include such services, and determine that such organization meets the
23 requirements of this subdivision;

24 (d) An otherwise eligible enrollee receiving services through the plan
25 that are operated, certified, funded, authorized or approved by the
26 office for people with developmental disabilities shall not be involun-
27 tarily disenrolled from such plan without the prior approval of the
28 commissioner of developmental disabilities;

1 (e) The office for people with developmental disabilities shall deter-
2 mine the eligibility of individuals receiving services operated, certi-
3 fied, funded, authorized or approved by such office to enroll in such a
4 plan. Such office or its designee shall enroll eligible individuals it
5 determines eligible in a plan chosen by such individual, guardian or
6 other legal representative;

7 (f) The office for people with developmental disabilities, or if it so
8 designates, a plan or other designee, shall complete a comprehensive
9 assessment for enrollees who receive services operated, certified, fund-
10 ed, authorized or approved by such office. This assessment shall
11 include, but not be limited to, an evaluation of the medical, social and
12 environmental needs of each prospective enrollee. This assessment shall
13 also serve as the basis for the development and provision of an appro-
14 priate plan of care for the enrollee. The assessment shall be completed
15 by the office or, if designated, the plan, in consultation with the
16 prospective enrollee's health care practitioner as necessary. The
17 commissioner of developmental disabilities shall prescribe the forms on
18 which the assessment shall be made.

19 (g) No person with a developmental disability shall be required to
20 enroll in a managed long term care plan as a condition of receiving
21 medical assistance and services operated, certified, funded, authorized
22 or approved by the office for people with developmental disabilities
23 until program features and reimbursement rates are approved by the
24 commissioner and the commissioner of developmental disabilities and
25 until such commissioners determine that there are a sufficient number of
26 plans authorized to coordinate care for individuals with developmental
27 disabilities pursuant to this article operating in the person's county

1 of residence to meet the needs of persons with developmental disabili-
2 ties, and that such plans meet the standards of this section.

3 13. Notwithstanding any inconsistent provision to the contrary, the
4 commissioner may issue a certificate of authority to no more than three
5 eligible applicants to operate managed long term plans that are author-
6 ized to exclusively enroll individuals with developmental disabilities,
7 as such term is defined in section 1.03 of the mental hygiene law. The
8 commissioner may only issue certificates of authority pursuant to this
9 subdivision if, and to the extent that, the department has received
10 federal approval to operate a fully integrated duals advantage program
11 for the integration of services for persons enrolled in Medicare and
12 Medicaid. The commissioner may waive any of the department's regu-
13 lations as the commissioner, in consultation with the commissioner of
14 developmental disabilities, deems necessary to allow such managed long
15 term plans to provide or arrange for services for individuals with
16 developmental disabilities that are adequate and appropriate to meet the
17 needs of such individuals and that will ensure their health and safety.

18 14. The provisions of subdivisions twelve and thirteen of this section
19 shall only be effective if, for so long as, and to the extent that
20 federal financial participation is available for the costs of services
21 provided thereunder to recipients of medical assistance pursuant to
22 title eleven of article five of the social services law. The commission-
23 er shall make any necessary amendments to the state plan for medical
24 assistance submitted pursuant to section three hundred sixty-three-a of
25 the social services law, and/or submit one or more applications for
26 waivers of the federal social security act, as may be necessary to
27 ensure such federal financial participation. To the extent that the
28 provisions of subdivisions twelve and thirteen of this section are

1 inconsistent with other provisions of this article or with the
2 provisions of section three hundred sixty-four-j of the social services
3 law, the provisions of this subdivision shall prevail.

4 § 77. Subparagraph (ii) of paragraph (b) of subdivision 1 of section
5 364-j of the social services law, as amended by chapter 433 of the laws
6 of 1997, is amended and a new subparagraph (iii) is added to read as
7 follows:

8 (ii) is authorized as a partially capitated program pursuant to
9 section three hundred sixty-four-f of this title or section forty-four
10 hundred three-e of the public health law or section 1915b of the social
11 security act[.]; or

12 (iii) is authorized to operate under section forty-four hundred
13 three-g of the public health law.

14 § 78. Section 364-j of the social services law is amended by adding a
15 new subdivision 28 to read as follows:

16 28. To the extent that any provision of this section is inconsistent
17 with any provision of section forty-four hundred three-g of the public
18 health law, such provision of this section shall not apply to an entity
19 authorized to operate pursuant to section forty-four hundred three-g of
20 the public health law.

21 § 79. Subdivision 2 of section 365-a of the social services law is
22 amended by adding a new paragraph (aa) to read as follows:

23 (aa) care and services furnished by a developmental disability indi-
24 vidual support and care coordination organization (DISCO) that has
25 received a certificate of authority pursuant to section forty-four
26 hundred three-g of the public health law to eligible individuals resid-
27 ing in the geographic area served by such entity, when such services are

1 furnished in accordance with an agreement approved by the department of
2 health which meets the requirements of federal law and regulations.

3 § 80. The commissioner of health shall, to the extent necessary,
4 submit the appropriate waivers, including, but not limited to, those
5 authorized pursuant to sections eleven hundred fifteen and nineteen
6 hundred fifteen of the federal social security act, or successor
7 provisions, and any other waivers necessary to achieve the purposes of
8 high quality, integrated and cost effective care and integrated finan-
9 cial eligibility policies under the medical assistance program or pursu-
10 ant to title XVIII of the federal social security act and to require
11 medical assistance recipients with developmental disabilities who
12 require home and community-based services, as specified by the commis-
13 sioner, to receive such services through an available organization
14 certified pursuant to article 44 of the public health law. Copies of
15 such original waiver applications and amendments thereto shall be
16 provided to the chairs of the senate finance committee, the assembly
17 ways and means committee and the senate and assembly health committees
18 simultaneously with their submission to the federal government.

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

25 § 82. Notwithstanding any inconsistent provision of law, rule or regu-
26 lation, the effectiveness of the provisions of sections 2807 and 3614 of
27 the public health law, section 18 of chapter 2 of the laws of 1988, and
28 18 NYCRR 505.14(h), as they relate to time frames for notice, approval

1 or certification of rates of payment, are hereby suspended and without
2 force or effect for purposes of implementing the provisions of this act.

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

12 § 84. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2013 provided
14 that:

15 1. the amendments to subdivision 10 of section 2807-c of the public
16 health law, made by section four of this act, shall not affect the expi-
17 ration of such subdivision and shall be deemed repealed therewith;

18 1-a. sections ten, eleven, twelve and thirteen of this act shall take
19 effect July 1, 2013;

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

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

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

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

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

15 7. the amendments to subparagraph (ii) of paragraph (b) of subdivision
16 9 of section 367-a of the social services law made by section thirteen
17 of this act shall not affect the expiration of such subdivision and
18 shall be deemed to expire therewith;

19 8. the amendments to paragraph (a-2) of subdivision 1 of section
20 2807-c of the public health law made by sections thirty-one and thirty-
21 two of this act shall not affect the expiration of such paragraph and
22 shall be deemed to expire therewith;

23 9. the amendments to section 364-j of the social services law made by
24 sections thirty-five-a, thirty-six, thirty-seven, thirty-eight, thirty-
25 nine, forty, forty-one, forty-two, forty-three, forty-four, fifty-two,
26 seventy-two, seventy-seven and seventy-eight of this act shall not
27 affect the repeal of such section and shall be deemed repealed there-
28 with;

1 10. section forty-eight-a of this act shall expire and be deemed
2 repealed March 31, 2015; and

3 11. the amendments to section 4403-f of the public health law made by
4 sections forty-eight, fifty-three, fifty-four, sixty-five, seventy-five
5 and seventy-six of this act shall not affect the repeal of such section
6 and shall be deemed repealed therewith.

7 PART B

8 Section 1. Subdivision (f) of section 129 of part C of chapter 58 of
9 the laws of 2009, amending the public health law relating to payment by
10 governmental agencies for general hospital inpatient services, is
11 amended to read as follows:

12 (f) section twenty-five of this act shall expire and be deemed
13 repealed April 1, [2013] 2016;

14 § 2. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
15 the laws of 1996, amending the education law and other laws relating to
16 rates for residential healthcare facilities, as amended by section 2 of
17 part D of chapter 59 of the laws of 2011, is amended to read as follows:

18 (a) Notwithstanding any inconsistent provision of law or regulation to
19 the contrary, effective beginning August 1, 1996, for the period April
20 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
21 1998 through March 31, 1999, August 1, 1999, for the period April 1,
22 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
23 through March 31, 2001, April 1, 2001, for the period April 1, 2001
24 through March 31, 2002, April 1, 2002, for the period April 1, 2002
25 through March 31, 2003, and for the state fiscal year beginning April 1,
26 2005 through March 31, 2006, and for the state fiscal year beginning

1 April 1, 2006 through March 31, 2007, and for the state fiscal year
2 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
3 year beginning April 1, 2008 through March 31, 2009, and for the state
4 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
5 state fiscal year beginning April 1, 2010 through March 31, 2013, and
6 for each state fiscal year thereafter, the department of health is
7 authorized to pay public general hospitals, as defined in subdivision 10
8 of section 2801 of the public health law, operated by the state of New
9 York or by the state university of New York or by a county, which shall
10 not include a city with a population of over one million, of the state
11 of New York, and those public general hospitals located in the county of
12 Westchester, the county of Erie or the county of Nassau, additional
13 payments for inpatient hospital services as medical assistance payments
14 pursuant to title 11 of article 5 of the social services law for
15 patients eligible for federal financial participation under title XIX of
16 the federal social security act in medical assistance pursuant to the
17 federal laws and regulations governing disproportionate share payments
18 to hospitals up to one hundred percent of each such public general
19 hospital's medical assistance and uninsured patient losses after all
20 other medical assistance, including disproportionate share payments to
21 such public general hospital for 1996, 1997, 1998, and 1999, based
22 initially for 1996 on reported 1994 reconciled data as further recon-
23 ciled to actual reported 1996 reconciled data, and for 1997 based
24 initially on reported 1995 reconciled data as further reconciled to
25 actual reported 1997 reconciled data, for 1998 based initially on
26 reported 1995 reconciled data as further reconciled to actual reported
27 1998 reconciled data, for 1999 based initially on reported 1995 recon-
28 ciled data as further reconciled to actual reported 1999 reconciled

1 data, for 2000 based initially on reported 1995 reconciled data as
2 further reconciled to actual reported 2000 data, for 2001 based initial-
3 ly on reported 1995 reconciled data as further reconciled to actual
4 reported 2001 data, for 2002 based initially on reported 2000 reconciled
5 data as further reconciled to actual reported 2002 data, and for state
6 fiscal years beginning on April 1, 2005, based initially on reported
7 2000 reconciled data as further reconciled to actual reported data for
8 2005, and for state fiscal years beginning on April 1, 2006, based
9 initially on reported 2000 reconciled data as further reconciled to
10 actual reported data for 2006, for state fiscal years beginning on and
11 after April 1, 2007 through March 31, 2009, based initially on reported
12 2000 reconciled data as further reconciled to actual reported data for
13 2007 and 2008, respectively, for state fiscal years beginning on and
14 after April 1, 2009, based initially on reported 2007 reconciled data,
15 adjusted for authorized Medicaid rate changes applicable to the state
16 fiscal year, and as further reconciled to actual reported data for 2009,
17 for state fiscal years beginning on and after April 1, 2010, based
18 initially on reported reconciled data from the base year two years prior
19 to the payment year, adjusted for authorized Medicaid rate changes
20 applicable to the state fiscal year, and further reconciled to actual
21 reported data from such payment year, and to actual reported data for
22 each respective succeeding year. The payments may be added to rates of
23 payment or made as aggregate payments to an eligible public general
24 hospital.

25 § 3. Section 11 of chapter 884 of the laws of 1990, amending the
26 public health law relating to authorizing bad debt and charity care
27 allowances for certified home health agencies, as amended by section 3

1 of part D of chapter 59 of the laws of 2011, is amended to read as
2 follows:

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

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

5 (b) sections four through ten shall expire on June 30, [2013] 2018,
6 and

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

11 § 4. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
12 amending the public health law and other laws relating to medical
13 reimbursement and welfare reform, as amended by section 4 of part D of
14 chapter 59 of the laws of 2011, is amended to read as follows:

15 2. Sections five, seven through nine, twelve through fourteen, and
16 eighteen of this act shall be deemed to have been in full force and
17 effect on and after April 1, 1995 through March 31, 1999 and on and
18 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000
19 through March 31, 2003 and on and after April 1, 2003 through March 31,
20 2006 and on and after April 1, 2006 through March 31, 2007 and on and
21 after April 1, 2007 through March 31, 2009 and on and after April 1,
22 2009 through March 31, 2011 and sections twelve, thirteen and fourteen
23 of this act shall be deemed to be in full force and effect on and after
24 April 1, 2011 [through March 31, 2013];

25 § 5. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
26 2807-d of the public health law, as amended by section 102 of part H of
27 chapter 59 of the laws of 2011, is amended to read as follows:

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

21 § 6. Section 88 of chapter 659 of the laws of 1997, constituting the
22 long term care integration and finance act of 1997, as amended by chap-
23 ter 446 of the laws of 2011, is amended to read as follows:

24 § 88. Notwithstanding any provision of law to the contrary, all oper-
25 ating demonstrations, as such term is defined in paragraph (c) of subdi-
26 vision 1 of section 4403-f of the public health law as added by section
27 eighty-two of this act, due to expire prior to January 1, 2001 shall be

1 deemed to [expire on December 31, 2013] remain in full force and effect
2 subsequent to such date.

3 § 7. Subparagraph (v) of paragraph (b) of subdivision 35 of section
4 2807-c of the public health law, as amended by section 2 of part G of
5 chapter 56 of the laws of 2012, is amended to read as follows:

6 (v) such regulations shall incorporate quality related measures,
7 including, but not limited to, potentially preventable re-admissions
8 (PPRs) and provide for rate adjustments or payment disallowances related
9 to PPRs and other potentially preventable negative outcomes (PPNOs),
10 which shall be calculated in accordance with methodologies as determined
11 by the commissioner, provided, however, that such methodologies shall be
12 based on a comparison of the actual and risk adjusted expected number of
13 PPRs and other PPNOs in a given hospital and with benchmarks established
14 by the commissioner and provided further that such rate adjustments or
15 payment disallowances shall result in an aggregate reduction in Medicaid
16 payments of no less than thirty-five million dollars for the period July
17 first, two thousand ten through March thirty-first, two thousand eleven
18 and no less than fifty-one million dollars for annual periods beginning
19 April first, two thousand eleven through March thirty-first, two thou-
20 sand [thirteen] fourteen, provided further that such aggregate
21 reductions shall be offset by Medicaid payment reductions occurring as a
22 result of decreased PPRs during the period July first, two thousand ten
23 through March thirty-first, two thousand eleven and the period April
24 first, two thousand eleven through March thirty-first, two thousand
25 [thirteen] fourteen and as a result of decreased PPNOs during the period
26 April first, two thousand eleven through March thirty-first, two thou-
27 sand [thirteen] fourteen; and provided further that for the period July
28 first, two thousand ten through March thirty-first, two thousand [thir-

1 teen] fourteen, such rate adjustments or payment disallowances shall not
2 apply to behavioral health PPRs; or to readmissions that occur on or
3 after fifteen days following an initial admission. By no later than July
4 first, two thousand eleven the commissioner shall enter into consulta-
5 tions with representatives of the health care facilities subject to this
6 section regarding potential prospective revisions to applicable method-
7 ologies and benchmarks set forth in regulations issued pursuant to this
8 subparagraph;

9 § 8. Subdivision 2 of section 93 of part C of chapter 58 of the laws
10 of 2007 amending the social services law and other laws relating to
11 enacting the major components of legislation necessary to implement the
12 health and mental hygiene budget for the 2007-2008 fiscal year, as
13 amended by section 10 of part B of chapter 58 of the laws of 2009, is
14 amended to read as follows:

15 2. section two of this act shall expire and be deemed repealed on
16 March 31, [2013] 2014;

17 § 8-a. Subdivision 8 of section 364-1 of the social services law is
18 REPEALED.

19 § 9. Section 194 of chapter 474 of the laws of 1996, amending the
20 education law and other laws relating to rates for residential health
21 care facilities, as amended by section 9 of part D of chapter 59 of the
22 laws of 2011, is amended to read as follows:

23 § 194. 1. Notwithstanding any inconsistent provision of law or regu-
24 lation, the trend factors used to project reimbursable operating costs
25 to the rate period for purposes of determining rates of payment pursuant
26 to article 28 of the public health law for residential health care
27 facilities for reimbursement of inpatient services provided to patients
28 eligible for payments made by state governmental agencies on and after

1 April 1, 1996 through March 31, 1999 and for payments made on and after
2 July 1, 1999 through March 31, 2000 and on and after April 1, 2000
3 through March 31, 2003 and on and after April 1, 2003 through March 31,
4 2007 and on and after April 1, 2007 through March 31, 2009 and on and
5 after April 1, 2009 through March 31, 2011 and on and after April 1,
6 2011 [through March 31, 2013] shall reflect no trend factor projections
7 or adjustments for the period April 1, 1996, through March 31, 1997.

8 2. The commissioner of health shall adjust such rates of payment to
9 reflect the exclusion pursuant to this section of such specified trend
10 factor projections or adjustments.

11 § 10. Subdivision 1 of section 89-a of part C of chapter 58 of the
12 laws of 2007, amending the social services law and other laws relating
13 to enacting the major components of legislation necessary to implement
14 the health and mental hygiene budget for the 2007-2008 state fiscal
15 year, as amended by section 10 of part D of chapter 59 of the laws of
16 2011, is amended to read as follows:

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

1 to the period January 1, 2006 through December 31, 2006, and on and
2 after January 1, 2007, provided, however, that on reconciliation of such
3 trend factor for the period January 1, 2006 through December 31, 2006
4 pursuant to paragraph (c) of subdivision 10 of section 2807-c of the
5 public health law, such trend factor shall be the final US Consumer
6 Price Index (CPI) for all urban consumers, as published by the US
7 Department of Labor, Bureau of Labor Statistics less twenty-five
8 hundredths of a percentage point.

9 § 11. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of
10 the laws of 1995, amending the public health law and other laws relating
11 to medical reimbursement and welfare reform, as amended by section 11 of
12 part D of chapter 59 of the laws of 2011, is amended to read as follows:

13 (f) Prior to [February 1, 2001, February 1, 2002, February 1, 2003,
14 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,
15 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,
16 February 1, 2012, and February 1, 2013] February first of each year the
17 commissioner of health shall calculate the result of the statewide total
18 of residential health care facility days of care provided to benefici-
19 aries of title XVIII of the federal social security act (medicare),
20 divided by the sum of such days of care plus days of care provided to
21 residents eligible for payments pursuant to title 11 of article 5 of the
22 social services law minus the number of days provided to residents
23 receiving hospice care, expressed as a percentage, for the period
24 commencing January 1, through November 30, of the prior year respective-
25 ly, based on such data for such period. This value shall be called the
26 [2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011,
27 2012, and 2013] statewide target percentage [respectively] of the
28 respective year for which it is calculated.

1 § 12. Subparagraph (ii) of paragraph (b) of subdivision 3 of section
2 64 of chapter 81 of the laws of 1995, amending the public health law and
3 other laws relating to medical reimbursement and welfare reform, as
4 amended by section 12 of part D of chapter 59 of the laws of 2011, is
5 amended to read as follows:

6 (ii) If the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
7 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide target percent-
8 ages are not for each year at least three percentage points higher than
9 the statewide base percentage, the commissioner of health shall deter-
10 mine the percentage by which the statewide target percentage for each
11 year is not at least three percentage points higher than the statewide
12 base percentage. The percentage calculated pursuant to this paragraph
13 shall be called the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005,
14 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide reduction
15 percentage [respectively] of the respective year for which it is calcu-
16 lated. If the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
17 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide target percent-
18 age for the respective year is at least three percentage points higher
19 than the statewide base percentage, the statewide reduction percentage
20 for the respective year shall be zero.

21 § 13. Subparagraph (iii) of paragraph (b) of subdivision 4 of section
22 64 of chapter 81 of the laws of 1995, amending the public health law and
23 other laws relating to medical reimbursement and welfare reform, as
24 amended by section 13 of part D of chapter 59 of the laws of 2011, is
25 amended to read as follows:

26 (iii) The [1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
27 2009, 2010, 2011, 2012, and 2013] statewide reduction percentage shall
28 be multiplied by one hundred two million dollars respectively to deter-

1 mine the [1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
2 2009, 2010, 2011, 2012, and 2013] respective year's statewide aggregate
3 reduction amount. If the [1998 and the 2000, 2001, 2002, 2003, 2004,
4 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide
5 reduction percentage shall be zero respectively, there shall be no
6 [1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,
7 2011, 2012, and 2013] reduction amount.

8 § 14. Paragraph (b) of subdivision 5 of section 64 of chapter 81 of
9 the laws of 1995, amending the public health law and other laws relating
10 to medical reimbursement and welfare reform, as amended by section 14 of
11 part D of chapter 59 of the laws of 2011, is amended to read as follows:

12 (b) The [1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005,
13 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] statewide aggregate
14 reduction amounts shall for each year be allocated by the commissioner
15 of health among residential health care facilities that are eligible to
16 provide services to beneficiaries of title XVIII of the federal social
17 security act (medicare) and residents eligible for payments pursuant to
18 title 11 of article 5 of the social services law on the basis of the
19 extent of each facility's failure to achieve a two percentage points
20 increase in the 1996 target percentage, a three percentage point
21 increase in the [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
22 2007, 2008, 2009, 2010, 2011, 2012, and 2013] target percentage there-
23 after and a two and one-quarter percentage point increase in the 1999
24 target percentage for each year, compared to the base percentage, calcu-
25 lated on a facility specific basis for this purpose, compared to the
26 statewide total of the extent of each facility's failure to achieve a
27 two percentage points increase in the 1996 and a three percentage point
28 increase in the 1997 and a three percentage point increase in the 1998

1 and a two and one-quarter percentage point increase in the 1999 target
2 percentage and a three percentage point increase in the [2000, 2001,
3 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and
4 2013] target percentage compared to the base percentage. These amounts
5 shall be called the [1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003,
6 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and 2013] facility
7 specific reduction amounts [respectively] of the respective year for
8 which it is calculated.

9 § 14-a. Section 228 of chapter 474 of the laws of 1996, amending the
10 education law and other laws relating to rates for residential health
11 care facilities, as amended by section 14-a of part D of chapter 59 of
12 the laws of 2011, is amended to read as follows:

13 § 228. 1. Definitions. (a) Regions, for purposes of this section,
14 shall mean a downstate region to consist of Kings, New York, Richmond,
15 Queens, Bronx, Nassau and Suffolk counties and an upstate region to
16 consist of all other New York state counties. A certified home health
17 agency or long term home health care program shall be located in the
18 same county utilized by the commissioner of health for the establishment
19 of rates pursuant to article 36 of the public health law.

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

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

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

26 (e) Medicaid revenue percentage, for purposes of this section, shall
27 mean CHHA and LTHHCP revenues attributable to services provided to
28 persons eligible for payments pursuant to title 11 of article 5 of the

1 social services law divided by such revenues plus CHHA and LTHHCP reven-
2 ues attributable to services provided to beneficiaries of Title XVIII of
3 the federal social security act (medicare).

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

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

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

5 (b) Prior to [February 1, 1998, prior to February 1, 1999, prior to
6 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
7 prior to February 1, 2003, prior to February 1, 2004, prior to February
8 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
9 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,
10 prior to February 1, 2011, prior to February 1, 2012 and prior to Febru-
11 ary 1, 2013] the first of February each year for each regional group the
12 commissioner of health shall calculate the prior year's medicaid revenue
13 percentages for the period commencing January 1 through November 30 of
14 such prior year.

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

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

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

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

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

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

3 (b) For [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
4 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group, the
5 target medicaid revenue percentage for the respective year shall be
6 calculated by subtracting the respective year's medicaid revenue
7 reduction percentage from the base period medicaid revenue percentage.
8 The medicaid revenue reduction percentages for [1997, 1998, 2000, 2001,
9 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, and
10 2013] each respective year, taking into account regional and program
11 differences in utilization of medicaid and medicare services, for the
12 following regional groups shall be equal to for each such year:

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

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

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

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

21 (c) For each regional group, the 1999 target medicaid revenue percent-
22 age shall be calculated by subtracting the 1999 medicaid revenue
23 reduction percentage from the base period medicaid revenue percentage.
24 The 1999 medicaid revenue reduction percentages, taking into account
25 regional and program differences in utilization of medicaid and medicare
26 services, for the following regional groups shall be equal to:

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

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

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

5 (iv) one and two hundred seventy-five thousandths percentage points
6 (1.275) for LTHHCPS located within the upstate region.

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

17 (b) For [1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
18 2007, 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group,
19 if the medicaid revenue percentage for the respective year is not equal
20 to or less than the target medicaid revenue percentage for such respec-
21 tive year, the commissioner of health shall compare such respective
22 year's medicaid revenue percentage to such respective year's target
23 medicaid revenue percentage to determine the amount of the shortfall
24 which, when divided by the respective year's medicaid revenue reduction
25 percentage, shall be called the reduction factor for such respective
26 year. These amounts, expressed as a percentage, shall not exceed one
27 hundred percent. If the medicaid revenue percentage for a particular

1 year is equal to or less than the target medicaid revenue percentage for
2 that year, the reduction factor for that year shall be zero.

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

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

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

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

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

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

16 (b) For [1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
17 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group, the
18 reduction factor for the respective year shall be multiplied by the
19 following amounts to determine each regional group's applicable state
20 share reduction amount for such respective year:

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

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

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

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

1 For each regional group reduction, if the reduction factor for a
2 particular year shall be zero, there shall be no state share reduction
3 amount for such year.

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

7 (i) one million seven hundred ninety-two thousand five hundred dollars
8 (\$1,792,500) for CHHAs located within the downstate region;

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

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

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

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

17 7. (a) For each regional group, the 1996 state share reduction amount
18 shall be allocated by the commissioner of health among CHHAs and LTHHCPS
19 on the basis of the extent of each CHHA's and LTHHCP's failure to
20 achieve the 1996 target medicaid revenue percentage, calculated on a
21 provider specific basis utilizing revenues for this purpose, expressed
22 as a proportion of the total of each CHHA's and LTHHCP's failure to
23 achieve the 1996 target medicaid revenue percentage within the applica-
24 ble regional group. This proportion shall be multiplied by the applica-
25 ble 1996 state share reduction amount calculation pursuant to paragraph
26 (a) of subdivision 6 of this section. This amount shall be called the
27 1996 provider specific state share reduction amount.

1 (b) For [1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
2 2007, 2008, 2009, 2010, 2011, 2012, and 2013 for] each regional group,
3 the state share reduction amount for the respective year shall be allo-
4 cated by the commissioner of health among CHHAs and LTHHCPS on the basis
5 of the extent of each CHHA's and LTHHCP's failure to achieve the target
6 medicaid revenue percentage for the applicable year, calculated on a
7 provider specific basis utilizing revenues for this purpose, expressed
8 as a proportion of the total of each CHHA's and LTHHCP's failure to
9 achieve the target medicaid revenue percentage for the applicable year
10 within the applicable regional group. This proportion shall be multi-
11 plied by the applicable year's state share reduction amount calculation
12 pursuant to paragraph (b) or (c) of subdivision 6 of this section. This
13 amount shall be called the provider specific state share reduction
14 amount for the applicable year.

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

20 (b) The provider specific state share reduction amount for [1997,
21 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009,
22 2010, 2011, 2012, and 2013 respectively,] the respective year shall be
23 due to the state from each CHHA and LTHHCP and each year the amount due
24 for such year may be recouped by the state by March 31 of the following
25 year in a lump sum amount or amounts from payments due to the CHHA and
26 LTHHCP pursuant to title 11 of article 5 of the social services law.

27 9. CHHAs and LTHHCPS shall submit such data and information at such
28 times as the commissioner of health may require for purposes of this

1 section. The commissioner of health may use data available from third-
2 party payors.

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

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

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

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

8 12. The commissioner of health shall inform in writing the director of
9 the budget and the chair of the senate finance committee and the chair
10 of the assembly ways and means committee of the results of the calcu-
11 lations pursuant to this section.

12 § 15. Subdivision 5-a of section 246 of chapter 81 of the laws of
13 1995, amending the public health law and other laws relating to medical
14 reimbursement and welfare reform, as amended by section 15 of part D of
15 chapter 59 of the laws of 2011, is amended to read as follows:

16 5-a. Section sixty-four-a of this act shall be deemed to have been in
17 full force and effect on and after April 1, 1995 through March 31, 1999
18 and on and after July 1, 1999 through March 31, 2000 and on and after
19 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
20 through March 31, 2007, and on and after April 1, 2007 through March 31,
21 2009, and on and after April 1, 2009 through March 31, 2011, and on and
22 after April 1, 2011 through March 31, 2013, and on and after April 1,
23 2013 through March 31, 2018;

24 § 16. Section 64-b of chapter 81 of the laws of 1995, amending the
25 public health law and other laws relating to medical reimbursement and
26 welfare reform, as amended by section 16 of part D of chapter 59 of the
27 laws of 2011, is amended to read as follows:

1 § 64-b. Notwithstanding any inconsistent provision of law, the
2 provisions of subdivision 7 of section 3614 of the public health law, as
3 amended, shall remain and be in full force and effect on April 1, 1995
4 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
5 and after April 1, 2000 through March 31, 2003 and on and after April 1,
6 2003 through March 31, 2007, and on and after April 1, 2007 through
7 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
8 and on and after April 1, 2011 through March 31, 2013, and on and after
9 April 1, 2013 through March 31, 2018.

10 § 17. Subdivision 1 of section 20 of chapter 451 of the laws of 2007,
11 amending the public health law, the social services law and the insur-
12 ance law, relating to providing enhanced consumer and provider
13 protections, as amended by section 17 of part D of chapter 59 of the
14 laws of 2011, is amended to read as follows:

15 1. sections four, eleven and thirteen of this act shall take effect
16 immediately and shall expire and be deemed repealed June 30, [2013]
17 2015;

18 § 18. The opening paragraph of subdivision 7-a of section 3614 of the
19 public health law, as amended by section 18 of part D of chapter 59 of
20 the laws of 2011, is amended to read as follows:

21 Notwithstanding any inconsistent provision of law or regulation, for
22 the purposes of establishing rates of payment by governmental agencies
23 for long term home health care programs for the period April first, two
24 thousand five, through December thirty-first, two thousand five, and for
25 the period January first, two thousand six through March thirty-first,
26 two thousand seven, and on and after April first, two thousand seven
27 through March thirty-first, two thousand nine, and on and after April
28 first, two thousand nine through March thirty-first, two thousand elev-

1 en, and on and after April first, two thousand eleven through March
2 thirty-first, two thousand thirteen and for each year thereafter, the
3 reimbursable base year administrative and general costs of a provider of
4 services shall not exceed the statewide average of total reimbursable
5 base year administrative and general costs of such providers of
6 services.

7 § 19. Subdivisions 3, 4 and 5 of section 47 of chapter 2 of the laws
8 of 1998, amending the public health law and other laws relating to
9 expanding the child health insurance plan, as amended by section 19 of
10 part D of chapter 59 of the laws of 2011, are amended to read as
11 follows:

12 3. section six of this act shall take effect January 1, 1999;
13 [provided, however, that subparagraph (iii) of paragraph (c) of subdivi-
14 sion 9 of section 2510 of the public health law, as added by this act,
15 shall expire on July 1, 2014;]

16 4. sections two, three, four, seven, eight, nine, fourteen, fifteen,
17 sixteen, eighteen, eighteen-a, [twenty-three,] twenty-four, and twenty-
18 nine of this act shall take effect January 1, 1999 [and shall expire on
19 July 1, 2014]; section twenty-five of this act shall take effect on
20 January 1, 1999 and shall expire on April 1, 2005;

21 5. section twelve of this act shall take effect January 1, 1999;
22 [provided, however, paragraphs (g) and (h) of subdivision 2 of section
23 2511 of the public health law, as added by such section, shall expire on
24 July 1, 2014;]

25 § 20. Subdivision 6-a of section 93 of part C of chapter 58 of the
26 laws of 2007 amending the social services law and the public health law
27 relating to adjustments of rates, as amended by section 40 of part D of
28 chapter 58 of the laws of 2009, is amended to read as follows:

1 6-a. section fifty-seven of this act shall expire and be deemed
2 repealed on December 31, [2013] 2018; provided that the amendments made
3 by such section to subdivision 4 of section 366-c of the social services
4 law shall apply with respect to determining initial and continuing
5 eligibility for medical assistance, including the continued eligibility
6 of recipients originally determined eligible prior to the effective date
7 of this act, and provided further that such amendments shall not apply
8 to any person or group of persons if it is subsequently determined by
9 the Centers for Medicare and Medicaid services or by a court of compe-
10 tent jurisdiction that medical assistance with federal financial partic-
11 ipation is available for the costs of services provided to such person
12 or persons under the provisions of subdivision 4 of section 366-c of the
13 social services law in effect immediately prior to the effective date of
14 this act.

15 § 21. Subdivision 12 of section 246 of chapter 81 of the laws of 1995,
16 amending the public health law and other laws relating to medical
17 reimbursement and welfare reform, is REPEALED.

18 § 22. Section 5 of chapter 426 of the laws of 1983, amending the
19 public health law relating to professional misconduct proceedings, as
20 amended by chapter 36 of the laws of 2008, is amended to read as
21 follows:

22 § 5. This act shall take effect June 1, 1983 [and shall remain in full
23 force and effect until March 31, 2013].

24 § 23. Section 5 of chapter 582 of the laws of 1984, amending the
25 public health law relating to regulating activities of physicians, as
26 amended by chapter 36 of the laws of 2008, is amended to read as
27 follows:

1 § 5. This act shall take effect immediately[, provided however that
2 the provisions of this act shall remain in full force and effect until
3 March 31, 2013 at which time the provisions of this act shall be deemed
4 to be repealed].

5 § 24. Subparagraph (ii) of paragraph (c) of subdivision 11 of section
6 230 of the public health law, as amended by chapter 36 of the laws of
7 2008, is amended to read as follows:

8 (ii) Participation and membership during a three year demonstration
9 period in a physician committee of the Medical Society of the State of
10 New York or the New York State Osteopathic Society whose purpose is to
11 confront and refer to treatment physicians who are thought to be suffer-
12 ing from alcoholism, drug abuse or mental illness. Such demonstration
13 period shall commence on April first, nineteen hundred eighty and termi-
14 nate on May thirty-first, nineteen hundred eighty-three. An additional
15 demonstration period shall commence on June first, nineteen hundred
16 eighty-three and terminate on March thirty-first, nineteen hundred
17 eighty-six. An additional demonstration period shall commence on April
18 first, nineteen hundred eighty-six and terminate on March thirty-first,
19 nineteen hundred eighty-nine. An additional demonstration period shall
20 commence April first, nineteen hundred eighty-nine and terminate March
21 thirty-first, nineteen hundred ninety-two. An additional demonstration
22 period shall commence April first, nineteen hundred ninety-two and
23 terminate March thirty-first, nineteen hundred ninety-five. An addi-
24 tional demonstration period shall commence on April first, nineteen
25 hundred ninety-five and terminate on March thirty-first, nineteen
26 hundred ninety-eight. An additional demonstration period shall commence
27 on April first, nineteen hundred ninety-eight and terminate on March
28 thirty-first, two thousand three. An additional demonstration period

1 shall commence on April first, two thousand three [and terminate on
2 March thirty-first, two thousand thirteen]; provided, however, that the
3 commissioner may prescribe requirements for the continuation of such
4 demonstration program, including periodic reviews of such programs and
5 submission of any reports and data necessary to permit such reviews.
6 During these additional periods, the provisions of this subparagraph
7 shall also apply to a physician committee of a county medical society.

8 § 25. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
9 the public health law relating to allowing for the use of funds of the
10 office of professional medical conduct for activities of the patient
11 health information and quality improvement act of 2000, as amended by
12 section 27 of part A of chapter 59 of the laws of 2011, is amended to
13 read as follows:

14 § 4. This act shall take effect immediately; provided that the
15 provisions of section one of this act shall be deemed to have been in
16 full force and effect on and after April 1, 2003, and shall expire March
17 31, [2013] 2015 when upon such date the provisions of such section shall
18 be deemed repealed.

19 § 26. Notwithstanding any inconsistent provision of law, rule or regu-
20 lation, the effectiveness of the provisions of sections 2807 and 3614 of
21 the public health law, section 18 of chapter 2 of the laws of 1988, and
22 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
23 or certification of rates of payment, are hereby suspended and without
24 force or effect for purposes of implementing the provisions of this act.

25 § 27. Severability clause. If any clause, sentence, paragraph, subdi-
26 vision, section or part of this act shall be adjudged by any court of
27 competent jurisdiction to be invalid, such judgment shall not affect,
28 impair or invalidate the remainder thereof, but shall be confined in its

1 operation to the clause, sentence, paragraph, subdivision, section or
2 part thereof directly involved in the controversy in which such judge-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

6 § 28. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2013.

8 PART C

9 Section 1. Section 2807-k of the public health law is amended by
10 adding a new subdivision 5-d to read as follows:

11 5-d. (a) Notwithstanding any inconsistent provision of this section,
12 section twenty-eight hundred seven-w of this article or any other
13 contrary provision of law, and subject to the availability of federal
14 financial participation, for periods on and after January first, two
15 thousand thirteen, through December thirty-first, two thousand fifteen,
16 all funds available for distribution pursuant to this section and
17 section twenty-eight hundred seven-w of this article, shall be reserved
18 and set aside and distributed in accordance with the provisions of this
19 subdivision.

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

24 (i) Such regulations shall establish methodologies for determining
25 each facility's relative uncompensated care need amount based on unin-
26 sured inpatient and outpatient units of service from the cost reporting

1 year two years prior to the distribution year, multiplied by the appli-
2 cable medicaid rates in effect January first of the distribution year,
3 as summed and adjusted by a statewide cost adjustment factor and reduced
4 by the sum of all payment amounts collected from such uninsured
5 patients, and as further adjusted by application of a nominal need
6 computation that shall take into account each facility's medicaid inpa-
7 tient share.

8 (ii) Annual distributions pursuant to such regulations for the two
9 thousand thirteen through two thousand fifteen calendar years shall be
10 in accord with the following:

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

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

17 (iii)(A) Such regulations shall establish transition adjustments to
18 the distributions made pursuant to clauses (A) and (B) of subparagraph
19 (ii) of this paragraph such that no facility experiences a reduction in
20 indigent care pool payments pursuant to this subdivision that is greater
21 than the percentages, as specified in such regulations, as compared to
22 the average distribution that each such facility received for the three
23 calendar years prior to two thousand thirteen pursuant to this section
24 and section twenty-eight hundred seven-w of this article.

25 (B) Such regulations shall also establish adjustments limiting the
26 increases in indigent care pool payments experienced by facilities
27 pursuant to this subdivision by an amount that will be, as determined by
28 the commissioner and in conjunction with such other funding as may be

1 available for this purpose, sufficient to ensure full funding for the
2 transition adjustment payments authorized by clause (A) of this subpara-
3 graph.

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

14 § 2. Subdivision 14-f of section 2807-c of the public health law, as
15 amended by chapter 1 of the laws of 1999, is amended to read as follows:

16 14-f. Public general hospital indigent care adjustment. Notwithstand-
17 ing any inconsistent provision of this section and subject to the avail-
18 ability of federal financial participation, payment for inpatient hospi-
19 tal services for persons eligible for payments made by state
20 governmental agencies for the period January first, nineteen hundred
21 ninety-seven through December thirty-first, nineteen hundred ninety-nine
22 and periods on and after January first, two thousand applicable to
23 patients eligible for federal financial participation under title XIX of
24 the federal social security act in medical assistance provided pursuant
25 to title eleven of article five of the social services law determined in
26 accordance with this section shall include for eligible public general
27 hospitals a public general hospital indigent care adjustment equal to
28 the aggregate amount of the adjustments provided for such public general

1 hospital for the period January first, nineteen hundred ninety-six
2 through December thirty-first, nineteen hundred ninety-six pursuant to
3 subdivisions fourteen-a and fourteen-d of this section on an annualized
4 basis, [provided all federal approvals necessary by federal law and
5 regulation for federal financial participation in payments made for
6 beneficiaries eligible for medical assistance under title XIX of the
7 federal social security act based upon the adjustment provided herein as
8 a component of such payments are granted] provided, however, that for
9 periods on and after January first, two thousand thirteen an annual
10 amount of four hundred twelve million dollars shall be allocated to
11 eligible major public hospitals based on each hospital's proportionate
12 share of medicaid and uninsured losses to total medicaid and uninsured
13 losses for all eligible major public hospitals, net of any dispropor-
14 tionate share hospital payments received pursuant to sections twenty-
15 eight hundred seven-k and twenty-eight hundred seven-w of this article.
16 The adjustment may be made to rates of payment or as aggregate payments
17 to an eligible hospital.

18 § 3. Paragraph (i) of subdivision 2-a of section 2807 of the public
19 health law, as amended by section 16 of part C of chapter 58 of the laws
20 of 2009, is amended to read as follows:

21 (i) Notwithstanding any provision of law to the contrary, rates of
22 payment by governmental agencies for general hospital outpatient
23 services, general hospital emergency services and ambulatory surgical
24 services provided by a general hospital established pursuant to para-
25 graphs (a), (c) and (d) of this subdivision shall result in an aggregate
26 increase in such rates of payment of fifty-six million dollars for the
27 period December first, two thousand eight through March thirty-first,
28 two thousand nine and one hundred seventy-eight million dollars for

1 periods after April first, two thousand nine, through March thirty-
2 first, two thousand thirteen, and one hundred fifty-three million
3 dollars for state fiscal year periods on and after April first, two
4 thousand thirteen, provided, however, that for periods on and after
5 April first, two thousand nine, such amounts may be adjusted to reflect
6 projected decreases in fee-for-service Medicaid utilization and changes
7 in case-mix with regard to such services from the two thousand seven
8 calendar year to the applicable rate year, and provided further, howev-
9 er, that funds made available as a result of any such decreases may be
10 utilized by the commissioner to increase capitation rates paid to Medi-
11 caid managed care plans and family health plus plans to cover increased
12 payments to health care providers for ambulatory care services and to
13 increase such other ambulatory care payment rates as the commissioner
14 determines necessary to facilitate access to quality ambulatory care
15 services.

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, 2013 provided
18 that:

19 a. sections one and two of this act shall be deemed to have been in
20 full force and effect on and after January 1, 2013; and

21 b. the amendments to subdivision 14-f of section 2807-c of the public
22 health law made by section two of this act shall not affect the expira-
23 tion of such subdivision and shall be deemed to expire therewith.

24 PART D

25 Section 1. Subdivision 1 of section 366 of the social services law is
26 REPEALED and a new subdivision 1 is added to read as follows:

1 1. (a) Definitions. For purposes of this section:

2 (1) "benchmark coverage" refers to medical assistance coverage defined
3 in subdivision one of section three hundred sixty-five-a of this title;

4 (2) "caretaker relative" means a relative of a dependent child by
5 blood, adoption, or marriage with whom the child is living, who assumes
6 primary responsibility for the child's care and who is one of the
7 following:

8 (i) the child's father, mother, grandfather, grandmother, brother,
9 sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt,
10 first cousin, nephew, or niece; or

11 (ii) the spouse of such parent or relative, even after the marriage is
12 terminated by death or divorce;

13 (3) "family size" means the number of persons counted as members of an
14 individual's household; with respect to individuals whose medical
15 assistance eligibility is based on modified adjusted gross income, in
16 determining the family size of a pregnant woman, or of other individuals
17 who have a pregnant woman in their household, the pregnant woman is
18 counted as herself plus the number of children she is expected to deliv-
19 er;

20 (4) "federal poverty line" means the poverty line defined and annually
21 revised by the United States department of health and human services;

22 (5) "household," for purposes of determining the financial eligibility
23 of applicants and recipients of benefits under this title, shall be
24 defined by the commissioner of health, and be based on eligibility cate-
25 gory; with respect to individuals whose medical assistance eligibility
26 is based on modified adjusted gross income, such definition shall be
27 consistent with the requirements of federal regulation at 42 CFR 435.603
28 or any successor regulation;

1 (6) "MAGI" means modified adjusted gross income;

2 (7) "MAGI-based income" means income calculated using the same method-
3 ologies used to determine MAGI under section 36B(d)(2)(B) of the Inter-
4 nal Revenue Code, with the exception of lump sum payments, certain
5 educational scholarships, and certain American Indian and Alaska Native
6 income, as specified by the commissioner of health consistent with
7 federal regulation at 42 CFR 435.603 or any successor regulation;

8 (8) "MAGI household income" means, with respect to an individual whose
9 medical assistance eligibility is based on modified adjusted gross
10 income, the sum of the MAGI-based income of every person included in the
11 individual's MAGI household, minus an amount equivalent to five percent-
12 age points of the federal poverty level for the applicable family size,
13 except that it shall not include the MAGI-based income of the following
14 persons if such persons are not expected to be required to file a tax
15 return in the taxable year in which eligibility for medical assistance
16 is being determined:

17 (i) a biological, adopted, or step child who is included in the indi-
18 vidual's MAGI household; or

19 (ii) a person, other than a spouse or a biological, adopted, or step
20 child, who is expected to be claimed as a tax dependent by the individ-
21 ual;

22 (9) "standard coverage" refers to medical assistance coverage defined
23 in subdivision two of section three hundred sixty-five-a of this title.

24 (b) MAGI eligibility groups. Individuals listed in this paragraph are
25 eligible for medical assistance based on modified adjusted gross income.

26 (1) An individual is eligible for benchmark coverage if his or her
27 MAGI household income does not exceed one hundred thirty-three percent

1 of the federal poverty line for the applicable family size and he or she
2 is:

3 (i) age nineteen or older and under age sixty-five; and

4 (ii) not pregnant; and

5 (iii) not entitled to or enrolled for benefits under parts A or B of
6 title XVIII of the federal social security act; and

7 (iv) not otherwise eligible for and receiving coverage under subpara-
8 graphs two and three of this paragraph; and

9 (v) not a parent or other caretaker relative of a dependent child
10 under twenty-one years of age and living with such child, unless such
11 child is receiving benefits under this title or under title 1-A of arti-
12 cle twenty-five of the public health law, or otherwise is enrolled in
13 minimum essential coverage.

14 (2) A pregnant woman or an infant younger than one year of age is
15 eligible for standard coverage if his or her MAGI household income does
16 not exceed the MAGI-equivalent of two hundred percent of the federal
17 poverty line for the applicable family size, which shall be calculated
18 in accordance with guidance issued by the secretary of the United States
19 department of health and human services, or an infant younger than one
20 year of age who meets the presumptive eligibility requirements of subdi-
21 vision four of section three hundred sixty-four-i of this title.

22 (3) A child who is at least one year of age but younger than nineteen
23 years of age is eligible for standard coverage if his or her MAGI house-
24 hold income does not exceed the MAGI-equivalent of one hundred thirty-
25 three percent of the federal poverty line for the applicable family
26 size, which shall be calculated in accordance with guidance issued by
27 the Secretary of the United States department of health and human
28 services, or a child who is at least one year of age but younger than

1 nineteen years of age who meets the presumptive eligibility requirements
2 of subdivision four of section three hundred sixty-four-i of this title.

3 (4) An individual who is a pregnant woman or is a member of a family
4 that contains a dependent child living with a parent or other caretaker
5 relative is eligible for standard coverage if his or her MAGI household
6 income does not exceed the MAGI-equivalent of one hundred thirty percent
7 of the highest amount that ordinarily would have been paid to a person
8 without any income or resources under the family assistance program as
9 it existed on the first day of November, nineteen hundred ninety-seven,
10 which shall be calculated in accordance with guidance issued by the
11 Secretary of the United States department of health and human services;
12 for purposes of this subparagraph, the term dependent child means a
13 person who is under eighteen years of age, or is eighteen years of age
14 and a full-time student, who is deprived of parental support or care by
15 reason of the death, continued absence, or physical or mental incapacity
16 of a parent, or by reason of the unemployment of the parent, as defined
17 by the department of health.

18 (5) A child who is under twenty-one years of age and who was in foster
19 care under the responsibility of the state on his or her eighteenth
20 birthday is eligible for standard coverage; notwithstanding any
21 provision of law to the contrary, the provisions of this subparagraph
22 shall be effective only if and for so long as federal financial partic-
23 ipation is available in the costs of medical assistance furnished here-
24 under.

25 (6) An individual who is not otherwise eligible for medical assistance
26 under this section is eligible for coverage of family planning services
27 reimbursed by the federal government at a rate of ninety percent, and
28 for coverage of those services identified by the commissioner of health

1 as services generally performed as part of or as a follow-up to a
2 service eligible for such ninety percent reimbursement, including treat-
3 ment for sexually transmitted diseases, if his or her income does not
4 exceed the MAGI-equivalent of two hundred percent of the federal poverty
5 line for the applicable family size, which shall be calculated in
6 accordance with guidance issued by the secretary of the United States
7 department of health and human services.

8 (c) Non-MAGI eligibility groups. Individuals listed in this paragraph
9 are eligible for standard coverage. Where a financial eligibility deter-
10 mination must be made by the medical assistance program for individuals
11 in these groups, such financial eligibility will be determined in
12 accordance with subdivision two of this section.

13 (1) An individual receiving or eligible to receive federal supple-
14 mental security income payments and/or additional state payments pursu-
15 ant to title six of this article; any inconsistent provision of this
16 chapter or other law notwithstanding, the department may designate the
17 office of temporary and disability assistance as its agent to discharge
18 its responsibility, or so much of its responsibility as is permitted by
19 federal law, for determining eligibility for medical assistance with
20 respect to persons who are not eligible to receive federal supplemental
21 security income payments but who are receiving a state administered
22 supplementary payment or mandatory minimum supplement in accordance with
23 the provisions of subdivision one of section two hundred twelve of this
24 article.

25 (2) An individual who, although not receiving public assistance or
26 care for his or her maintenance under other provisions of this chapter,
27 has income and resources, including available support from responsible
28 relatives, that does not exceed the amounts set forth in paragraph (a)

1 of subdivision two of this section, and is (i) sixty-five years of age
2 or older, or certified blind or certified disabled or (ii) for reasons
3 other than income or resources, is eligible for federal supplemental
4 security income benefits and/or additional state payments.

5 (3) An individual who, although not receiving public assistance or
6 care for his or her maintenance under other provisions of this chapter,
7 has income, including available support from responsible relatives, that
8 does not exceed the amounts set forth in paragraph (a) of subdivision
9 two of this section, and is (i) under the age of twenty-one years, or
10 (ii) a spouse of a cash public assistance recipient living with him or
11 her and essential or necessary to his or her welfare and whose needs are
12 taken into account in determining the amount of his or her cash payment,
13 or (iii) is a single individual or a member of a childless couple, and
14 age nineteen or older and under age sixty-five, and unable to receive
15 necessary medical care under other provisions of this section, or (iv)
16 for reasons other than income, would meet the eligibility requirements
17 of the aid to dependent children program as it existed on the sixteenth
18 day of July, nineteen hundred ninety-six.

19 (4) A child in foster care, or a child described in section four
20 hundred fifty-four or four hundred fifty-eight-d of this chapter.

21 (5) A disabled individual at least sixteen years of age, but under the
22 age of sixty-five, who: would be eligible for benefits under the
23 supplemental security income program but for earnings in excess of the
24 allowable limit; has net available income that does not exceed two
25 hundred fifty percent of the applicable federal income official poverty
26 line, as defined and updated by the United States department of health
27 and human services, for a one-person or two-person household, as defined
28 by the commissioner in regulation; has household resources, as defined

1 in paragraph (e) of subdivision two of section three hundred sixty-six-c
2 of this title, other than retirement accounts, that do not exceed twenty
3 thousand dollars for a one-person household or thirty thousand dollars
4 for a two-person household, as defined by the commissioner in regu-
5 lation; and contributes to the cost of medical assistance provided
6 pursuant to this subparagraph in accordance with subdivision twelve of
7 section three hundred sixty-seven-a of this title; for purposes of this
8 subparagraph, disabled means having a medically determinable impairment
9 of sufficient severity and duration to qualify for benefits under
10 section 1902(a)(10)(A)(ii)(xv) of the social security act.

11 (6) An individual at least sixteen years of age, but under the age of
12 sixty-five, who: is employed; ceases to be in receipt of medical assist-
13 ance under subparagraph five of this paragraph because the person, by
14 reason of medical improvement, is determined at the time of a regularly
15 scheduled continuing disability review to no longer be eligible for
16 supplemental security income program benefits or disability insurance
17 benefits under the social security act; continues to have a severe
18 medically determinable impairment, to be determined in accordance with
19 applicable federal regulations; and contributes to the cost of medical
20 assistance provided pursuant to this subparagraph in accordance with
21 subdivision twelve of section three hundred sixty-seven-a of this title;
22 for purposes of this subparagraph, a person is considered to be employed
23 if the person is earning at least the applicable minimum wage under
24 section six of the federal fair labor standards act and working at least
25 forty hours per month; or

26 (7) An individual receiving treatment for breast or cervical cancer
27 who meets the eligibility requirements of paragraph (d) of subdivision

1 four of this section or the presumptive eligibility requirements of
2 subdivision five of section three hundred sixty-four-i of this title.

3 (8) An individual receiving treatment for colon or prostate cancer who
4 meets the eligibility requirements of paragraph (e) of subdivision four
5 of this section or the presumptive eligibility requirements of subdivi-
6 sion five of section three hundred sixty-four-i of this title.

7 (9) An individual who:

8 (i) is under twenty-six years of age; and

9 (ii) was in foster care under the responsibility of the state on his
10 or her eighteenth birthday; and

11 (iii) was in receipt of medical assistance under this title while in
12 foster care; and

13 (iv) is not otherwise eligible for medical assistance under this
14 title.

15 (10) A resident of a home for adults operated by a social services
16 district, or a residential care center for adults or community residence
17 operated or certified by the office of mental health, and has not,
18 according to criteria promulgated by the department consistent with this
19 title, sufficient income, or in the case of a person sixty-five years of
20 age or older, certified blind, or certified disabled, sufficient income
21 and resources, including available support from responsible relatives,
22 to meet all the costs of required medical care and services available
23 under this title.

24 (d) Conditions of eligibility. A person shall not be eligible for
25 medical assistance under this title unless he or she:

26 (1) is a resident of the state, or, while temporarily in the state,
27 requires immediate medical care which is not otherwise available,

1 provided that such person did not enter the state for the purpose of
2 obtaining such medical care; and

3 (2) assigns to the appropriate social services official or to the
4 department, in accordance with department regulations: (i) any benefits
5 which are available to him or her individually from any third party for
6 care or other medical benefits available under this title and which are
7 otherwise assignable pursuant to a contract or any agreement with such
8 third party; or (ii) any rights, of the individual or of any other
9 person who is eligible for medical assistance under this title and on
10 whose behalf the individual has the legal authority to execute an
11 assignment of such rights, to support specified as support for the
12 purpose of medical care by a court or administrative order; and

13 (3) cooperates with the appropriate social services official or the
14 department in establishing paternity or in establishing, modifying, or
15 enforcing a support order with respect to his or her child; provided,
16 however, that nothing herein contained shall be construed to require a
17 payment under this title for care or services, the cost of which may be
18 met in whole or in part by a third party; notwithstanding the foregoing,
19 a social services official shall not require such cooperation if the
20 social services official or the department determines that such actions
21 would be detrimental to the best interest of the child, applicant, or
22 recipient, or with respect to pregnant women during pregnancy and during
23 the sixty-day period beginning on the last day of pregnancy, in accord-
24 ance with procedures and criteria established by regulations of the
25 department consistent with federal law; and

26 (4) applies for and utilizes group health insurance benefits available
27 through a current or former employer, including benefits for a spouse

1 and dependent children, in accordance with the regulations of the
2 department.

3 (e) Conditions of coverage. An otherwise eligible person shall not be
4 entitled to medical assistance coverage of care, services, and supplies
5 under this title while he or she:

6 (1) is an inmate or patient in an institution or facility wherein
7 medical assistance may not be provided in accordance with applicable
8 federal or state requirements, except for persons described in subpara-
9 graph ten of paragraph (c) of this subdivision or subdivision one-a or
10 subdivision one-b of this section; or

11 (2) is a patient in a public institution operated primarily for the
12 treatment of tuberculosis or care of the mentally disabled, with the
13 exception of: (i) a person sixty-five years of age or older and a
14 patient in any such institution; (ii) a person under twenty-one years of
15 age and receiving in-patient psychiatric services in a public institu-
16 tion operated primarily for the care of the mentally disabled; (iii) a
17 patient in a public institution operated primarily for the care of the
18 mentally retarded who is receiving medical care or treatment in that
19 part of such institution that has been approved pursuant to law as a
20 hospital or nursing home; (iv) a patient in an institution operated by
21 the state department of mental hygiene, while under care in a hospital
22 on release from such institution for the purpose of receiving care in
23 such hospital; or (v) is a person residing in a community residence or a
24 residential care center for adults.

25 § 2. Subdivision 4 of section 366 of the social services law is
26 REPEALED and a new subdivision 4 is added to read as follows:

27 4. Special eligibility provisions.

28 (a) Transitional medical assistance.

1 (1) Notwithstanding any other provision of law, each family which was
2 eligible for medical assistance pursuant to subparagraph four of para-
3 graph (b) of subdivision one of this section in at least one of the six
4 months immediately preceding the month in which such family became inel-
5 igible for such assistance because of income from the employment of the
6 caretaker relative shall, while such family includes a dependent child,
7 remain eligible for medical assistance for twelve calendar months imme-
8 diately following the month in which such family would otherwise be
9 determined to be ineligible for medical assistance pursuant to the
10 provisions of this title and the regulations of the department governing
11 income and resource limitations relating to eligibility determinations
12 for families described in subparagraph four of paragraph (b) of subdivi-
13 sion one of this section.

14 (2) (i) Upon giving notice of termination of medical assistance
15 provided pursuant to subparagraph four of paragraph (b) of subdivision
16 one of this section, the department shall notify each such family of its
17 rights to extended benefits under subparagraph one of this paragraph and
18 describe the conditions under which such extension may be terminated.

19 (ii) The department shall promulgate regulations implementing the
20 requirements of this subparagraph and subparagraph one of this paragraph
21 relating to the conditions under which extended coverage hereunder may
22 be terminated, the scope of coverage, and the conditions under which
23 coverage may be extended pending a redetermination of eligibility. Such
24 regulations shall, at a minimum, provide for: termination of such cover-
25 age at the close of the first month in which the family ceases to
26 include a dependent child; notice of termination prior to the effective
27 date of any terminations; coverage under employee health plans and

1 health maintenance organizations; and disqualification of persons for
2 extended coverage benefits under this paragraph for fraud.

3 (3) Notwithstanding any inconsistent provision of law, each family
4 which was eligible for medical assistance pursuant to subparagraph four
5 of paragraph (b) of subdivision one of this section in at least three of
6 the six months immediately preceding the month in which such family
7 became ineligible for such assistance as a result, wholly or partly, of
8 the collection or increased collection of child or spousal support
9 pursuant to part D of title IV of the federal social security act,
10 shall, for purposes of medical assistance eligibility, be considered to
11 be eligible for medical assistance pursuant to subparagraph four of
12 paragraph (b) of subdivision one of this section for an additional four
13 calendar months beginning with the month ineligibility for such assist-
14 ance begins.

15 (b) Pregnant women and children.

16 (1) A pregnant woman eligible for medical assistance under subpara-
17 graph two or four of paragraph (b) of subdivision one of this section on
18 any day of her pregnancy will continue to be eligible for such care and
19 services through the end of the month in which the sixtieth day follow-
20 ing the end of the pregnancy occurs, without regard to any change in the
21 income of the family that includes the pregnant woman, even if such
22 change otherwise would have rendered her ineligible for medical assist-
23 ance.

24 (2) A child born to a woman eligible for and receiving medical assist-
25 ance on the date of the child's birth shall be deemed to have applied
26 for medical assistance and to have been found eligible for such assist-
27 ance on the date of such birth and to remain eligible for such assist-
28 ance for a period of one year, so long as the child is a member of the

1 woman's household and the woman remains eligible for such assistance or
2 would remain eligible for such assistance if she were pregnant.

3 (3) A child under the age of nineteen who is determined eligible for
4 medical assistance under the provisions of this section, shall, consist-
5 ent with applicable federal requirements, remain eligible for such
6 assistance until the earlier of:

7 (i) the last day of the month which is twelve months following the
8 determination or redetermination of eligibility for such assistance; or

9 (ii) the last day of the month in which the child reaches the age of
10 nineteen.

11 (4) An infant eligible under subparagraph two or four of paragraph (b)
12 of subdivision one of this section who is receiving medically necessary
13 in-patient services for which medical assistance is provided on the date
14 the child attains one year of age, and who, but for attaining such age,
15 would remain eligible for medical assistance under such subparagraph,
16 shall continue to remain eligible until the end of the stay for which
17 in-patient services are being furnished.

18 (5) A child eligible under subparagraph three of paragraph (b) of
19 subdivision one of this section who is receiving medically necessary
20 in-patient services for which medical assistance is provided on the date
21 the child attains nineteen years of age, and who, but for attaining such
22 age, would remain eligible for medical assistance under this paragraph,
23 shall continue to remain eligible until the end of the stay for which
24 in-patient services are being furnished.

25 (6) A woman who was pregnant while in receipt of medical assistance
26 who subsequently loses her eligibility for medical assistance shall have
27 her eligibility for medical assistance continued for a period of twen-
28 ty-four months from the end of the month in which the sixtieth day

1 following the end of her pregnancy occurs, but only for Federal Title X
2 services which are eligible for reimbursement by the federal government
3 at a rate of ninety percent; provided, however, that such ninety percent
4 limitation shall not apply to those services identified by the commis-
5 sioner as services, including treatment for sexually transmitted
6 diseases, generally performed as part of or as a follow-up to a service
7 eligible for such ninety percent reimbursement; and provided further,
8 however, that nothing in this paragraph shall be deemed to affect
9 payment for such Title X services if federal financial participation is
10 not available for such care, services and supplies.

11 (c) Continuous coverage for adults. Notwithstanding any other
12 provision of law, a person whose eligibility for medical assistance is
13 based on the modified adjusted gross income of the person or the
14 person's household, and who loses eligibility for such assistance for a
15 reason other than citizenship status, lack of state residence, or fail-
16 ure to provide a valid social security number, before the end of a
17 twelve month period beginning on the effective date of the person's
18 initial eligibility for such assistance, or before the end of a twelve
19 month period beginning on the date of any subsequent determination of
20 eligibility based on modified adjusted gross income, shall have his or
21 her eligibility for such assistance continued until the end of such
22 twelve month period, provided that federal financial participation in
23 the costs of such assistance is available.

24 (d) Breast and cervical cancer treatment.

25 (1) Persons who are not eligible for medical assistance under the
26 terms of section 1902(a)(10)(A)(i) of the federal social security act
27 are eligible for medical assistance coverage during the treatment of
28 breast or cervical cancer, subject to the provisions of this paragraph.

1 (2) (i) Medical assistance is available under this paragraph to
2 persons who are under sixty-five years of age, have been screened for
3 breast and/or cervical cancer under the Centers for Disease Control and
4 Prevention breast and cervical cancer early detection program and need
5 treatment for breast or cervical cancer, and are not otherwise covered
6 under creditable coverage as defined in the federal public health
7 service act; provided however that medical assistance shall be furnished
8 pursuant to this clause only to the extent permitted under federal law,
9 if, for so long as, and to the extent that federal financial partic-
10 ipation is available therefor.

11 (ii) Medical assistance is available under this paragraph to persons
12 who meet the requirements of clause (i) of this subparagraph but for
13 their age and/or gender, who have been screened for breast and/or cervi-
14 cal cancer under the program described in title one-A of article twen-
15 ty-four of the public health law and need treatment for breast or cervi-
16 cal cancer, and are not otherwise covered under creditable coverage as
17 defined in the federal public health service act; provided however that
18 medical assistance shall be furnished pursuant to this clause only if
19 and for so long as the provisions of clause (i) of this subparagraph are
20 in effect.

21 (3) Medical assistance provided to a person under this paragraph shall
22 be limited to the period in which such person requires treatment for
23 breast or cervical cancer.

24 (4) (i) The commissioner of health shall promulgate such regulations
25 as may be necessary to carry out the provisions of this paragraph. Such
26 regulations shall include, but not be limited to: eligibility require-
27 ments; a description of the medical services which are covered; and a
28 process for providing presumptive eligibility when a qualified entity,

1 as defined by the commissioner, determines on the basis of preliminary
2 information that a person meets the requirements for eligibility under
3 this paragraph.

4 (ii) For purposes of determining eligibility for medical assistance
5 under this paragraph, resources available to such individual shall not
6 be considered nor required to be applied toward the payment or part
7 payment of the cost of medical care, services and supplies available
8 under this paragraph.

9 (iii) An individual shall be eligible for presumptive eligibility for
10 medical assistance under this paragraph in accordance with subdivision
11 five of section three hundred sixty-four-i of this title.

12 (5) The commissioner of health shall, consistent with this title, make
13 any necessary amendments to the state plan for medical assistance
14 submitted pursuant to section three hundred sixty-three-a of this title,
15 in order to ensure federal financial participation in expenditures under
16 this paragraph. Notwithstanding any provision of law to the contrary,
17 the provisions of clause (i) of subparagraph two of this paragraph shall
18 be effective only if and for so long as federal financial participation
19 is available in the costs of medical assistance furnished thereunder.

20 (e) Colon and prostate cancer treatment.

21 (1) Notwithstanding any other provision of law to the contrary, a
22 person who has been screened or referred for screening for colon or
23 prostate cancer by the cancer services screening program, as adminis-
24 tered by the department of health, and has been diagnosed with colon or
25 prostate cancer is eligible for medical assistance for the duration of
26 his or her treatment for such cancer.

27 (2) Persons eligible for medical assistance under this paragraph shall
28 have an income of two hundred fifty percent or less of the comparable

1 federal income official poverty line as defined and annually revised by
2 the federal office of management and budget.

3 (3) An individual shall be eligible for presumptive eligibility for
4 medical assistance under this paragraph in accordance with subdivision
5 five of section three hundred sixty-four-i of this title.

6 (4) Medical assistance is available under this paragraph to persons
7 who are under sixty-five years of age, and are not otherwise covered
8 under creditable coverage as defined in the federal Public Health
9 Service Act.

10 § 3. Paragraph (a) of subdivision 4 of section 364-i of the social
11 services law, as added by section 29-a of part A of chapter 58 of the
12 laws of 2007, is amended to read as follows:

13 (a) Notwithstanding any inconsistent provision of law to the contrary,
14 a child shall be presumed to be eligible for medical assistance under
15 this title beginning on the date that a qualified entity, as defined in
16 paragraph (c) of this subdivision, determine, on the basis of prelimi-
17 nary information, that the [net] MAGI household income of the child does
18 not exceed the applicable level for eligibility as provided for pursuant
19 to subparagraph two or three of paragraph [(u)] (b) of subdivision
20 [four] one of section three hundred sixty-six of this title.

21 § 4. Paragraph (a) of subdivision 5 of section 364-i of the social
22 services law, as added by chapter 176 of the laws of 2006, is amended to
23 read as follows:

24 (a) An individual shall be presumed to be eligible for medical assist-
25 ance under this title beginning on the date that a qualified entity, as
26 defined in paragraph (c) of this subdivision, determines, on the basis
27 of preliminary information, that the individual meets the requirements

1 of paragraph [(v) or (v-1)] (d) or (e) of subdivision four of section
2 three hundred sixty-six of this title.

3 § 5. Subdivision 6 of section 364-i of the social services law, as
4 added by chapter 484 of the laws of 2009 and paragraph (a-2) as added by
5 section 76 of part H of chapter 59 of the laws of 2011, is amended to
6 read as follows:

7 6. (a) A pregnant woman shall be presumed to be eligible for [coverage
8 of services described in paragraph (c) of this subdivision] medical
9 assistance under this title, excluding inpatient services and institu-
10 tional long term care, beginning on the date that a prenatal care
11 provider, licensed under article twenty-eight of the public health law
12 or other prenatal care provider approved by the department of health
13 determines, on the basis of preliminary information, that the pregnant
14 woman's [family has: (i) subject to the approval of the federal Centers
15 for Medicare and Medicaid Services, gross income that does not exceed
16 two hundred thirty percent of the federal poverty line (as defined and
17 annually revised by the United States department of health and human
18 services) for a family of the same size, or (ii) in the absence of such
19 approval, net income that does not exceed two hundred percent of the
20 federal poverty line (as defined and annually revised by the United
21 States department of health and human services) for a family of the same
22 size.] MAGI household income does not exceed the MAGI-equivalent of two
23 hundred percent of the federal poverty line for the applicable family
24 size, which shall be calculated in accordance with guidance issued by
25 the secretary of the United States department of health and human
26 services.

27 (a-2) At the time of application for presumptive eligibility pursuant
28 to this subdivision, a pregnant woman who resides in a social services

1 district that has implemented the state's managed care program pursuant
2 to section three hundred sixty-four-j of this title must choose a
3 managed care provider. If a managed care provider is not chosen at the
4 time of application, the pregnant woman will be assigned to a managed
5 care provider in accordance with subparagraphs (ii), (iii), (iv) and (v)
6 of paragraph (f) of subdivision four of section three hundred sixty-
7 four-j of this title.

8 (b) Such presumptive eligibility shall continue through the earlier
9 of: the day on which eligibility is determined pursuant to this title;
10 or the last day of the month following the month in which the provider
11 makes preliminary determination, in the case of a pregnant woman who
12 does not file an application for medical assistance on or before such
13 day.

14 (c) [A presumptively eligible pregnant woman is eligible for coverage
15 of:

16 (i) all medical care, services, and supplies available under the
17 medical assistance program, excluding inpatient services and institu-
18 tional long term care, if the woman's family has: (A) subject to the
19 approval of the federal Centers for Medicare and Medicaid Services,
20 gross income that does not exceed one hundred twenty percent of the
21 federal poverty line (as defined and annually revised by the United
22 States department of health and human services) for a family of the same
23 size, or (B) in the absence of such approval, net income that does not
24 exceed one hundred percent of the federal poverty line (as defined and
25 annually revised by the United States department of health and human
26 services) for a family of the same size; or

27 (ii) prenatal care services as described in subparagraph four of para-
28 graph (o) of subdivision four of section three hundred sixty-six of this

1 title, if the woman's family has: (A) subject to the approval of the
2 federal Centers for Medicare and Medicaid Services, gross income that
3 exceeds one hundred twenty percent of the federal poverty line (as
4 defined and annually revised by the United States department of health
5 and human services) for families of the same size, but does not exceed
6 two hundred thirty percent of such federal poverty line, or (B) in the
7 absence of such approval, net income that exceeds one hundred percent
8 but does not exceed two hundred percent of the federal poverty line (as
9 defined and annually revised by the United States department of health
10 and human services) for a family of the same size.

11 (d)] The department of health shall provide prenatal care providers
12 licensed under article twenty-eight of the public health law and other
13 approved prenatal care providers with such forms as are necessary for a
14 pregnant woman to apply and information on how to assist such women in
15 completing and filing such forms. A qualified provider which determines
16 that a pregnant woman is presumptively eligible shall notify the social
17 services district in which the pregnant woman resides of the determi-
18 nation within five working days after the date on which such determi-
19 nation is made and shall inform the woman at the time the determination
20 is made that she is required to make application by the last day of the
21 month following the month in which the determination is made.

22 [(e)] (d) Notwithstanding any other provision of law, care that is
23 furnished to a pregnant woman pursuant to this subdivision during a
24 presumptive eligibility period shall be deemed as medical assistance for
25 purposes of payment and state reimbursement.

26 [(f)] (e) Facilities licensed under article twenty-eight of the public
27 health law providing prenatal care services shall perform presumptive
28 eligibility determinations and assist women in submitting appropriate

1 documentation to the social services district as required by the commis-
2 sioner; provided, however, that a facility may apply to the commissioner
3 for exemption from this requirement on the basis of undue hardship.

4 [(g)] (f) All prenatal care providers enrolled in the medicaid program
5 must provide prenatal care services to eligible service recipients
6 determined presumptively eligible for medical assistance but not yet
7 enrolled in the medical assistance program, and assist women in submit-
8 ting appropriate documentation to the social services district as
9 required by the commissioner.

10 § 6. Subdivision 1 and the opening paragraph of subdivision 2 of
11 section 365-a of the social services law, subdivision 1 as amended by
12 chapter 110 of the laws of 1971 and the opening paragraph of subdivision
13 2 as amended by chapter 41 of the laws of 1992, are amended to read as
14 follows:

15 [1.] The amount, nature and manner of providing medical assistance for
16 needy persons shall be determined by the public welfare official with
17 the advice of a physician and in accordance with the local medical plan,
18 this title, and the regulations of the department.

19 1. "Benchmark coverage" shall mean payment of part or all of the cost
20 of medically necessary medical, dental, and remedial care, services, and
21 supplies described in subdivision two of this section, and to the extent
22 not included therein, any essential benefits as defined in 42 U.S.C.
23 18022(b), with the exception of institutional long term care services;
24 such care, services and supplies shall be provided through the managed
25 care program described in section three hundred sixty-four-j of this
26 title.

27 ["Medical assistance"] "Standard coverage" shall mean payment of part
28 or all of the cost of medically necessary medical, dental and remedial

1 care, services and supplies, as authorized in this title or the regu-
2 lations of the department, which are necessary to prevent, diagnose,
3 correct or cure conditions in the person that cause acute suffering,
4 endanger life, result in illness or infirmity, interfere with such
5 person's capacity for normal activity, or threaten some significant
6 handicap and which are furnished an eligible person in accordance with
7 this title and the regulations of the department. Such care, services
8 and supplies shall include the following medical care, services and
9 supplies, together with such medical care, services and supplies
10 provided for in subdivisions three, four and five of this section, and
11 such medical care, services and supplies as are authorized in the regu-
12 lations of the department:

13 § 7. Subdivision 1 of section 366-a of the social services law, as
14 amended by section 60 of part C of chapter 58 of the laws of 2009, is
15 amended to read as follows:

16 1. Any person requesting medical assistance may make application
17 therefor [in person, through another in his behalf or by mail] in any
18 form or manner permitted by the department of health, which may include
19 the submission of: a written application to the social services official
20 of the county[, city or town, or to the service officer of the city or
21 town] in which the applicant resides or is found or to the department of
22 health or its agent; a phone application; or an on-line application.

23 [In addition, in the case of a person who is sixty-five years of age or
24 older and is a patient in a state hospital for tuberculosis or for the
25 mentally disabled, applications may be made to the department or to a
26 social services official designated as the agent of the department.]

27 Notwithstanding any provision of law to the contrary, [a personal] an
28 in-person interview with the applicant or with the person who made

1 application on his or her behalf shall not be required as part of a
2 determination of initial or continuing eligibility pursuant to this
3 title.

4 § 8. Paragraph (a) of subdivision 2 of section 366-a of the social
5 services law, as amended by section 60 of part C of chapter 58 of the
6 laws of 2009, is amended to read as follows:

7 (a) Upon receipt of such application, the appropriate social services
8 official, or the department of health or its agent [when the applicant
9 is a patient in a state hospital for the mentally disabled,] shall veri-
10 fy the eligibility of such applicant. In accordance with the regulations
11 of the department of health, it shall be the responsibility of the
12 applicant to provide information and documentation necessary for the
13 determination of initial and ongoing eligibility for medical assistance.
14 If an applicant or recipient is unable to provide necessary documenta-
15 tion, the [public welfare] social services official or the department of
16 health or its agent shall promptly cause an investigation to be made.
17 Where an investigation is necessary, sources of information other than
18 public records will be consulted only with permission of the applicant
19 or recipient. In the event that such permission is not granted by the
20 applicant or recipient, or necessary documentation cannot be obtained,
21 the social services official or the department of health or its agent
22 may suspend or deny medical assistance until such time as it may be
23 satisfied as to the applicant's or recipient's eligibility therefor.

24 § 9. The opening paragraph of subdivision 3 of section 366-a of the
25 social services law, as added by chapter 256 of the laws of 1966, is
26 amended to read as follows:

27 Upon the receipt of such application, and after the completion of any
28 investigation that shall be deemed necessary, the appropriate [public

1 welfare] social services official[,] or the department of health or its
2 agent [when the applicant is a patient in a state hospital for tubercu-
3 losis or for the mentally disabled,] shall

4 § 10. Paragraphs (b) and (c) of subdivision 5 of section 366-a of the
5 social services law, as added by section 52 of part A of chapter 1 of
6 the laws of 2002, are amended to read as follows:

7 (b) [The commissioner shall develop a simplified statewide recertif-
8 ication form for use in redetermining eligibility under this title. The
9 form shall include requests only for such information that is:

10 (i) reasonably necessary to determine continued eligibility for
11 medical assistance under this title; and

12 (ii) subject to change since the date of the recipient's initial
13 application.] The regulations required by paragraph (a) of this subdivi-
14 sion shall provide, at a minimum, that:

15 (i) the redetermination of eligibility will be made without requiring
16 information from the recipient, if possible, based on reliable informa-
17 tion possessed or available to the department of health or its agent,
18 including information accessed from databases pursuant to subdivision
19 eight of this section;

20 (ii) if the department of health or its agent is unable to renew
21 eligibility based on available information, the recipient will be
22 requested to supply only such information as is reasonably necessary to
23 determine continued eligibility for medical assistance under this title
24 and subject to change since the date of the recipient's initial applica-
25 tion; if income information is requested, the recipient may attest to
26 such information unless the recipient is eligible under subparagraph two
27 of paragraph (c) of subdivision one of section three hundred sixty-six

1 of this title and is receiving medical assistance coverage of nursing
2 facility services;

3 (iii) for persons whose medical assistance eligibility is based on
4 modified adjusted gross income, eligibility must be renewed once every
5 twelve months, and no more frequently than once every twelve months,
6 unless the department of health or its agent receives information about
7 a change in a recipient's circumstances that may affect eligibility; and
8 (iv) establish procedures for renewing and redetermining eligibility
9 that comply with the requirements of federal regulation at 42 CFR
10 435.916 or any successor regulation.

11 (c) [A personal] An in-person interview with the recipient shall not
12 be required as part of a redetermination of eligibility pursuant to this
13 subdivision.

14 § 11. Paragraph (d) of subdivision 5 of section 366-a of the social
15 services law is REPEALED.

16 § 12. Paragraph (e) of subdivision 5 of section 366-a of the social
17 services law, as added by section 1 of part C of chapter 58 of the laws
18 of 2007, is amended to read as follows:

19 [(e)] (d) The commissioner of health shall verify the accuracy of the
20 information provided by [the] an applicant or recipient [pursuant to
21 paragraph (d) of this subdivision] by matching it against information to
22 which the commissioner of health has access, including under subdivision
23 eight of this section. In the event [there is an inconsistency between]
24 the information reported by the recipient [and] is not reasonably
25 compatible with any information obtained by the commissioner of health
26 from other sources and such [inconsistency] incompatibility is material
27 to medical assistance eligibility, the commissioner of health shall
28 request that the recipient provide adequate documentation to verify his

1 or her place of residence or income, as applicable. In addition to the
2 documentation of residence and income authorized by this paragraph, the
3 commissioner of health is authorized to periodically require a reason-
4 able sample of recipients to provide documentation of residence and
5 income at recertification. The commissioner of health shall consult with
6 the medicaid inspector general regarding income and residence verifica-
7 tion practices and procedures necessary to maintain program integrity
8 and deter fraud and abuse.

9 § 13. Subdivision 11 of section 364-j of the social services law is
10 REPEALED.

11 § 14. Clause (D) of subparagraph (v) of paragraph (a) of subdivision 2
12 of section 369-ee of the social services law, as amended by section 67
13 of part C of chapter 58 of the laws of 2009, is amended, and a new
14 subparagraph (vi) is added to read as follows:

15 (D) is not described in clause (A), (B) or (C) of this subparagraph
16 and has gross family income equal to or less than two hundred percent of
17 the federal income official poverty line (as defined and updated by the
18 United States Department of Health and Human Services) for a family of
19 the same size; provided, however, that eligibility under this clause is
20 subject to sources of federal and non-federal funding for such purpose
21 described in section sixty-seven-a of [the] part C of chapter fifty-
22 eight of the laws of two thousand nine [that added this clause] or as
23 may be available under the waiver agreement entered into with the feder-
24 al government under section eleven hundred fifteen of the federal social
25 security act, as jointly determined by the commissioner and the director
26 of the division of the budget. In no case shall state funds be utilized
27 to support the non-federal share of expenditures pursuant to this
28 subparagraph, provided however that the commissioner may demonstrate to

1 the United States department of health and human services the existence
2 of non-federally participating state expenditures as necessary to secure
3 federal funding under an eleven hundred fifteen waiver for the purposes
4 herein. Eligibility under this clause may be provided to residents of
5 all counties or, at the joint discretion of the commissioner and the
6 director of the division of the budget, a subset of counties of the
7 state[.]; and

8 (vi) makes application for benefits pursuant to this title on or
9 before December thirty-first, two thousand thirteen.

10 § 14-a. Subdivision 5 of section 369-ee of the social services law is
11 amended by adding a new paragraph (d) to read as follows:

12 (d) Notwithstanding the provisions of paragraph (a) of this subdivi-
13 sion or any other provision of law, in the case of a person receiving
14 health care services pursuant to this title on January first, two thou-
15 sand fourteen, such person's eligibility shall be recertified as soon as
16 practicable thereafter, and such person's coverage under this title
17 shall end on the earliest of: (i) the date the person is enrolled in a
18 qualified health plan offered through a health insurance exchange estab-
19 lished in accordance with the requirements of the federal Patient
20 Protection and Affordable Care Act (P.L. 111-148), as amended by the
21 federal Health Care and Education Act of 2010 (P.L. 111-152); (ii)
22 December thirty-first, two thousand fourteen; or (iii) the date on which
23 the department of health ceases to have all necessary approvals under
24 federal law and regulation to receive federal financial participation,
25 under the program described in title eleven of this article, in the
26 costs of health services provided pursuant to this section.

27 § 15. Sections 369-ee and 369-ff of the social services law are
28 REPEALED.

1 § 16. Subdivision 3 of section 367-a of the social services law is
2 amended by adding a new paragraph (e) to read as follows:

3 (e) (1) Payment of premiums for enrolling individuals in qualified
4 health plans offered through a health insurance exchange established
5 pursuant to the federal Patient Protection and Affordable Care Act (P.L.
6 111-148), as amended by the federal Health Care and Education Reconcil-
7 iation Act of 2010 (P.L. 111-152), together with the costs of applicable
8 co-insurance, deductible amounts, and other cost-sharing obligations,
9 shall be available to individuals who:

10 (i) immediately prior to being enrolled in the qualified health plan,
11 or to the expiration or repeal of the family health plus program, were
12 eligible under such program and enrolled in a family health insurance
13 plan as a parent or stepparent of a child under the age of twenty-one,
14 or as a child nineteen or twenty years of age living with his or her
15 parent, and whose MAGI household income, as defined in subparagraph
16 eight of paragraph (a) of subdivision one of section three hundred
17 sixty-six of this title, exceeds one hundred thirty-three percent of the
18 federal poverty line for the applicable family size;

19 (ii) are not otherwise eligible for medical assistance under this
20 title; and

21 (iii) are enrolled in a qualified health plan in the silver level, as
22 defined in 42 U.S.C. 18022.

23 (2) Payment pursuant to this paragraph shall be for premiums, co-insu-
24 rance, deductibles, and other cost-sharing obligations of the individual
25 under the qualified health plan to the extent that they exceed the
26 amount that would have been the individual's co-payment obligation
27 amount under the family health plus program, and shall continue only if
28 and for so long as the individual's MAGI household income exceeds one

1 hundred thirty-three percent, but does not exceed one hundred fifty
2 percent, of the federal poverty line for the applicable family size.

3 (3) The commissioner of health is authorized to submit amendments to
4 the state plan for medical assistance and/or submit one or more applica-
5 tions for waivers of the federal social security act as may be necessary
6 to receive federal financial participation in the costs of payments made
7 pursuant to this paragraph; provided further, however, that nothing in
8 this subparagraph shall be deemed to affect payments for premiums,
9 co-insurance, deductibles, or other cost-sharing obligations pursuant to
10 this paragraph if federal financial participation in the costs of such
11 payments is not available.

12 § 17. Section 2510 of the public health law is amended by adding a new
13 subdivision 13 to read as follows:

14 13. "Household income" means the sum of the modified adjusted gross
15 income of every individual included in a child's household calculated in
16 accordance with applicable federal law and regulations, as may be
17 amended. This definition shall be effective on January first, two thou-
18 sand fourteen or a later date to be determined by the commissioner
19 contingent upon the requirements of the Patient Protection and Afforda-
20 ble Care Act of 2010 being fully implemented by the state and as
21 approved by the secretary of the department of health and human
22 services.

23 § 18. Section 2510 of the public health law is amended by adding two
24 new subdivisions 14 and 15 to read as follows:

25 14. "State enrollment center" means the centralized system and opera-
26 tion of eligibility determinations by the state or its contractor for
27 all insurance affordability programs, including the child health insur-
28 ance program established pursuant to this title.

1 15. "Insurance affordability programs" means those programs set forth
2 in section 435.4 of title 42 of the code of federal regulations.

3 § 19. Subparagraphs (iv) and (vi) of paragraph (f) of subdivision 2 of
4 section 2511 of the public health law, subparagraph (iv) as added by
5 section 44 of part A of chapter 1 of the laws of 2002 and subparagraph
6 (vi) as added by section 45-b of part C of chapter 58 of the laws of
7 2008, are amended to read as follows:

8 (iv) In the event a household does not provide income documentation
9 required by subparagraph (iii) of this paragraph within two months of
10 the approved organization's or state enrollment center's request, which-
11 ever is applicable, the approved organization or state enrollment center
12 shall disenroll the child at the end of such two month period. Except as
13 provided in paragraph (c) of subdivision five-a of this section,
14 approved organizations shall not be obligated to repay subsidy payments
15 made by the state on behalf of children enrolled during this two month
16 period.

17 (vi) Any income verification response by the department of taxation
18 and finance pursuant to subparagraphs (i) and (ii) of this paragraph
19 shall not be a public record and shall not be released by the commis-
20 sioner, the department of taxation and finance [or], an approved organ-
21 ization, or the state enrollment center, except pursuant to this para-
22 graph. Information disclosed pursuant to this paragraph shall be limited
23 to information necessary for verification. Information so disclosed
24 shall be kept confidential by the party receiving such information. Such
25 information shall be expunged within a reasonable time to be determined
26 by the commissioner and the department of taxation and finance.

1 § 20. Paragraph (j) of subdivision 2 of section 2511 of the public
2 health law, as added by section 45 of part A of chapter 1 of the laws of
3 2002, is amended to read as follows:

4 (j) Where an application for recertification of coverage under this
5 title contains insufficient information for a final determination of
6 eligibility for continued coverage, a child shall be presumed eligible
7 for a period not to exceed the earlier of two months beyond the preced-
8 ing period of eligibility or the date upon which a final determination
9 of eligibility is made based on the submission of additional data. In
10 the event such additional information is not submitted within two months
11 of the approved organization's or state enrollment center's request,
12 whichever is applicable, the approved organization or state enrollment
13 center shall disenroll the child following the expiration of such two
14 month period. Except as provided in paragraph (c) of subdivision five-a
15 of this section, approved organizations shall not be obligated to repay
16 subsidy payments received on behalf of children enrolled during this two
17 month period.

18 § 21. Subdivision 4 of section 2511 of the public health law, as
19 amended by section 70 of part B of chapter 58 of the laws of 2005, is
20 amended to read as follows:

21 4. Households shall report to the approved organization or state
22 enrollment center, whichever is applicable, within thirty days, any
23 changes in New York state residency or health care coverage under insur-
24 ance that may make a child ineligible for subsidy payments pursuant to
25 this section. Any individual who, with the intent to obtain benefits,
26 willfully misstates income or residence to establish eligibility pursu-
27 ant to subdivision two of this section or willfully fails to notify an
28 approved organization or state enrollment center of a change in resi-

1 dence or health care coverage pursuant to this subdivision shall repay
2 such subsidy to the commissioner. Individuals seeking to enroll children
3 for coverage shall be informed that such willful misstatement or failure
4 to notify shall result in such liability.

5 § 22. The subdivision heading and paragraphs (a) and (b) of subdivi-
6 sion 5-a of section 2511 of the public health law, the subdivision head-
7 ing and paragraph (a) as added by chapter 170 of the laws of 1994 and
8 paragraph (b) as amended by section 71 of part B of chapter 58 of the
9 laws of 2005, are amended to read as follows:

10 Obligations of approved organizations or the state enrollment center.

11 (a) An approved organization or state enrollment center, whichever is
12 applicable, shall have the obligation to review all information provided
13 pursuant to subdivision two of this section and shall not certify or
14 recertify a child as eligible for a subsidy payment unless the child
15 meets the eligibility criteria.

16 (b) An approved organization or state enrollment center, whichever is
17 applicable, shall promptly review all information relating to a poten-
18 tial change in eligibility based on information provided pursuant to
19 subdivision four of this section. Within at least thirty days after
20 receipt of such information, the approved organization or state enroll-
21 ment center shall make a determination whether the child is still eligi-
22 ble for a subsidy payment and shall notify the household and the commis-
23 sioner if it determines the child is not eligible for a subsidy payment.

24 § 23. Paragraph (a) of subdivision 11 of section 2511 of the public
25 health law, as amended by section 37 of part A of chapter 58 of the laws
26 of 2007, is amended to read as follows:

27 (a) An approved organization shall submit required reports and infor-
28 mation to the commissioner in such form and at times, at least annually,

1 as may be required by the commissioner and specified in contracts and
2 official department of health administrative guidance, in order to eval-
3 uate the operations and results of the program and quality of care being
4 provided by such organizations. Such reports and information shall
5 include, but not be limited to, enrollee demographics (applicable only
6 until the state enrollment center is implemented), program utilization
7 and expense, patient care outcomes and patient specific medical informa-
8 tion, including encounter data maintained by an approved organization
9 for purposes of quality assurance and oversight. Any information or
10 data collected pursuant to this paragraph shall be kept confidential in
11 accordance with Title XXI of the federal social security act or any
12 other applicable state or federal law.

13 § 24. Subdivision 12 of section 2511 of the public health law, as
14 amended by chapter 2 of the laws of 1998, is amended to read as follows:

15 12. The commissioner shall, in consultation with the superintendent,
16 establish procedures to coordinate the child health insurance plan with
17 the medical assistance program, including but not limited to, procedures
18 to maximize enrollment of eligible children under those programs by
19 identification and transfer of children who are eligible or who become
20 eligible to receive medical assistance and procedures to facilitate
21 changes in enrollment status for children who are ineligible for subsi-
22 dies under this section and for children who are no longer eligible for
23 medical assistance in order to facilitate and ensure continuity of
24 coverage. The commissioner shall review, on an annual basis, the eligi-
25 bility verification and recertification procedures of approved organiza-
26 tions under this title to insure the appropriate enrollment of children.
27 Such review shall include, but not be limited to, an audit of a statis-
28 tically representative sample of cases from among all approved organiza-

1 tions and shall be applicable to any period during which an approved
2 organization's responsibilities include determining eligibility. In the
3 event such review and audit reveals cases which do not meet the eligi-
4 bility criteria for coverage set forth in this section, that information
5 shall be forwarded to the approved organization and the commissioner for
6 appropriate action.

7 § 25. Paragraph (e) of subdivision 12-a of section 2511 of the public
8 health law, as added by chapter 2 of the laws of 1998, is amended and a
9 new paragraph (f) is added to read as follows:

10 (e) standards and procedures for the imposition of penalties for
11 substantial noncompliance, which may include, but not be limited to,
12 financial penalties in addition to penalties set forth in section twelve
13 of this chapter and consistent with applicable federal standards, as
14 specified in contracts, and contract termination[.]; provided however

15 (f) audit standards and procedures established pursuant to this
16 section, including penalties, shall be applicable to eligibility deter-
17 minations made by approved organizations only for periods during which
18 an approved organization's responsibilities include making such eligi-
19 bility determinations.

20 § 26. Paragraph (e) and subparagraphs (i), (ii), (iii) and (v) of
21 paragraph (f) of subdivision 2 of section 2511 of the public health law,
22 paragraph (e) as added by chapter 170 of the laws of 1994 and relettered
23 by chapter 2 of the laws of 1998, and subparagraphs (i) and (ii) of
24 paragraph (f) as amended by section 6 of part B of chapter 58 of the
25 laws of 2010, subparagraph (iii) of paragraph (f) as amended by chapter
26 535 of the laws of 2010, and subparagraph (v) of paragraph (f) as
27 amended by section 7 of part J of chapter 82 of the laws of 2002, are
28 amended to read as follows:

1 (e) is a resident of New York state. Such residency shall be [demon-
2 strated by] attested to by the applicant for insurance, provided howev-
3 er, the commissioner may require adequate proof[, as determined by the
4 commissioner,] of a New York state street address in limited circum-
5 stances when there is an inconsistency with residency information from
6 other data sources. [If the child has no street address, such proof may
7 include, but not be limited to, school records or other documentation
8 determined by the commissioner.]

9 (i) In order to establish income eligibility under this subdivision at
10 initial application, a household shall provide [such documentation spec-
11 ified in subparagraph (iii) of this paragraph, as necessary and suffi-
12 cient to determine a child's financial eligibility for a subsidy payment
13 under this title] the social security numbers for each parent and legal-
14 ly responsible adult who is a member of the household and whose income
15 is available to the child, subject to subparagraph (v) of this
16 paragraph. The commissioner [may verify the accuracy of such income
17 information provided by the household by matching it against] shall
18 determine eligibility based on income information contained in databases
19 to which the commissioner has access, including the state's wage report-
20 ing system pursuant to subdivision five of section one hundred seventy-
21 one-a of the tax law and by means of an income verification performed
22 pursuant to a cooperative agreement with the department of taxation and
23 finance pursuant to subdivision four of section one hundred
24 seventy-one-b of the tax law. The commissioner may require an attesta-
25 tion by the household that the income information obtained from elec-
26 tronic data sources is accurate. Such attestation shall include any
27 other household income information not obtained from an electronic data
28 source that is necessary to determine a child's financial eligibility

1 for a subsidy payment under this title. If the attestation is reasonably
2 compatible with information obtained from available data sources, no
3 further information or documentation is required. If the attestation is
4 not reasonably compatible with information obtained from available data
5 sources and a reasonable explanation is not provided by the household,
6 documentation may be required as specified in subparagraph (iii) of this
7 paragraph.

8 (ii) In order to establish income eligibility under this subdivision
9 at recertification, [a household shall attest to all information regard-
10 ing the household's income that is necessary and sufficient to determine
11 a child's financial eligibility for a subsidy payment under this title
12 and shall provide the social security numbers for each parent and legal-
13 ly responsible adult who is a member of the household and whose income
14 is available to the child, subject to subparagraph (v) of this para-
15 graph. The] the commissioner [may verify the accuracy of such income
16 information provided by the household by matching it against income]
17 shall make a redetermination of eligibility without requiring informa-
18 tion from the individual if able to do so based on reliable information
19 contained in the individual's enrollment file or other more current
20 information contained in databases to which the commissioner has access,
21 including the state's wage reporting system and by means of an income
22 verification performed pursuant to a cooperative agreement with the
23 department of taxation and finance pursuant to subdivision four of
24 section one hundred seventy-one-b of the tax law. The commissioner may
25 require an attestation by the household that the income information
26 contained in the enrollment file or obtained from electronic data sourc-
27 es is accurate. Such attestation shall include any other household
28 income information not obtained from an electronic data source that is

1 necessary to redetermine a child's financial eligibility for a subsidy
2 payment under this title. In the event that there is an inconsistency
3 between the income information attested to by the household and any
4 information obtained by the commissioner from other sources pursuant to
5 this subparagraph, and such inconsistency is material to the household's
6 eligibility for a subsidy payment under this title, the commissioner
7 [shall] may require the [approved organization to obtain] household to
8 provide income documentation [from the household] as specified in
9 subparagraph (iii) of this paragraph.

10 (iii) If the attestation of household income required by subparagraphs
11 (i) and (ii) of this paragraph is not reasonably compatible with infor-
12 mation obtained from data sources, further information, including
13 documentation, may be required. Income documentation shall include, but
14 not be limited to, one or more of the following for each parent and
15 legally responsible adult who is a member of the household and whose
16 income is available to the child;

17 (A) current annual income tax returns;

18 (B) paycheck stubs;

19 (C) written documentation of income from all employers; or

20 (D) written documentation of income eligibility of a child for free or
21 reduced breakfast or lunch through the school meal program certified by
22 the child's school, provided that:

23 (I) the commissioner may verify the accuracy of the information
24 provided in the same manner and way as provided for in subparagraph (ii)
25 of this paragraph; and

26 (II) such documentation may not be suitable proof of income in the
27 event of a material inconsistency in income after the commissioner has

1 performed verification pursuant to subparagraph (ii) of this paragraph;
2 or

3 (E) other documentation of income (earned or unearned) as determined
4 by the commissioner, provided, however, such documentation shall set
5 forth the source of such income.

6 (v) In the event a household chooses not to provide the social securi-
7 ty numbers required by [subparagraph] subparagraphs (i) and (ii) of this
8 paragraph, such household shall provide income documentation specified
9 in subparagraph (iii) of this paragraph as a condition of the child's
10 enrollment. Nothing in this paragraph shall be construed as obligating a
11 household to provide social security numbers of parents or legally
12 responsible adults as a condition of a child's enrollment or eligibility
13 for a subsidy payment under this title.

14 § 27. Subparagraph (ii) of paragraph (g) of subdivision 2 of section
15 2511 of the public health law, as amended by section 29 of part A of
16 chapter 58 of the laws of 2007, is amended to read as follows:

17 (ii) Effective September first two thousand seven, through March thir-
18 ty-first, two thousand fourteen or a later date to be determined by the
19 commissioner contingent upon the requirements of the Patient Protection
20 and Affordable Care Act of 2010 being fully implemented by the date and
21 as approved by the secretary of the department of health and human
22 services, temporary enrollment pursuant to subparagraph (i) of this
23 paragraph shall be provided only to children who apply for recertif-
24 ication of coverage under this title who appear to be eligible for
25 medical assistance under title eleven of article five of the social
26 services law.

1 § 28. Paragraph (a) of subdivision 2-b of section 2511 of the public
2 health law, as added by section 5 of part B of chapter 58 of the laws of
3 2010, is amended to read as follows:

4 (a) Effective October first, two thousand ten, for purposes of claim-
5 ing federal financial participation under paragraph nine of subsection
6 (c) of section twenty-one hundred five of the federal social security
7 act[,] for individuals declaring to be citizens at initial application,
8 and, effective January first, two thousand fourteen or a later date to
9 be determined by the commissioner contingent upon the requirements of
10 the Patient Protection and Affordable Care Act of 2010 being fully
11 implemented by the state and as approved by the secretary of the depart-
12 ment of health and human services, for individuals who are lawfully
13 residing in the country, a household shall provide:

14 (i) the social security number for the applicant to be verified by the
15 commissioner in accordance with a process established by the social
16 security administration pursuant to federal law, or

17 (ii) documentation of citizenship and identity of the applicant
18 consistent with requirements under the medical assistance program, as
19 specified by the commissioner on the initial application.

20 § 29. Paragraph (d) of subdivision 9 of section 2510 of the public
21 health law, as added by section 72-a of part C of chapter 58 of the laws
22 of 2009, is amended to read as follows:

23 (d) for periods on or after July first, two thousand nine, amounts as
24 follows:

25 (i) no payments are required for eligible children whose family
26 [gross] household income is less than one hundred sixty percent of the
27 non-farm federal poverty level and for eligible children who are Ameri-
28 can Indians or Alaskan Natives, as defined by the U.S. Department of

1 Health and Human Services, whose family [gross] household income is less
2 than two hundred fifty-one percent of the non-farm federal poverty
3 level; and

4 (ii) nine dollars per month for each eligible child whose family
5 [gross] household income is between one hundred sixty percent and two
6 hundred twenty-two percent of the non-farm federal poverty level, but no
7 more than twenty-seven dollars per month per family; and

8 (iii) fifteen dollars per month for each eligible child whose family
9 [gross] household income is between two hundred twenty-three percent and
10 two hundred fifty percent of the non-farm federal poverty level, but no
11 more than forty-five dollars per month per family; and

12 (iv) thirty dollars per month for each eligible child whose family
13 [gross] household income is between two hundred fifty-one percent and
14 three hundred percent of the non-farm federal poverty level, but no more
15 than ninety dollars per month per family;

16 (v) forty-five dollars per month for each eligible child whose family
17 [gross] household income is between three hundred one percent and three
18 hundred fifty percent of the non-farm federal poverty level, but no more
19 than one hundred thirty-five dollars per month per family; and

20 (vi) sixty dollars per month for each eligible child whose family
21 [gross] household income is between three hundred fifty-one percent and
22 four hundred percent of the non-farm federal poverty level, but no more
23 than one hundred eighty dollars per month per family.

24 § 30. Subparagraph (iii) of paragraph (a) of subdivision 2 of section
25 2511 of the public health law, as amended by section 32 of part B of
26 chapter 58 of the laws of 2008, is amended to read as follows:

27 (iii) effective September first, two thousand eight, resides in a
28 household having a [gross] household income at or below four hundred

1 percent of the non-farm federal poverty level (as defined and updated by
2 the United States department of health and human services);

3 § 31. Subparagraph (ii) of paragraph (d) of subdivision 2 of section
4 2511 of the public health law, as amended by section 33 of part A of
5 chapter 58 of the laws of 2007, clause (B) as amended by section 3 of
6 part 00 of chapter 57 of the laws of 2008, is amended to read as
7 follows:

8 (ii) (A) The implementation of this paragraph for a child residing in
9 a household having a [gross] household income at or below two hundred
10 fifty percent of the non-farm federal poverty level (as defined and
11 updated by the United States department of health and human services)
12 shall take effect only upon the commissioner's finding that insurance
13 provided under this title is substituting for coverage under group
14 health plans in excess of a percentage specified by the secretary of the
15 federal department of health and human services. The commissioner shall
16 notify the legislature prior to implementation of this paragraph.

17 (B) The implementation of clauses (A), (B), (C), (D), (E), (F), (G)
18 and (I) of subparagraph (i) of this paragraph for a child residing in a
19 household having a [gross] household income between two hundred fifty-
20 one and four hundred percent of the non-farm federal poverty level (as
21 defined and updated by the United States department of health and human
22 services) shall take effect September first, two thousand eight;
23 provided however, the entirety of subparagraph (i) of this paragraph
24 shall take effect and be applied to such children on the date federal
25 financial participation becomes available for such population in accord-
26 ance with the state's Title XXI child health plan. The commissioner
27 shall monitor the number of children who are subject to the waiting
28 period established pursuant to this clause.

1 § 32. Clauses (A) and (B) of subparagraph (i) of paragraph (b) of
2 subdivision 18 of section 2511 of the public health law, as added by
3 section 31 of part A of chapter 58 of the laws of 2007, are amended to
4 read as follows:

5 (A) participation in the program for a child who resides in a house-
6 hold having a [gross] household income at or below two hundred fifty
7 percent of the non-farm federal poverty level (as defined and updated by
8 the United States department of health and human services) shall be
9 voluntary and an eligible child may disenroll from the premium assist-
10 ance program at any time and enroll in individual coverage under this
11 title; and

12 (B) participation in the program for a child who resides in a house-
13 hold having a [gross] household income between two hundred fifty-one and
14 four hundred percent of the non-farm federal poverty level (as defined
15 and updated by the United States department of health and human
16 services) and meets certain eligibility criteria shall be mandatory. A
17 child in this income group who meets the criteria for enrollment in the
18 premium assistance program shall not be eligible for individual coverage
19 under this title;

20 § 33. Subparagraph (iv) of paragraph (b) and paragraph (d) of subdivi-
21 sion 9 of section 2511 of the public health law, as amended by section
22 18-a of chapter 2 of the laws of 1998, are amended to read as follows:

23 (iv) outstationing of persons who are authorized to provide assistance
24 to families in completing the enrollment application process under this
25 title and title eleven of article five of the social services law,
26 [including the conduct of personal interviews pursuant to section three
27 hundred sixty-six-a of the social services law and personal interviews
28 required upon recertification under such section of the social services

1 law,] in locations, such as community settings, which are geographically
2 accessible to large numbers of children who may be eligible for benefits
3 under such titles, and at times, including evenings and weekends, when
4 large numbers of children who may be eligible for benefits under such
5 titles are likely to be encountered. Persons outstationed in accordance
6 with this subparagraph shall be authorized to make determinations of
7 presumptive eligibility in accordance with paragraph (g) of subdivision
8 two of section two thousand five hundred and eleven of this title; and

9 (d) Subject to the availability of funds therefor, training shall be
10 provided for outstationed persons and employees of approved organiza-
11 tions to enable them to disseminate information, and facilitate the
12 completion of the application process under this subdivision[, and
13 conduct personal interviews required by section three hundred
14 sixty-six-a of the social services law and personal interviews required
15 upon recertification under such section of the social services law].

16 § 33-a. Subdivision 5 of section 365-n of the social services law, as
17 added by section 6 of part F of chapter 56 of the laws of 2012, is
18 amended to read as follows:

19 5. Notwithstanding any inconsistent provision of sections one hundred
20 twelve and one hundred sixty-three of the state finance law, or sections
21 one hundred forty-two and one hundred forty-three of the economic devel-
22 opment law, or any other contrary provision of law, the commissioner is
23 authorized to amend the terms of contracts awarded prior to the effec-
24 tive date of this section, including a contract entered into pursuant to
25 subdivision twenty-four of section two hundred six of the public health
26 law, as added by section thirty-nine of part C of chapter fifty-eight of
27 the laws of two thousand eight, without a competitive bid or request for
28 proposal process, upon a determination that the existing contractor is

1 qualified to provide assistance with one or more functions established
2 in subdivision two of this section, or necessary to comply with the
3 provisions of the Federal Patient Protection and Affordable Care Act
4 (P.L. 111-148), as amended by the federal Health Care and Education
5 Reconciliation Act of 2010 (P.L. 111-152). Such amendments shall be
6 limited to implementation of: (i) automation enhancements, including but
7 not limited to, the Medicare savings program and the family planning
8 benefit program; (ii) processes for verification of third party insur-
9 ance and processing enrollment in medical assistance with third party
10 health insurance; (iii) procedures that will increase efficiencies at
11 enrollment centers; (iv) an asset verification system; and (v) processes
12 to comply with any health care related provisions of the aforementioned
13 federal [law] public laws, including, but not limited to, the use of
14 modified adjusted gross income in eligibility determinations.

15 § 34. Paragraphs 9 and 10 of subsection (a) of section 2101 of the
16 insurance law, as added by chapter 687 of the laws of 2003, are amended
17 and a new paragraph 11 is added to read as follows:

18 (9) a person who is not a resident of this state who sells, solicits
19 or negotiates a contract of insurance for commercial property/casualty
20 risks to an insured with risks located in more than one state insured
21 under that contract, provided that such person is otherwise licensed as
22 an insurance producer to sell, solicit or negotiate that insurance in
23 the state where the insured maintains its principal place of business
24 and the contract of insurance insures risks located in that state; [or]

25 (10) any salaried full-time employee who counsels or advises his or
26 her employer relative to the insurance interests of the employer or of
27 the subsidiaries or business affiliates of the employer provided that

1 the employee does not sell or solicit insurance or receive a commis-
2 sion[.]; or

3 (11) any person who has received a grant from and has been certified
4 by the health benefit exchange established pursuant to section 1311 of
5 the affordable care act, 42 U.S.C. § 18031, to act as a navigator, as
6 such term is used in 42 U.S.C. § 18031(i), provided that the person has
7 completed the training required by the health benefit exchange.

8 § 35. Paragraphs 8 and 9 of subsection (c) of section 2101 of the
9 insurance law, paragraph 8 as amended and paragraph 9 as added by
10 section 5 of part I of chapter 61 of the laws of 2011, are amended and a
11 new paragraph 10 is added to read as follows:

12 (8) a person who is not a resident of this state who sells, solicits
13 or negotiates a contract for commercial property/casualty risks to an
14 insured with risks located in more than one state insured under that
15 contract, provided that such person is otherwise licensed as an insur-
16 ance producer to sell, solicit or negotiate that insurance in the state
17 where the insured maintains its principal place of business and the
18 contract of insurance insures risks located in that state; [or]

19 (9) a person who is not a resident of this state who sells, solicits
20 or negotiates a contract of property/casualty insurance, as defined in
21 paragraph six of subsection (x) of this section, of an insurer not
22 authorized to do business in this state, provided that: (A) the
23 insured's home state is a state other than this state; and (B) such
24 person is otherwise licensed to sell, solicit or negotiate excess line
25 insurance in the insured's home state[.]; or

26 (10) any person who has received a grant from and has been certified
27 by the health benefit exchange established pursuant to section 1311 of
28 the affordable care act, 42 U.S.C. § 18031, to act as a navigator, as

1 such term is used in 42 U.S.C. § 18031(i), including any person employed
2 by a certified navigator, provided that the person has completed the
3 training required by the health benefit exchange.

4 § 36. Paragraphs 10 and 11 of subsection (k) of section 2101 of the
5 insurance law, paragraph 10 as amended and paragraph 11 as added by
6 section 6 of part I of chapter 61 of the laws of 2011, are amended and a
7 new paragraph 12 is added to read as follows:

8 (10) any salaried full-time employee who counsels or advises his or
9 her employer relative to the insurance interests of the employer or of
10 the subsidiaries or business affiliates of the employer, provided that
11 the employee does not sell or solicit insurance or receive a commission;
12 [or]

13 (11) a person who is not a resident of this state who sells, solicits
14 or negotiates a contract of property/casualty insurance, as defined in
15 paragraph six of subsection (x) of this section, of an insurer not
16 authorized to do business in this state, provided that: (A) the
17 insured's home state is a state other than this state; and (B) such
18 person is otherwise licensed to sell, solicit or negotiate excess line
19 insurance in the insured's home state[.]; or

20 (12) any person who has received a grant from and has been certified
21 by the health benefit exchange established pursuant to section 1311 of
22 the affordable care act, 42 U.S.C. § 18031 to act as a navigator, as
23 such term is used in 42 U.S.C. § 18031(i), including any person employed
24 by a certified navigator, provided that the person has completed the
25 training required by the health benefit exchange.

26 § 37. Subparagraphs (B) and (C) of paragraph 4 of subsection (b) of
27 section 2102 of the insurance law, are amended and a new subparagraph
28 (D) is added to read as follows:

1 (B) actuaries or certified public accountants who provide information,
2 recommendations, advice or services in their professional capacity, if
3 neither they nor their employer receive any compensation directly or
4 indirectly on account of any insurance, bond, annuity or pension
5 contract that results in whole or part from such information, recommen-
6 dation, advice or services; [or]

7 (C) regular salaried officers or employees of an insurer who devote
8 substantially all of their services to activities other than the render-
9 ing of consulting services to the insuring public while acting in their
10 capacity as such in discharging the duties of their employment[.]; or

11 (D) persons who have received grants from and have been certified by
12 the health benefit exchange established pursuant to section 1311 of the
13 affordable care act, 42 U.S.C. § 18031, to act as navigators, as such
14 term is used in 42 U.S.C. § 18031(i), including persons employed by
15 certified navigators, provided that the persons have completed the
16 training required by the health benefit exchange.

17 § 38. Subparagraph (B) of paragraph 25 of subsection (i) of section
18 3216 of the insurance law, as amended by chapter 596 of the laws of
19 2011, is amended to read as follows:

20 (B) Every policy [which] that provides physician services, medical,
21 major medical or similar comprehensive-type coverage shall provide
22 coverage for the screening, diagnosis and treatment of autism spectrum
23 disorder in accordance with this paragraph and shall not exclude cover-
24 age for the screening, diagnosis or treatment of medical conditions
25 otherwise covered by the policy because the individual is diagnosed with
26 autism spectrum disorder. Such coverage may be subject to annual deduct-
27 ibles, copayments and coinsurance as may be deemed appropriate by the
28 superintendent and shall be consistent with those imposed on other bene-

1 fits under the policy. Coverage for applied behavior analysis shall be
2 subject to a maximum benefit of [forty-five thousand dollars] six
3 hundred eighty hours of treatment per policy or calendar year per
4 covered individual [and such maximum annual benefit will increase by the
5 amount calculated from the average ten year rolling average increase of
6 the medical component of the consumer price index]. This paragraph shall
7 not be construed as limiting the benefits that are otherwise available
8 to an individual under the policy, provided however that such policy
9 shall not contain any limitations on visits that are solely applied to
10 the treatment of autism spectrum disorder. No insurer shall terminate
11 coverage or refuse to deliver, execute, issue, amend, adjust, or renew
12 coverage to an individual solely because the individual is diagnosed
13 with autism spectrum disorder or has received treatment for autism spec-
14 trum disorder. Coverage shall be subject to utilization review and
15 external appeals of health care services pursuant to article forty-nine
16 of this chapter as well as, case management, and other managed care
17 provisions.

18 § 39. Subparagraph (B) of paragraph 17 of subsection (1) of section
19 3221 of the insurance law, as amended by chapter 596 of the laws of
20 2011, is amended to read as follows:

21 (B) Every group or blanket policy [which] that provides physician
22 services, medical, major medical or similar comprehensive-type coverage
23 shall provide coverage for the screening, diagnosis and treatment of
24 autism spectrum disorder in accordance with this paragraph and shall not
25 exclude coverage for the screening, diagnosis or treatment of medical
26 conditions otherwise covered by the policy because the individual is
27 diagnosed with autism spectrum disorder. Such coverage may be subject to
28 annual deductibles, copayments and coinsurance as may be deemed appro-

1 priate by the superintendent and shall be consistent with those imposed
2 on other benefits under the group or blanket policy. Coverage for
3 applied behavior analysis shall be subject to a maximum benefit of
4 [forty-five thousand dollars] six hundred eighty hours of treatment per
5 policy or calendar year per covered individual [and such maximum annual
6 benefit will increase by the amount calculated from the average ten year
7 rolling average increase of the medical component of the consumer price
8 index]. This paragraph shall not be construed as limiting the benefits
9 that are otherwise available to an individual under the group or blanket
10 policy, provided however that such policy shall not contain any limita-
11 tions on visits that are solely applied to the treatment of autism spec-
12 trum disorder. No insurer shall terminate coverage or refuse to deliver,
13 execute, issue, amend, adjust, or renew coverage to an individual solely
14 because the individual is diagnosed with autism spectrum disorder or has
15 received treatment for autism spectrum disorder. Coverage shall be
16 subject to utilization review and external appeals of health care
17 services pursuant to article forty-nine of this chapter as well as, case
18 management, and other managed care provisions.

19 § 40. Paragraph 2 of subsection (ee) of section 4303 of the insurance
20 law, as amended by chapter 596 of the laws of 2011, is amended to read
21 as follows:

22 (2) Every contract [which] that provides physician services, medical,
23 major medical or similar comprehensive-type coverage shall provide
24 coverage for the screening, diagnosis and treatment of autism spectrum
25 disorder in accordance with this [subsection] paragraph and shall not
26 exclude coverage for the screening, diagnosis or treatment of medical
27 conditions otherwise covered by the contract because the individual is
28 diagnosed with autism spectrum disorder. Such coverage may be subject to

1 annual deductibles, copayments and coinsurance as may be deemed appro-
2 priate by the superintendent and shall be consistent with those imposed
3 on other benefits under the contract. Coverage for applied behavior
4 analysis shall be subject to a maximum benefit of [forty-five thousand
5 dollars] six hundred eighty hours of treatment per contract or calendar
6 year per covered individual [and such maximum annual benefit will
7 increase by the amount calculated from the average ten year rolling
8 average increase of the medical component of the consumer price index].
9 This paragraph shall not be construed as limiting the benefits that are
10 otherwise available to an individual under the contract, provided howev-
11 er that such contract shall not contain any limitations on visits that
12 are solely applied to the treatment of autism spectrum disorder. No
13 insurer shall terminate coverage or refuse to deliver, execute, issue,
14 amend, adjust, or renew coverage to an individual solely because the
15 individual is diagnosed with autism spectrum disorder or has received
16 treatment for autism spectrum disorder. Coverage shall be subject to
17 utilization review and external appeals of health care services pursuant
18 to article forty-nine of this chapter as well as, case management, and
19 other managed care provisions.

20 § 41. The insurance law is amended by adding a new section 3240 to
21 read as follows:

22 § 3240. Student accident and health insurance. (a) In this section:

23 (1) "Student accident and health insurance" means a policy or contract
24 of hospital, medical, or surgical expense insurance delivered or issued
25 for delivery in this state on or after January first, two thousand
26 fourteen, by an insurer or a corporation, to an institution of higher
27 education covering students enrolled in the institution and the
28 students' dependents.

1 (2) "Institution of higher education" or "institution" shall have the
2 meaning set forth in the higher education act of 1965, 20 U.S.C. § 1001.

3 (3) "Insurer" means an insurer licensed to write accident and health
4 insurance pursuant to this chapter.

5 (4) "Corporation" means a corporation organized in accordance with
6 article forty-three of this chapter.

7 (b) An insurer or corporation shall not impose any pre-existing condi-
8 tion exclusion in a student accident and health insurance policy or
9 contract. An insurer or corporation shall not condition eligibility,
10 including continued eligibility, for a student accident and health
11 insurance policy or contract on health status, medical condition,
12 including both physical and mental illnesses, claims experience, receipt
13 of health care, medical history, genetic information, evidence of insur-
14 ability, including conditions arising out of acts of domestic violence,
15 or disability.

16 (c) A student accident and health insurance policy or contract shall
17 provide coverage for essential health benefits as defined in section
18 1302(b) of the affordable care act, 42 U.S.C. § 18022(b).

19 (d) An insurer or corporation shall not refuse to renew or otherwise
20 terminate a student accident and health insurance policy or contract
21 except if:

22 (1) the individual covered under the student accident and health
23 insurance policy or contract ceases to be enrolled as a student in the
24 institution of higher education to which the student accident and health
25 insurance policy or contract is issued, provided the insurer or corpo-
26 ration terminates the policy or contract uniformly without regard to any
27 health status-related factor of any covered person;

1 (2) the insurer terminates the policy for any of the reasons specified
2 in subparagraphs (A) through (F) of paragraph one of subsection (g) of
3 section three thousand two hundred sixteen of this article; or

4 (3) the corporation terminates the contract for any of the reasons
5 specified in subparagraphs (A) through (D) or (F) of paragraph two of
6 subsection (c) of section four thousand three hundred four of this chap-
7 ter.

8 (e) This section shall not apply to coverage under a student health
9 plan issued pursuant to section one thousand one hundred twenty-four of
10 this chapter.

11 (f) The superintendent may promulgate regulations regarding student
12 accident and health insurance, which may include minimum standards for
13 the form, content and sale of the policies and contracts and, notwith-
14 standing the provisions of section three thousand two hundred thirty-one
15 and four thousand three hundred eight of this chapter, the establishment
16 of rating methodology to be applied to the policies and contracts;
17 provided that any such regulations shall be no less favorable to the
18 insured than that which is provided under federal law and state law
19 applicable to individual insurance.

20 (g) The ratio of benefits to premiums shall be not less than eighty-
21 two percent as calculated in a manner to be determined by the super-
22 intendent.

23 (h) Every insurer or corporation shall report to the superintendent
24 annually, on a date specified by the superintendent in a regulation,
25 claims experience and other data in a manner acceptable to the super-
26 intendent that shall demonstrate the insurer's or corporation's compli-
27 ance with the applicable rules and regulations.

1 § 42. Subsection (1) of section 3216 of the insurance law is REPEALED
2 and a new subsection (1) is added to read as follows:

3 (1) On and after October first, two thousand thirteen, an insurer
4 shall not offer individual hospital, medical or surgical expense insur-
5 ance policies unless the policies meet the requirements of subsection
6 (b) of section four thousand three hundred twenty-eight of this chapter.
7 Such policies that are offered within the health benefit exchange estab-
8 lished pursuant to section 1311 of the affordable care act, 42 U.S.C. §
9 18031, or any regulations promulgated thereunder, also shall meet any
10 requirements established by the health benefit exchange.

11 § 43. Subsection (1) of section 4304 of the insurance law is REPEALED
12 and a new subsection (1) is added to read as follows:

13 (1) On and after October first, two thousand thirteen, a corporation
14 shall not offer individual hospital, medical, or surgical expense insur-
15 ance contracts unless the contracts meet the requirements of subsection
16 (b) of section four thousand three hundred twenty-eight of this article.
17 Such contracts that are offered within the health benefit exchange
18 established pursuant to section 1311 of the affordable care act, 42
19 U.S.C. § 18031, or any regulations promulgated thereunder, also shall
20 meet any requirements established by the health benefit exchange. To the
21 extent that a holder of a special purpose certificate of authority
22 issued pursuant to section four thousand four hundred three-a of the
23 public health law offers individual hospital, medical, or surgical
24 expense insurance contracts, the contracts shall meet the requirements
25 of subsection (b) of section four thousand three hundred twenty-eight of
26 this article.

27 § 44. The section heading and subsection (a) of section 4321 of the
28 insurance law, the section heading as added by chapter 504 of the laws

1 of 1995 and subsection (a) as amended by chapter 342 of the laws of
2 2004, are amended to read as follows:

3 Standardization of individual enrollee direct payment contracts
4 offered by health maintenance organizations prior to October first, two
5 thousand thirteen. (a) On and after January first, nineteen hundred
6 ninety-six, and until September thirtieth, two thousand thirteen all
7 health maintenance organizations issued a certificate of authority under
8 article forty-four of the public health law or licensed under this arti-
9 cle shall offer a standardized individual enrollee contract on an open
10 enrollment basis as prescribed by section forty-three hundred seventeen
11 of this article and section forty-four hundred six of the public health
12 law, and regulations promulgated thereunder, provided, however, that
13 such requirements shall not apply to a health maintenance organization
14 exclusively serving individuals enrolled pursuant to title eleven of
15 article five of the social services law, title eleven-D of article five
16 of the social services law, title one-A of article twenty-five of the
17 public health law or title eighteen of the federal Social Security Act[,
18 and, further provided, that such health maintenance organization shall
19 not discontinue a contract for an individual receiving comprehensive-
20 type coverage in effect prior to January first, two thousand four who is
21 ineligible to purchase policies offered after such date pursuant to this
22 section or section four thousand three hundred twenty-two of this arti-
23 cle due to the provision of 42 U.S.C. 1395ss in effect prior to January
24 first, two thousand four]. On and after January first, nineteen hundred
25 ninety-six, and until September thirtieth, two thousand thirteen, the
26 enrollee contracts issued pursuant to this section and section four
27 thousand three hundred twenty-two of this article shall be the only
28 contracts offered by health maintenance organizations to individuals.

1 The enrollee contracts issued by a health maintenance organization under
2 this section and section four thousand three hundred twenty-two of this
3 article shall also be the only contracts issued by health maintenance
4 organizations for purposes of conversion pursuant to sections four thou-
5 sand three hundred four and four thousand three hundred five of this
6 article. However, nothing in this section shall be deemed to require
7 health maintenance organizations to terminate individual direct payment
8 contracts issued prior to January first, nineteen hundred ninety-six or
9 prevent health maintenance organizations from terminating individual
10 direct payment contracts issued prior to January first, nineteen hundred
11 ninety-six.

12 § 45. The section heading and subsection (a) of section 4322 of the
13 insurance law, the section heading as added by chapter 504 of the laws
14 of 1995 and subsection (a) as amended by chapter 342 of the laws of
15 2004, are amended and a new subsection (i) is added to read as follows:

16 Standardization of individual enrollee direct payment contracts
17 offered by health maintenance organizations which provide out-of-plan
18 benefits prior to October first, two thousand thirteen. (a) On and after
19 January first, nineteen hundred ninety-six, and until September thirti-
20 eth, two thousand thirteen, all health maintenance organizations issued
21 a certificate of authority under article forty-four of the public health
22 law or licensed under this article shall offer to individuals, in addi-
23 tion to the standardized contract required by section four thousand
24 three hundred twenty-one of this article, a standardized individual
25 enrollee direct payment contract on an open enrollment basis as
26 prescribed by section four thousand three hundred seventeen of this
27 article and section four thousand four hundred six of the public health
28 law, and regulations promulgated thereunder, with an out-of-plan benefit

1 system, provided, however, that such requirements shall not apply to a
2 health maintenance organization exclusively serving individuals enrolled
3 pursuant to title eleven of article five of the social services law,
4 title eleven-D of article five of the social services law, title one-A
5 of article twenty-five of the public health law or title eighteen of the
6 federal Social Security Act[, and, further provided, that such health
7 maintenance organization shall not discontinue a contract for an indi-
8 vidual receiving comprehensive-type coverage in effect prior to January
9 first, two thousand four who is ineligible to purchase policies offered
10 after such date pursuant to this section or section four thousand three
11 hundred twenty-two of this article due to the provision of 42 U.S.C.
12 1395ss in effect prior to January first, two thousand four]. The out-of-
13 plan benefit system shall either be provided by the health maintenance
14 organization pursuant to subdivision two of section four thousand four
15 hundred six of the public health law or through an accompanying insur-
16 ance contract providing out-of-plan benefits offered by a company appro-
17 priately licensed pursuant to this chapter. On and after January first,
18 nineteen hundred ninety-six, and until September thirtieth, two thousand
19 thirteen, the contracts issued pursuant to this section and section four
20 thousand three hundred twenty-one of this article shall be the only
21 contracts offered by health maintenance organizations to individuals.
22 The enrollee contracts issued by a health maintenance organization under
23 this section and section four thousand three hundred twenty-one of this
24 article shall also be the only contracts issued by the health mainte-
25 nance organization for purposes of conversion pursuant to sections four
26 thousand three hundred four and four thousand three hundred five of this
27 article. However, nothing in this section shall be deemed to require
28 health maintenance organizations to terminate individual direct payment

1 contracts issued prior to January first, nineteen hundred ninety-six or
2 prohibit health maintenance organizations from terminating individual
3 direct payment contracts issued prior to January first, nineteen hundred
4 ninety-six.

5 (i) On and after January first, two thousand fourteen, each contract
6 that is not a grandfathered health plan shall provide coverage for the
7 essential health benefit package. For purposes of this subsection:

8 (1) "essential health benefits package" shall have the meaning set
9 forth in section 1302(a) of the affordable care act, 42 U.S.C. §
10 18022(a); and

11 (2) "grandfathered health plan" means coverage provided by a corpo-
12 ration in which an individual was enrolled on March twenty-third, two
13 thousand ten for as long as the coverage maintains grandfathered status
14 in accordance with section 1251(e) of the affordable care act, 42 U.S.C.
15 § 18011(e).

16 § 46. The insurance law is amended by adding a new section 4328 to
17 read as follows:

18 § 4328. Individual enrollee direct payment contracts offered by health
19 maintenance organizations on and after October first, two thousand thir-
20 teen. (a) On and after October first, two thousand thirteen, all health
21 maintenance organizations issued a certificate of authority under arti-
22 cle forty-four of the public health law or licensed under this article
23 shall offer an individual enrollee direct payment contract in accordance
24 with the requirements of this section, provided, however, that this
25 requirement shall not apply to a holder of a special purpose certificate
26 of authority issued pursuant to section four thousand four hundred
27 three-a of the public health law or except as otherwise required under
28 subsection (1) of section four thousand three hundred four of this arti-

1 cle, a health maintenance organization exclusively serving individuals
2 enrolled pursuant to title eleven of article five of the social services
3 law, title eleven-D of article five of the social services law, title
4 one-A of article twenty-five of the public health law or title eighteen
5 of the federal social security act. The enrollee contracts issued by a
6 health maintenance organization under this section also shall be the
7 only contracts issued by the health maintenance organization for
8 purposes of conversion pursuant to sections four thousand three hundred
9 four and four thousand three hundred five of this article.

10 (b) (1) The individual enrollee direct payment contract offered pursu-
11 ant to this section shall provide coverage for the essential health
12 benefit package as required in section 2707(a) of the public health
13 service act, 42 U.S.C. § 300gg-6(a). For purposes of this paragraph,
14 "essential health benefits package" shall have the meaning set forth in
15 section 1302(a) of the affordable care act, 42 U.S.C. § 18022(a).

16 (2) A health maintenance organization shall offer at least one indi-
17 vidual enrollee direct payment contract at each level of coverage as
18 defined in section 1302(d) of the affordable care act, 42 U.S.C. §
19 18022(d). A health maintenance organization also shall offer one child-
20 only plan at each level of coverage as required in section 2707(c) of
21 the public health service act, 42 U.S.C. § 300gg-6(c).

22 (3) Within the health benefit exchange established pursuant to section
23 1311 of the affordable care act, 42 U.S.C. § 18031, a health maintenance
24 organization may offer an individual enrollee direct payment contract
25 that is a catastrophic health plan as defined in section 1302(e) of the
26 affordable care act, 42 U.S.C. § 18022(e), or any regulations promulgat-
27 ed thereunder.

1 (4) The individual enrollee direct payment contract offered pursuant
2 to this section shall have the same enrollment periods, including
3 special enrollment periods, as required for an individual direct
4 payment contract offered within the health benefit exchange established
5 pursuant to section 1311 of the affordable care act, 42 U.S.C. § 18031,
6 or any regulations promulgated thereunder.

7 (5) The individual enrollee direct payment contract offered pursuant
8 to this section shall be issued without regard to evidence of insurabil-
9 ity and without an exclusion for pre-existing conditions.

10 (6) A health maintenance organization offering an individual enrollee
11 direct payment contract pursuant to this section shall not establish
12 rules for eligibility, including continued eligibility, of any individ-
13 ual or dependent of the individual to enroll under the contract based on
14 any of the following health status-related factors:

15 (A) health status;

16 (B) medical condition, including both physical and mental illnesses;

17 (C) claims experience;

18 (D) receipt of health care;

19 (E) medical history;

20 (F) genetic information;

21 (G) evidence of insurability, including conditions arising out of acts
22 of domestic violence; or

23 (H) disability.

24 (7) The individual enrollee direct payment contract offered pursuant
25 to this section shall be community rated. For purposes of this para-
26 graph, "community rated" means a rating methodology in which the premium
27 for all persons covered by a contract form is the same, based on the

1 experience of the entire pool of risks, without regard to age, sex,
2 health status, tobacco usage, or occupation.

3 (c) In addition to or in lieu of the individual enrollee direct
4 payment contracts required under this section, all health maintenance
5 organizations issued a certificate of authority under article forty-four
6 of the public health law or licensed under this article may offer indi-
7 vidual enrollee direct payment contracts within the health benefit
8 exchange established pursuant to section 1311 of the affordable care
9 act, 42 U.S.C. § 18031, or any regulations promulgated thereunder, and
10 any requirements established by the health benefit exchange. If a health
11 maintenance organization satisfies the requirements of subsection (a) of
12 this section by offering individual enrollee direct payment contracts
13 within the health benefit exchange, the health maintenance
14 organization, not including a holder of a special purpose certificate of
15 authority issued pursuant to section four thousand four hundred three-a
16 of the public health law, shall at a minimum offer the same individual
17 enrollee direct payment contracts outside the health benefit exchange to
18 individuals not eligible for coverage within the health benefit
19 exchange.

20 (d) (1) Nothing in this section shall be deemed to require health main-
21 tenance organizations to discontinue individual direct payment contracts
22 issued prior to January first, two thousand fourteen or prevent health
23 maintenance organizations from discontinuing individual direct payment
24 contracts issued prior to January first, two thousand fourteen. If a
25 health maintenance organization discontinues individual direct payment
26 contracts issued prior to October first, two thousand thirteen, regard-
27 less of whether it is a grandfathered health plan, then the health main-

1 tenance organization shall comply with the requirements of subsection
2 (c) of section four thousand three hundred four of this article.

3 (2) For purposes of this subsection, "grandfathered health plan" means
4 coverage provided by a corporation in which an individual was enrolled
5 on March twenty-third, two thousand ten for as long as the coverage
6 maintains grandfathered status in accordance with section 1251(e) of the
7 affordable care act, 42 U.S.C. § 18011(e).

8 (e) The superintendent may promulgate regulations implementing the
9 requirements of this section, including regulations that modify or add
10 additional standardized individual enrollee direct payment contracts if
11 the superintendent determines additional contracts with different levels
12 of benefits are necessary to meet the needs of the public.

13 § 47. Paragraphs 4, 6, 9 and 10 of subsection (e) of section 3221 of
14 the insurance law are REPEALED, paragraphs 5, 7, 8, 11 and 12 are renum-
15 bered paragraphs 4, 5, 6, 7 and 8 and paragraph 1, as amended by chapter
16 306 of the laws of 1987, is amended to read as follows:

17 (1) A group policy providing hospital, medical or surgical expense
18 insurance for other than specific diseases or accident only, shall
19 provide that if the insurance on an employee or member insured under the
20 group policy ceases because of termination of [(I)] (A) employment or of
21 membership in the class or classes eligible for coverage under the poli-
22 cy or [(II)] (B) the policy, for any reason whatsoever, unless the poli-
23 cyholder has replaced the group policy with similar and continuous
24 coverage for the same group whether insured or self-insured, such
25 employee or member who has been insured under the group policy [for at
26 least three months] shall be entitled to have issued to [him] the
27 insured by the insurer without evidence of insurability upon application
28 made to the insurer within forty-five days after such termination, and

1 payment of the quarterly, or, at the option of the employee or member, a
2 less frequent premium applicable to the [class of risk to which the
3 person belongs, the age of such person, and the] form and amount of
4 insurance, an individual policy of insurance. The insurer may, at its
5 option elect to provide the insurance coverage under a group insurance
6 policy, delivered in this state, in lieu of the issuance of a converted
7 individual policy of insurance. Such individual policy, or group policy,
8 as the case may be is hereafter referred to as the converted policy. The
9 benefits provided under the converted policy shall be those required by
10 subsection (f) [,] and (g) [, (h) or (i) hereof] of this section, [which-
11 ever is applicable and,] in the event of termination of the converted
12 group policy of insurance, each insured thereunder shall have a right of
13 conversion to a converted individual policy of insurance.

14 § 48. Paragraph 3 of subsection (e) of section 3221 of the insurance
15 law, as separately amended by chapters 370 and 869 of the laws of 1984,
16 is amended to read as follows:

17 (3) The converted policy shall, at the option of the employee or
18 member, provide identical coverage for the dependents of such employee
19 or member who were covered under the group policy. Provided, however,
20 that if the employee or member chooses the option of dependent coverage
21 then dependents acquired after the permitted time to convert stated in
22 paragraph one of this subsection shall be added to the converted family
23 policy in accordance with the provisions of subsection (c) of section
24 thirty-two hundred sixteen of this article and any regulations promul-
25 gated or guidelines issued by the superintendent. [The converted policy
26 need not provide benefits in excess of those provided for such persons
27 under the group policy from which conversion is made and may contain any
28 exclusion or benefit limitation contained in the group policy or custom-

1 arily used in individual policies.] The effective date of the individ-
2 ual's coverage under the converted policy shall be the date of the
3 termination of the individual's insurance under the group policy as to
4 those persons covered under the group policy.

5 § 49. Subsections (f) and (g) of section 3221 of the insurance law are
6 REPEALED and two new subsections (f) and (g) are added to read as
7 follows:

8 (f) If the group insurance policy insures the employee or member for
9 hospital, medical or surgical expense insurance, or if the group insur-
10 ance policy insures the employee or member for major medical or similar
11 comprehensive-type coverage, then the conversion privilege shall entitle
12 the employee or member to obtain coverage under a converted policy
13 providing, at the insured's option, coverage under any one of the plans
14 described in subsection (g) of this section on an expense incurred
15 basis.

16 (g) For conversion purposes, an insurer shall offer to the employee or
17 member a policy at each level of coverage as defined in section 1302(d)
18 of the affordable care act, 42 U.S.C. § 18022(d) that contains the bene-
19 fits described in paragraph one of subsection (b) of section four thou-
20 sand three hundred twenty-eight of this chapter.

21 § 50. Subparagraph (D) of paragraph 4 of subsection (1) of section
22 3221 of the insurance law, as amended by chapter 230 of the laws of
23 2004, is amended to read as follows:

24 (D) In addition to the requirements of subparagraph (A) of this para-
25 graph, every insurer issuing a group policy for delivery in this state
26 [which] where the policy provides reimbursement to insureds for psychi-
27 atric or psychological services or for the diagnosis and treatment of
28 mental, nervous or emotional disorders and ailments, however defined in

1 such policy, by physicians, psychiatrists or psychologists, [must] shall
2 provide the same coverage to insureds for such services when performed
3 by a licensed clinical social worker, within the lawful scope of his or
4 her practice, who is licensed pursuant to subdivision two of section
5 seven thousand seven hundred four of the education law and in addition
6 shall have either: (i) three or more additional years experience in
7 psychotherapy, which for the purposes of this subparagraph shall mean
8 the use of verbal methods in interpersonal relationships with the intent
9 of assisting a person or persons to modify attitudes and behavior
10 [which] that are intellectually, socially or emotionally maladaptive,
11 under supervision, satisfactory to the state board for social work, in a
12 facility, licensed or incorporated by an appropriate governmental
13 department, providing services for diagnosis or treatment of mental,
14 nervous or emotional disorders or ailments[, or]; (ii) three or more
15 additional years experience in psychotherapy under the supervision,
16 satisfactory to the state board for social work, of a psychiatrist, a
17 licensed and registered psychologist or a licensed clinical social work-
18 er qualified for reimbursement pursuant to subsection [(h)] (e) of this
19 section, or (iii) a combination of the experience specified in items (i)
20 and (ii) of this subparagraph totaling three years, satisfactory to the
21 state board for social work.

22 (E) The state board for social work shall maintain a list of all
23 licensed clinical social workers qualified for reimbursement under
24 [this] subparagraph (D) of this paragraph.

25 § 51. Paragraph 1 of subsection (e) of section 4304 of the insurance
26 law, as amended by chapter 661 of the laws of 1997 and as further
27 amended by section 104 of part A of chapter 62 of the laws of 2011, is
28 amended to read as follows:

1 (1) If any such contract is terminated in accordance with the
2 provisions of paragraph one of subsection (c) [hereof] of this section,
3 or any such contract is terminated because of a default by the remitting
4 agent in the payment of premiums not cured within the grace period and
5 the remitting agent has not replaced the contract with similar and
6 continuous coverage for the same group whether insured or self-insured,
7 or any such contract is terminated in accordance with the provisions of
8 subparagraph (E) of paragraph two of subsection (c) [hereof] of this
9 section, or if an individual other than the contract holder is no longer
10 covered under a "family contract" because [he] the individual is no
11 longer within the definition set forth in the contract, or a spouse is
12 no longer covered under the contract because of divorce from the
13 contract holder or annulment of the marriage, or any such contract is
14 terminated because of the death of the contract holder, then such indi-
15 vidual, former spouse, or in the case of the death of the contract hold-
16 er the surviving spouse or other dependents of the deceased contract
17 holder covered under the contract, as the case may be, shall be entitled
18 to convert, without evidence of insurability, upon application therefor
19 and the making of the first payment thereunder within thirty-one days
20 after the date of termination of such contract, to a contract [of a type
21 which provides coverage most nearly comparable to the type of coverage
22 under the contract from which the individual converted, which coverage
23 shall be no less than the minimum standards for basic hospital, basic
24 medical, or major medical as provided for in department of financial
25 services regulation; provided, however, that if the corporation does not
26 issue such a major medical contract, then to a comprehensive or compara-
27 ble type of coverage which is most commonly being sold to group remit-
28 ting agents. Notwithstanding the previous sentence, a corporation may

1 elect to issue a standardized individual enrollee contract pursuant to
2 section four thousand three hundred twenty-two of this article in lieu
3 of a major medical contract, comprehensive or comparable type of cover-
4 age required to be offered upon conversion from an indemnity contract]
5 that contains the benefits described in paragraph one of subsection (b)
6 of section four thousand three hundred twenty-eight of this chapter. The
7 corporation shall offer one contract at each level of coverage as
8 defined in section 1302(d) of the affordable care act, 42 U.S.C. §
9 18022(d). The individual may choose any such contract offered by the
10 corporation. The effective date of the coverage provided by the
11 converted direct payment contract shall be the date of the termination
12 of coverage under the contract from which conversion was made.

13 § 52. Paragraph 1 of subsection (d) of section 4305 of the insurance
14 law, as amended by chapter 504 of the laws of 1995 and as further
15 amended by section 104 of part A of chapter 62 of the laws of 2011, is
16 amended to read as follows:

17 (1) (A) A group contract issued pursuant to this section shall contain
18 a provision to the effect that in case of a termination of coverage
19 under such contract of any member of the group because of [(I)] (i)
20 termination for any reason whatsoever of [his] the member's employment
21 or membership, [if he has been covered under the group contract for at
22 least three months,] or [(II)] (ii) termination for any reason whatsoev-
23 er of the group contract itself unless the group contract holder has
24 replaced the group contract with similar and continuous coverage for the
25 same group whether insured or self-insured, [he] the member shall be
26 entitled to have issued to [him] the member by the corporation, without
27 evidence of insurability, upon application therefor and payment of the
28 first premium made to the corporation within forty-five days after

1 termination of the coverage, an individual direct payment contract,
2 covering such member and [his] the member's eligible dependents who were
3 covered by the group contract, which provides coverage [most nearly
4 comparable to the type of coverage under the group contract, which
5 coverage shall be no less than the minimum standards for basic hospital,
6 basic medical, or major medical as provided for in department of finan-
7 cial services regulation; provided, however, that if the corporation
8 does not issue such a major medical contract, then to a comprehensive or
9 comparable type of coverage which is most commonly being sold to group
10 remitting agents. Notwithstanding the previous sentence, a corporation
11 may elect to issue a standardized individual enrollee contract pursuant
12 to section four thousand three hundred twenty two of this article in
13 lieu of a major medical contract, comprehensive or comparable type of
14 coverage required to be offered upon conversion from an indemnity
15 contract] that contains the benefits described in paragraph one of
16 subsection (b) of section four thousand three hundred twenty-eight of
17 this chapter. The corporation shall offer one contract at each level of
18 coverage as defined in section 1302(d) of the affordable care act, 42
19 U.S.C. § 18022(d). The member may choose any such contract offered by
20 the corporation.

21 (B) The conversion privilege afforded [herein] in this paragraph shall
22 also be available: [(A)] (i) upon the divorce or annulment of the
23 marriage of a member, to the divorced spouse or former spouse of such
24 member[, (B)]; (ii) upon the death of the member, to the surviving
25 spouse and other dependents covered under the contract[.]; and [(C)]
26 (iii) to a dependent if no longer within the definition in the contract.

27 § 53. Section 3216 of the insurance law is amended by adding a new
28 subsection (m) to read as follows:

1 (m) An insurer shall not be required to offer the policyholder any
2 benefits that must be made available pursuant to this section if the
3 benefits must be covered as essential health benefits. For any policy
4 issued within the health benefit exchange established pursuant to
5 section 1311 of the affordable care act, 42 U.S.C. § 18031, an insurer
6 shall not be required to offer the policyholder any benefits that must
7 be made available pursuant to this section. For purposes of this
8 subsection, "essential health benefits" shall have the meaning set forth
9 in section 1302(b) of the affordable care act, 42 U.S.C. § 18022(b).

10 § 54. Subsections (h) and (i) of section 3221 of the insurance law are
11 REPEALED and two new subsections (h) and (i) are added to read as
12 follows:

13 (h) Every small group policy delivered or issued for delivery in this
14 state that provides coverage for hospital, medical or surgical expense
15 insurance and is not a grandfathered health plan shall provide coverage
16 for the essential health benefit package as required in section 2707(a)
17 of the public health service act, 42 U.S.C. § 300gg-6(a). For purposes
18 of this subsection:

19 (1) "essential health benefits package" shall have the meaning set
20 forth in section 1302(a) of the affordable care act, 42 U.S.C. §
21 18022(a);

22 (2) "grandfathered health plan" means coverage provided by an insurer
23 in which an individual was enrolled on March twenty-third, two thousand
24 ten for as long as the coverage maintains grandfathered status in
25 accordance with section 1251(e) of the affordable care act, 42 U.S.C. §
26 18011(e); and

27 (3) "small group" means a group of fifty or fewer employees or members
28 exclusive of spouses and dependents; provided, however, that beginning

1 January first, two thousand sixteen, "small group" means a group of one
2 hundred or fewer employees or members exclusive of spouses and depen-
3 dents.

4 (i) An insurer shall not be required to offer the policyholder any
5 benefits that must be made available pursuant to this section if the
6 benefits must be covered pursuant to subsection (h) of this section. For
7 any policy issued within the health benefit exchange established pursu-
8 ant to section 1311 of the affordable care act, 42 U.S.C. § 18031, an
9 insurer shall not be required to offer the policyholder any benefits
10 that must be made available pursuant to this section.

11 § 55. Subsection (gg) of section 4303 of the insurance law, as added
12 by chapter 536 of the laws of 2010, is relettered to be subsection (jj)
13 and two new subsections (kk) and (ll) are added to read as follows:

14 (kk) Every small group contract delivered or issued for delivery in
15 this state that provides coverage for hospital, medical or surgical
16 expense insurance and is not a grandfathered health plan shall provide
17 coverage for the essential health benefit package as required in section
18 2707(a) of the public health service act, 42 U.S.C. § 300gg-6(a). For
19 purposes of this subsection:

20 (1) "essential health benefits package" shall have the meaning set
21 forth in section 1302(a) of the affordable care act, 42 U.S.C. §
22 18022(a);

23 (2) "grandfathered health plan" means coverage provided by a corpo-
24 ration in which an individual was enrolled on March twenty-third, two
25 thousand ten for as long as the coverage maintains grandfathered status
26 in accordance with section 1251(e) of the affordable care act, 42 U.S.C.
27 § 18011(e); and

1 (3) "small group" means a group of fifty or fewer employees or members
2 exclusive of spouses and dependents. Beginning January first, two thou-
3 sand sixteen, "small group" means a group of one hundred or fewer
4 employees or members exclusive of spouses and dependents.

5 (11) A corporation shall not be required to offer the contract holder
6 any benefits that must be made available pursuant to this section if
7 such benefits must be covered pursuant to subsection (kk) of this
8 section. For any contract issued within the health benefit exchange
9 established pursuant to section 1311 of the affordable care act, 42
10 U.S.C. § 18031, a corporation shall not be required to offer the
11 contract holder any benefits that must be made available pursuant to
12 this section.

13 § 56. Section 4326 of the insurance law, as added by chapter 1 of the
14 laws of 1999, subsection (b) as amended by chapter 342 of the laws of
15 2004, subparagraph (A) of paragraph 1 and subparagraph (C) of paragraph
16 3 of subsection (c) as amended by chapter 419 of the laws of 2000, para-
17 graphs 13 and 14 of subsection (d), paragraphs 6 and 7 of subsection (e)
18 and subsection (k) as amended and paragraph 15 of subsection (d) as
19 added by chapter 219 of the laws of 2011 and subsections (d-1), (d-2)
20 and (d-3) as added by chapter 645 of the laws of 2005, is amended to
21 read as follows:

22 § 4326. Standardized health insurance contracts for qualifying small
23 employers and individuals. (a) A program is hereby established for the
24 purpose of making standardized health insurance contracts available to
25 qualifying small employers [and qualifying individuals] as defined in
26 this section. Such program is designed to encourage small employers to
27 offer health insurance coverage to their employees [and to also make

1 coverage available to uninsured employees whose employers do not provide
2 group health insurance].

3 (b) Participation in the program established by this section and
4 section four thousand three hundred twenty-seven of this article is
5 limited to corporations or insurers organized or licensed under this
6 article or article forty-two of this chapter and health maintenance
7 organizations issued a certificate of authority under article forty-four
8 of the public health law or licensed under this article. Participation
9 by all health maintenance organizations is mandatory, provided, however,
10 that such requirements shall not apply to a holder of a special purpose
11 certificate of authority issued pursuant to section four thousand four
12 hundred three-a of the public health law or a health maintenance organ-
13 ization exclusively serving individuals enrolled pursuant to title elev-
14 en of article five of the social services law, title eleven-D of article
15 five of the social services law, title one-A of article twenty-five of
16 the public health law or title eighteen of the federal Social Security
17 Act[, and, further provided, that such health maintenance organization
18 shall not discontinue a contract for an individual receiving comprehen-
19 sive-type coverage in effect prior to January first, two thousand four
20 who is ineligible to purchase policies offered after such date pursuant
21 to this section or section four thousand three hundred twenty-two of
22 this article due to the provision of 42 U.S.C. 1395ss in effect prior to
23 January first, two thousand four]. On and after January first, two thou-
24 sand one, all health maintenance organizations shall offer qualifying
25 group health insurance contracts [and qualifying individual health
26 insurance contracts] as defined in this section. For the purposes of
27 this section and section four thousand three hundred twenty-seven of
28 this article, article forty-three corporations or article forty-two

1 insurers which voluntarily participate in compliance with the require-
2 ments of this program shall be eligible for reimbursement from the stop
3 loss funds created pursuant to section four thousand three hundred twen-
4 ty-seven of this article under the same terms and conditions as health
5 maintenance organizations.

6 (c) The following definitions shall be applicable to the insurance
7 contracts offered under the program established by this section:

8 (1) (A) A qualifying small employer is [an employer that is either:

9 (A) An individual proprietor who is the only employee of the business:

10 (i) without health insurance which provides benefits on an expense
11 reimbursed or prepaid basis in effect during the twelve month period
12 prior to application for a qualifying group health insurance contract
13 under the program established by this section; and

14 (ii) resides in a household having a net household income at or below
15 two hundred eight percent of the non-farm federal poverty level (as
16 defined and updated by the federal department of health and human
17 services) or the gross equivalent of such net income;

18 (iii) except that the requirements set forth in item (i) of this
19 subparagraph shall not be applicable where an individual proprietor had
20 health insurance coverage during the previous twelve months and such
21 coverage terminated due to one of the reasons set forth in items (i)
22 through (viii) of subparagraph (C) of paragraph three of subsection (c)
23 of this section; or

24 (B) An] an employer with:

25 (i) not more than fifty [eligible] employees;

26 (ii) no group health insurance [which] that provides benefits on an
27 expense reimbursed or prepaid basis covering employees in effect during
28 the twelve month period prior to application for a qualifying group

1 health insurance contract under the program established by this section;
2 and

3 (iii) at least thirty percent of its [eligible] employees receiving
4 annual wages from the employer at a level equal to or less than thirty
5 thousand dollars. The thirty thousand dollar figure shall be adjusted
6 periodically pursuant to subparagraph [(F)] (D) of this paragraph.

7 [(C) The requirements set forth in item (i) of subparagraph (A) of
8 this paragraph and in item (ii) of subparagraph (B) of this paragraph
9 shall not be applicable where an individual proprietor or employer is
10 transferring from a health insurance contract issued pursuant to the New
11 York state small business health insurance partnership program estab-
12 lished by section nine hundred twenty-two of the public health law or
13 from health care coverage issued pursuant to a regional pilot project
14 for the uninsured established by section one thousand one hundred eigh-
15 teen of this chapter.

16 (D)] (B) The twelve month period set forth [in item (i) of subpara-
17 graph (A) of this paragraph and] in item (ii) of subparagraph [(B)] (A)
18 of this paragraph may be adjusted by the superintendent from twelve
19 months to eighteen months if he determines that the twelve month period
20 is insufficient to prevent inappropriate substitution of [other health
21 insurance contracts for] qualifying group health insurance contracts for
22 other health insurance contracts.

23 [(E)] (C) An [individual proprietor or] employer shall cease to be a
24 qualifying small employer if any health insurance [which] that provides
25 benefits on an expense reimbursed or prepaid basis covering [the indi-
26 vidual proprietor or] an employer's employees, other than qualifying
27 group health insurance purchased pursuant to this section, is purchased

1 or otherwise takes effect subsequent to purchase of qualifying group
2 health insurance under the program established by this section.

3 [(F)] (D) The wage levels utilized in subparagraph [(B)] (A) of this
4 paragraph shall be adjusted annually, beginning in two thousand two. The
5 adjustment shall take effect on July first of each year. For July first,
6 two thousand two, the adjustment shall be a percentage of the annual
7 wage figure specified in subparagraph [(B)] (A) of this paragraph. For
8 subsequent years, the adjustment shall be a percentage of the annual
9 wage figure [which] that took effect on July first of the prior year.
10 The percentage adjustment shall be the same percentage by which the
11 current year's non-farm federal poverty level, as defined and updated by
12 the federal department of health and human services, for a family unit
13 of four persons for the forty-eight contiguous states and Washington,
14 D.C., changed from the same level established for the prior year.

15 (2) A qualifying group health insurance contract is a group contract
16 purchased from a health maintenance organization, corporation or insurer
17 by a qualifying small employer [which] that provides the benefits set
18 forth in subsection (d) of this section. The contract must insure not
19 less than fifty percent of the employees [eligible for coverage].

20 [(3)(A) A qualifying individual is an employed person:

21 (i) who does not have and has not had health insurance with benefits
22 on an expense reimbursed or prepaid basis during the twelve month period
23 prior to the individual's application for health insurance under the
24 program established by this section;

25 (ii) whose employer does not provide group health insurance and has
26 not provided group health insurance with benefits on an expense reim-
27 bursed or prepaid basis covering employees in effect during the twelve

1 month period prior to the individual's application for health insurance under the program established by this section;

3 (iii) resides in a household having a net household income at or below
4 two hundred eight percent of the non-farm federal poverty level (as
5 defined and updated by the federal department of health and human
6 services) or the gross equivalent of such net income; and

7 (iv) is ineligible for Medicare.

8 (B) The requirements set forth in items (i) and (ii) of subparagraph
9 (A) of this paragraph shall not be applicable where an individual is
10 transferring from a health insurance contract issued pursuant to the
11 voucher insurance program established by section one thousand one
12 hundred twenty-one of this chapter, a health insurance contract issued
13 pursuant to the New York state small business health insurance partner-
14 ship program established by section nine hundred twenty-two of the
15 public health law or health care coverage issued pursuant to a regional
16 pilot project for the uninsured established by section one thousand one
17 hundred eighteen of this chapter.

18 (C) The requirements set forth in items (i) and (ii) of subparagraph
19 (A) of this paragraph shall not be applicable where an individual had
20 health insurance coverage during the previous twelve months and such
21 coverage terminated due to:

22 (i) loss of employment due to factors other than voluntary separation;

23 (ii) death of a family member which results in termination of coverage
24 under a health insurance contract under which the individual is covered;

25 (iii) change to a new employer that does not provide group health
26 insurance with benefits on an expense reimbursed or prepaid basis;

27 (iv) change of residence so that no employer-based health insurance
28 with benefits on an expense reimbursed or prepaid basis is available;

1 (v) discontinuation of a group health insurance contract with benefits
2 on an expense reimbursed or prepaid basis covering the qualifying indi-
3 vidual as an employee or dependent;

4 (vi) expiration of the coverage periods established by the continua-
5 tion provisions of the Employee Retirement Income Security Act, 29
6 U.S.C. section 1161 et seq. and the Public Health Service Act, 42
7 U.S.C. section 300bb-1 et seq. established by the Consolidated Omnibus
8 Budget Reconciliation Act of 1985, as amended, or the continuation
9 provisions of subsection (m) of section three thousand two hundred twen-
10 ty-one, subsection (k) of section four thousand three hundred four and
11 subsection (e) of section four thousand three hundred five of this chap-
12 ter;

13 (vii) legal separation, divorce or annulment which results in termi-
14 nation of coverage under a health insurance contract under which the
15 individual is covered; or

16 (viii) loss of eligibility under a group health plan.

17 (D) The twelve month period set forth in items (i) and (ii) of subpar-
18 agraph (A) of this paragraph may be adjusted by the superintendent from
19 twelve months to eighteen months if he determines that the twelve month
20 period is insufficient to prevent inappropriate substitution of other
21 health insurance contracts for qualifying individual health insurance
22 contracts.

23 (4) A qualifying individual health insurance contract is an individual
24 contract issued directly to a qualifying individual and which provides
25 the benefits set forth in subsection (d) of this section. At the option
26 of the qualifying individual, such contract may include coverage for
27 dependents of the qualifying individual.]

1 (d) [The contracts issued pursuant to this section by health mainte-
2 nance organizations, corporations or insurers and approved by the super-
3 intendent shall only provide in-plan benefits, except for emergency care
4 or where services are not available through a plan provider. Covered
5 services shall include only the following:

6 (1) inpatient hospital services consisting of daily room and board,
7 general nursing care, special diets and miscellaneous hospital services
8 and supplies;

9 (2) outpatient hospital services consisting of diagnostic and treat-
10 ment services;

11 (3) physician services consisting of diagnostic and treatment
12 services, consultant and referral services, surgical services (including
13 breast reconstruction surgery after a mastectomy), anesthesia services,
14 second surgical opinion, and a second opinion for cancer treatment;

15 (4) outpatient surgical facility charges related to a covered surgical
16 procedure;

17 (5) preadmission testing;

18 (6) maternity care;

19 (7) adult preventive health services consisting of mammography screen-
20 ing; cervical cytology screening; periodic physical examinations no more
21 than once every three years; and adult immunizations;

22 (8) preventive and primary health care services for dependent children
23 including routine well-child visits and necessary immunizations;

24 (9) equipment, supplies and self-management education for the treat-
25 ment of diabetes;

26 (10) diagnostic x-ray and laboratory services;

27 (11) emergency services;

1 (12) therapeutic services consisting of radiologic services, chemoth-
2 erapy and hemodialysis;

3 (13) blood and blood products furnished in connection with surgery or
4 inpatient hospital services;

5 (14) prescription drugs obtained at a participating pharmacy. In addi-
6 tion to providing coverage at a participating pharmacy, health mainte-
7 nance organizations may utilize a mail order prescription drug program.
8 Health maintenance organizations may provide prescription drugs pursuant
9 to a drug formulary; however, health maintenance organizations must
10 implement an appeals process so that the use of non-formulary
11 prescription drugs may be requested by a physician; and

12 (15) for a contract that is not a grandfathered health plan, the
13 following additional preventive health services:

14 (A) evidence-based items or services that have in effect a rating of
15 'A' or 'B' in the current recommendations of the United States preven-
16 tive services task force;

17 (B) immunizations that have in effect a recommendation from the advi-
18 sory committee on immunization practices of the centers for disease
19 control and prevention with respect to the individual involved;

20 (C) with respect to children, including infants and adolescents,
21 evidence-informed preventive care and screenings provided for in the
22 comprehensive guidelines supported by the health resources and services
23 administration; and

24 (D) with respect to women, such additional preventive care and screen-
25 ings not described in subparagraph (A) of this paragraph as provided for
26 in comprehensive guidelines supported by the health resources and
27 services administration.

1 (E) For purposes of this paragraph, "grandfathered health plan" means
2 coverage provided by a corporation in which an individual was enrolled
3 on March twenty-third, two thousand ten for as long as the coverage
4 maintains grandfathered status in accordance with section 1251(e) of the
5 Affordable Care Act, 42 U.S.C. § 18011(e)] A qualifying group health
6 insurance contract shall provide coverage for the essential health bene-
7 fit package as required in section 2707(a) of the public health service
8 act, 42 U.S.C. § 300gg-6(a). For purposes of this subsection "essential
9 health benefits package" shall have the meaning set forth in section
10 1302(a) of the affordable care act, 42 U.S.C. § 18022(a).

11 (d-1) Covered services shall not include drugs, procedures and
12 supplies for the treatment of erectile dysfunction when provided to, or
13 prescribed for use by, a person who is required to register as a sex
14 offender pursuant to article six-C of the correction law, provided that:
15 (1) any denial of coverage pursuant to this subsection shall provide the
16 enrollee with the means of obtaining additional information concerning
17 both the denial and the means of challenging such denial; (2) all drugs,
18 procedures and supplies for the treatment of erectile dysfunction may be
19 subject to prior authorization by corporations, insurers or health main-
20 tenance organizations for the purposes of implementing this subsection;
21 and (3) the superintendent shall promulgate regulations to implement the
22 denial of coverage pursuant to this subsection giving health maintenance
23 organizations, corporations and insurers at least sixty days following
24 promulgation of the regulations to implement their denial procedures
25 pursuant to this subsection.

26 (d-2) No person or entity authorized to provide coverage under this
27 section shall be subject to any civil or criminal liability for damages
28 for any decision or action pursuant to subsection (d-1) of this section,

1 made in the ordinary course of business if that authorized person or
2 entity acted reasonably and in good faith with respect to such informa-
3 tion.

4 (d-3) Notwithstanding any other provision of law, if the commissioner
5 of health makes a finding pursuant to subdivision twenty-three of
6 section two hundred six of the public health law, the superintendent is
7 authorized to remove a drug, procedure or supply from the services
8 covered by the standardized health insurance contract established by
9 this section for those persons required to register as sex offenders
10 pursuant to article six-C of the correction law.

11 (e) [The benefits provided in the contracts described in subsection
12 (d) of this section shall be subject to the following deductibles and
13 copayments:

14 (1) in-patient hospital services shall have a five hundred dollar
15 copayment for each continuous hospital confinement;

16 (2) surgical services shall be subject to a copayment of the lesser of
17 twenty percent of the cost of such services or two hundred dollars per
18 occurrence;

19 (3) outpatient surgical facility charges shall be subject to a facili-
20 ty copayment charge of seventy-five dollars per occurrence;

21 (4) emergency services shall have a fifty dollar copayment which must
22 be waived if hospital admission results from the emergency room visit;

23 (5) prescription drugs shall have a one hundred dollar calendar year
24 deductible per individual. After the deductible is satisfied, each thir-
25 ty-four day supply of a prescription drug will be subject to a copay-
26 ment. The copayment will be ten dollars if the drug is generic. The
27 copayment for a brand name drug will be twenty dollars plus the differ-
28 ence in cost between the brand name drug and the equivalent generic

1 drug. If a mail order drug program is utilized, a twenty dollar copay-
2 ment shall be imposed on a ninety day supply of generic prescription
3 drugs. A forty dollar copayment plus the difference in cost between the
4 brand name drug and the equivalent generic drug shall be imposed on a
5 ninety day supply of brand name prescription drugs. In no event shall
6 the copayment exceed the cost of the prescribed drug;

7 (6) (A) the maximum coverage for prescription drugs in an individual
8 contract that is a grandfathered health plan shall be three thousand
9 dollars per individual in a calendar year; and

10 (B) the maximum dollar amount on coverage for prescription drugs in an
11 individual contract that is not a grandfathered health plan or in any
12 group contract shall be consistent with section 2711 of the Public
13 Health Service Act, 42 U.S.C. § 300gg-11 or any regulations thereunder.

14 (C) For purposes of this paragraph, "grandfathered health plan" means
15 coverage provided by a corporation in which an individual was enrolled
16 on March twenty-third, two thousand ten for as long as the coverage
17 maintains grandfathered status in accordance with section 1251(e) of the
18 Affordable Care Act, 42 U.S.C. § 18011(e); and

19 (7) all other services shall have a twenty dollar copayment with the
20 exception of prenatal care which shall have a ten dollar copayment or
21 preventive health services provided pursuant to paragraph fifteen of
22 subsection (d) of this section, for which no copayment shall apply] A
23 qualifying group health insurance contract issued to a qualifying small
24 employer prior to January first, two thousand fourteen that does not
25 include all essential health benefits required pursuant to section
26 2707(a) of the public health service act, 42 U.S.C. § 300gg-6(a), shall
27 be discontinued, including grandfathered health plans. For the purposes
28 of this paragraph, "grandfathered health plans" means coverage provided

1 by a corporation to individuals who were enrolled on March twenty-third,
2 two thousand ten for as long as the coverage maintains grandfathered
3 status in accordance with section 1251(e) of the affordable care act, 42
4 U.S.C. § 18011(e). A qualifying small employer shall be transitioned to
5 a plan that provides: (1) a level of coverage that is designed to
6 provide benefits that are actuarially equivalent to eighty percent of
7 the full actuarial value of the benefits provided under the plan; and
8 (2) coverage for the essential health benefit package as required in
9 section 2707(a) of the public health service act, 42 U.S.C. §
10 300gg-6(a). The superintendent shall standardize the benefit package and
11 cost sharing requirements of qualified group health insurance contracts
12 consistent with coverage offered through the health benefit exchange
13 established pursuant to section 1311 of the affordable care act, 42
14 U.S.C. § 18031.

15 (f) [Except as included in the list of covered services in subsection
16 (d) of this section, the] The mandated and make-available benefits set
17 forth in sections [three thousand two hundred sixteen,] three thousand
18 two hundred twenty-one of this chapter and four thousand three hundred
19 three of this article shall not be applicable to the contracts issued
20 pursuant to this section. [Mandated benefits included in such contracts
21 shall be subject to the deductibles and copayments set forth in
22 subsection (e) of this section.]

23 (g) [The superintendent shall be authorized to modify, by regulation,
24 the copayment and deductible amounts described in this section if the
25 superintendent determines such amendments are necessary to facilitate
26 implementation of this section. On or after January first, two thousand
27 two, the superintendent shall be authorized to establish, by regulation,
28 one or more additional standardized health insurance benefit packages if

1 the superintendent determines additional benefit packages with different
2 levels of benefits are necessary to meet the needs of the public.

3 (h)] A health maintenance organization, corporation or insurer must
4 offer the benefit package without change or additional benefits. [Quali-
5 fying] A qualifying small [employers] employer shall be issued the bene-
6 fit package in a qualifying group health insurance contract. [Qualifying
7 individuals shall be issued the benefit package in a qualifying individ-
8 ual health insurance contract.

9 (i)] (h) A health maintenance organization, corporation or insurer
10 shall obtain from the employer [or individual] written certification at
11 the time of initial application and annually thereafter ninety days
12 prior to the contract renewal date that such employer [or individual]
13 meets the requirements of a qualifying small employer [or a qualifying
14 individual] pursuant to this section. A health maintenance organization,
15 corporation or insurer may require the submission of appropriate
16 documentation in support of the certification.

17 [(j)] (i) Applications for qualifying group health insurance contracts
18 [and qualifying individual health insurance contracts] must be accepted
19 from [any qualifying individual and] any qualifying small employer at
20 all times throughout the year. The superintendent, by regulation, may
21 require health maintenance organizations, corporations or insurers to
22 give preference to qualifying small employers whose [eligible] employees
23 have the lowest average salaries.

24 [(k) (1) All coverage under a qualifying group health insurance
25 contract or a qualifying individual health insurance contract must be
26 subject to a pre-existing condition limitation provision as set forth in
27 sections three thousand two hundred thirty-two of this chapter and four
28 thousand three hundred eighteen of this article, including the crediting

1 requirements thereunder. The underwriting of such contracts may not
2 involve more than the imposition of a pre-existing condition limitation.
3 However, as provided in sections three thousand two hundred thirty-two
4 of this chapter and four thousand three hundred eighteen of this arti-
5 cle, a corporation shall not impose a pre-existing condition limitation
6 provision on any person under age nineteen, except may impose such a
7 limitation on those persons covered by a qualifying individual health
8 insurance contract that is a grandfathered health plan.

9 (2)] (j) Beginning January first, two thousand fourteen, pursuant to
10 section 2704 of the Public Health Service Act, 42 U.S.C. § 300gg-3, a
11 corporation shall not impose any pre-existing condition limitation in a
12 qualifying group health insurance contract [or a qualifying individual
13 health insurance contract except may impose such a limitation in a qual-
14 ifying individual health insurance contract that is a grandfathered
15 health plan].

16 [(3) For purposes of paragraphs one and two of this subsection,
17 "grandfathered health plan" means coverage provided by a corporation in
18 which an individual was enrolled on March twenty-third, two thousand ten
19 for as long as the coverage maintains grandfathered status in accordance
20 with section 1251(e) of the Affordable Care Act, 42 U.S.C. § 18011(e).

21 (1)] (k) A qualifying small employer shall elect whether to make
22 coverage under the qualifying group health insurance contract available
23 to dependents of employees. Any employee or dependent who is enrolled in
24 Medicare is ineligible for coverage, unless required by federal law.
25 Dependents of an employee who is enrolled in Medicare will be eligible
26 for dependent coverage provided the dependent is not also enrolled in
27 Medicare.

1 [(m)] (1) A qualifying small employer must pay at least fifty percent
2 of the premium for employees covered under a qualifying group health
3 insurance contract and must offer coverage to all employees receiving
4 annual wages at a level of thirty thousand dollars or less, and at least
5 one such employee shall accept such coverage. The thirty thousand dollar
6 wage level shall be adjusted periodically in accordance with subpara-
7 graph (F) of paragraph one of subsection (c) of this section. The
8 employer premium contribution must be the same percentage for all
9 covered employees.

10 [(n)] (m) Premium rate calculations for qualifying group health insur-
11 ance contracts [and qualifying individual health insurance contracts]
12 shall be subject to the following:

13 (1) coverage must be community rated and [include rate tiers for indi-
14 viduals, two adult families and at least one other family tier. The rate
15 differences must be based upon the cost differences for the different
16 family units and the rate tiers must be uniformly applied. The rate tier
17 structure used by a health maintenance organization, corporation or
18 insurer for the contracts issued to qualifying small employers and to
19 qualifying individuals must be the same] the superintendent shall set
20 standard rating tiers for family units and standard rating relativities
21 between tiers applicable to all contracts subject to this section; and

22 (2) [if geographic rating areas are utilized, such geographic areas
23 must be reasonable and in a given case may include a single county. The
24 geographic areas utilized must be the same for the contracts issued to
25 qualifying small employers and to qualifying individuals. The super-
26 intendent shall not require the inclusion of any specific geographic
27 region within the proposed community rated region selected by the health
28 maintenance organization, corporation or insurer so long as the health

1 maintenance organization, corporation or insurer's proposed regions do
2 not contain configurations designed to avoid or segregate particular
3 areas within a county covered by the health maintenance organization,
4 corporation or insurer's community rates.] beginning January first, two
5 thousand fourteen, every policy subject to this section shall use stand-
6 ardized regions established by the superintendent; and

7 (3) claims experience under contracts issued to qualifying small
8 employers [and to qualifying individuals] must be pooled with the health
9 maintenance organization, corporation or insurer's small group business
10 for rate setting purposes. [The premium rates for qualifying group
11 health insurance contracts and qualifying individual health insurance
12 contracts must be the same.

13 (o)] (n) A health maintenance organization, corporation or insurer
14 shall submit reports to the superintendent in such form and at times as
15 may be reasonably required in order to evaluate the operations and
16 results of the standardized health insurance program established by this
17 section.

18 [(p) Notwithstanding any other provision of law, all individuals and
19 small businesses that are participating in or covered by insurance
20 contracts or policies issued pursuant to the New York state small busi-
21 ness health insurance partnership program established by section nine
22 hundred twenty-two of the public health law, the voucher insurance
23 program established by section one thousand one hundred twenty-one of
24 this chapter, or uninsured pilot programs established pursuant to chap-
25 ter seven hundred three of the laws of nineteen hundred eighty-eight
26 shall be eligible for participation in the standardized health insurance
27 contracts established by this section, regardless of any of the eligi-

1 bility requirements established pursuant to subsection (c) of this
2 section.]

3 § 57. The insurance law is amended by adding a new section 4326-a to
4 read as follows:

5 § 4326-a. Transition of healthy New York enrollees. (a) On December
6 thirty-first, two thousand thirteen, coverage issued to qualifying indi-
7 viduals and qualifying small employers who are sole proprietors as
8 defined in section four thousand three hundred twenty-six shall end.

9 (b) A health maintenance organization, corporation, or insurer shall
10 provide written notice of the program discontinuance to each enrolled
11 individual and individual proprietor at least one hundred and eighty
12 days prior to the date of program discontinuance. Every notice of
13 program discontinuance shall be in such form and contain such informa-
14 tion as the superintendent requires. In addition to any other informa-
15 tion required by the superintendent, the written notice shall include a
16 conspicuous explanation, in plain language, of available health insur-
17 ance options, including coverage through the health benefit exchange
18 established pursuant to section 1311 of the affordable care act, 42
19 U.S.C. § 18031, upon such discontinuance.

20 (c) Qualifying group health insurance contracts issued to qualifying
21 small employers prior to January first, two thousand fourteen that do
22 not include all essential health benefits required pursuant to section
23 2707(a) of the public health service act, 42 U.S.C. § 300gg-6(a); shall
24 be discontinued, including grandfathered health plans. For the purposes
25 of this paragraph, "grandfathered health plans" means coverage provided
26 by a corporation to individuals who were enrolled on March twenty-third,
27 two thousand ten for as long as the coverage maintains grandfathered
28 status in accordance with section 1251(e) of the affordable care act, 42

1 U.S.C. § 18011(e). Qualifying small employers that are impacted by the
2 discontinuance shall be transitioned to a plan that meets the require-
3 ments of subsection (e) of section four thousand three hundred twenty-
4 six of this chapter. A health maintenance organization, corporation, or
5 insurer shall provide written notice of the program discontinuance to
6 each enrolled qualifying small employer at least one hundred eighty days
7 prior to the date of program discontinuance. Every notice of program
8 discontinuance shall be in such form and contain such information as
9 required by the superintendent. In addition to any other information the
10 superintendent may require, the written notice shall include a conspicu-
11 ous explanation, in plain language, of the ability to transition to a
12 new qualifying small group health insurance contract offered pursuant to
13 section four thousand three hundred twenty-six of this article.

14 § 58. Section 4327 of the insurance law, as added by chapter 1 of the
15 laws of 1999, subsection (h) as amended by chapter 419 of the laws of
16 2000, subsection (m-1) as added by section 12 of part B of chapter 58 of
17 the laws of 2010, subsection (s) as amended and subsection (t) as added
18 by chapter 441 of the laws of 2006, is amended to read as follows:

19 § 4327. Stop loss funds for standardized health insurance contracts
20 issued to qualifying small employers and qualifying individuals. (a) The
21 superintendent shall establish a fund from which health maintenance
22 organizations, corporations or insurers may receive reimbursement, to
23 the extent of funds available therefor, for claims paid by such health
24 maintenance organizations, corporations or insurers for members covered
25 under qualifying group health insurance contracts issued pursuant to
26 section four thousand three hundred twenty-six of this article. This
27 fund shall be known as the "small employer stop loss fund". [The super-
28 intendent shall establish a separate and distinct fund from which health

1 maintenance organizations, corporations or insurers may receive
2 reimbursement, to the extent of funds available therefor, for claims
3 paid by such health maintenance organizations, corporations or insurers
4 for members covered under qualifying individual health insurance
5 contracts issued pursuant to section four thousand three hundred twen-
6 ty-six of this article. This fund shall be known as the "qualifying
7 individual stop loss fund".]

8 (b) [Commencing on January first, two thousand one, health] Health
9 maintenance organizations, corporations or insurers shall be eligible to
10 receive reimbursement for ninety percent of claims paid between [thirty]
11 five thousand and [one hundred] seventy-five thousand dollars in a
12 calendar year for any member covered under a standardized contract
13 issued pursuant to section four thousand three hundred twenty-six of
14 this article. Claims paid for members covered under qualifying group
15 health insurance contracts shall be reimbursable from the small employer
16 stop loss fund. [Claims paid for members covered under qualifying indi-
17 vidual health insurance contracts shall be reimbursable from the quali-
18 fying individual stop loss fund.] For the purposes of this section,
19 claims shall include health care claims paid by a health maintenance
20 organization on behalf of a covered member pursuant to such standardized
21 contracts.

22 (c) The superintendent shall promulgate regulations that set forth
23 procedures for the operation of the small employer stop loss fund [and
24 the qualifying individual stop loss fund] and distribution of monies
25 therefrom.

26 (d) [The small employer stop loss fund shall operate separately from
27 the qualifying individual stop loss fund. Except as specified in
28 subsection (b) of this section with respect to calendar year two thou-

1 sand one, the level of stop loss coverage for the qualifying group
2 health insurance contracts and the qualifying individual health insur-
3 ance contracts need not be the same. The two stop loss funds need not be
4 structured or operated in the same manner, except as specified in this
5 section. The monies available for distribution from the stop loss funds
6 may be reallocated between the small employer stop loss fund and the
7 qualifying individual stop loss fund if the superintendent determines
8 that such reallocation is warranted due to enrollment trends.] The
9 superintendent may adjust the level of stop loss coverage specified in
10 subsection (b) of this section.

11 (e) Claims shall be reported and funds shall be distributed from the
12 small employer stop loss fund [and from the qualifying individual stop
13 loss fund] on a calendar year basis. Claims shall be eligible for
14 reimbursement only for the calendar year in which the claims are paid.
15 Once claims paid on behalf of a covered member reach or exceed one
16 hundred thousand dollars in a given calendar year, no further claims
17 paid on behalf of such member in that calendar year shall be eligible
18 for reimbursement.

19 (f) Each health maintenance organization, corporation or insurer shall
20 submit a request for reimbursement from [each of] the stop loss [funds]
21 fund on forms prescribed by the superintendent. [Each of the] The
22 requests for reimbursement shall be submitted no later than April first
23 following the end of the calendar year for which the reimbursement
24 requests are being made. The superintendent may require health mainte-
25 nance organizations, corporations or insurers to submit such claims data
26 in connection with the reimbursement requests as he deems necessary to
27 enable him to distribute monies and oversee the operation of the small
28 employer [and qualifying individual] stop loss [funds] fund. The super-

1 intendent may require that such data be submitted on a per member,
2 aggregate and/or categorical basis. [Data shall be reported separately
3 for qualifying group health insurance contracts and qualifying individ-
4 ual health insurance contracts issued pursuant to section four thousand
5 three hundred twenty-six of this article.]

6 (g) For [each] the stop loss fund, the superintendent shall calculate
7 the total claims reimbursement amount for all health maintenance organ-
8 izations, corporations or insurers for the calendar year for which
9 claims are being reported.

10 (1) In the event that the total amount requested for reimbursement for
11 a calendar year exceeds funds available for distribution for claims paid
12 during that same calendar year, the superintendent shall provide for the
13 pro-rata distribution of the available funds. Each health maintenance
14 organization, corporation or insurer shall be eligible to receive only
15 such proportionate amount of the available funds as the individual
16 health maintenance organization's, corporation's or insurer's total
17 eligible claims paid bears to the total eligible claims paid by all
18 health maintenance organizations, corporations or insurers.

19 (2) In the event that funds available for distribution for claims paid
20 by all health maintenance organizations, corporations or insurers during
21 a calendar year exceeds the total amount requested for reimbursement by
22 all health maintenance organizations, corporations or insurers during
23 that same calendar year, any excess funds shall be carried forward and
24 made available for distribution in the next calendar year. Such excess
25 funds shall be in addition to the monies appropriated for the stop loss
26 fund in the next calendar year.

27 (h) Upon the request of the superintendent, each health maintenance
28 organization shall be required to furnish such data as the superinten-

1 dent deems necessary to oversee the operation of the small employer [and
2 qualifying individual] stop loss [funds] fund. Such data shall be
3 furnished in a form prescribed by the superintendent. Each health main-
4 tenance organization, corporation or insurer shall provide the super-
5 intendent with monthly reports of the total enrollment under the quali-
6 fying group health insurance contracts [and the qualifying individual
7 health insurance contracts] issued pursuant to section four thousand
8 three hundred twenty-six of this article. The reports shall be in a form
9 prescribed by the superintendent.

10 (i) The superintendent shall separately estimate the per member annual
11 cost of total claims reimbursement from each stop loss fund for [quali-
12 fying individual health insurance contracts and for] qualifying group
13 health insurance contracts based upon available data and appropriate
14 actuarial assumptions. Upon request, each health maintenance organiza-
15 tion, corporation or insurer shall furnish to the superintendent claims
16 experience data for use in such estimations.

17 (j) The superintendent shall determine total eligible enrollment under
18 qualifying group health insurance contracts [and qualifying individual
19 health insurance contracts]. [For qualifying group health insurance
20 contracts, the] The total eligible enrollment shall be determined by
21 dividing the total funds available for distribution from the small
22 employer stop loss fund by the estimated per member annual cost of total
23 claims reimbursement from the small employer stop loss fund. [For quali-
24 fying individual health insurance contracts, the total eligible enroll-
25 ment shall be determined by dividing the total funds available for
26 distribution from the qualifying individual stop loss fund by the esti-
27 mated per member annual cost of total claims reimbursement from the
28 qualifying individual stop loss fund.]

1 (k) The superintendent shall suspend the enrollment of new employers
2 under qualifying group health insurance contracts if [he] the super-
3 intendent determines that the total enrollment reported by all health
4 maintenance organizations, corporations or insurers under such contracts
5 exceeds the total eligible enrollment, thereby resulting in anticipated
6 annual expenditures from the small employer stop loss fund in excess of
7 the total funds available for distribution from such stop loss fund.
8 [The superintendent shall suspend the enrollment of new individuals
9 under qualifying individual health insurance contracts if he determines
10 that the total enrollment reported by all health maintenance organiza-
11 tions, corporations or insurers under such contracts exceeds the total
12 eligible enrollment, thereby resulting in anticipated annual expendi-
13 tures from the qualifying individual stop loss fund in excess of the
14 total funds available for distribution from such stop loss fund.]

15 (l) The superintendent shall provide the health maintenance organiza-
16 tions, corporations or insurers with notification of any enrollment
17 suspensions as soon as practicable after receipt of all enrollment data.
18 [The superintendent's determination and notification shall be made sepa-
19 rately for the qualifying group health insurance contracts and for the
20 qualifying individual health insurance contracts.]

21 (m) If at any point during a suspension of enrollment of new qualify-
22 ing small employers [and/or qualifying individuals], the superintendent
23 determines that funds are sufficient to provide for the addition of new
24 enrollments, the superintendent shall be authorized to reactivate new
25 enrollments and to notify all health maintenance organizations, corpo-
26 rations or insurers that enrollment of new employers [and/or individ-
27 uals] may again commence. [The superintendent's determination and
28 notification shall be made separately for the qualifying group health

1 insurance contracts and for the qualifying individual health insurance
2 contracts.]

3 (m-1) In the event that the superintendent suspends the enrollment of
4 new individuals for qualifying group health insurance contracts [or
5 qualifying individual health insurance contracts], the superintendent
6 shall ensure that small employers [or sole proprietors] seeking to
7 enroll in a qualified group [or individual] health insurance contract
8 pursuant to section forty-three hundred twenty-six of this article are
9 provided information on and directed to [the family health plus employer
10 partnership program under section three hundred sixty-nine-ff of the
11 social services law] coverage options available through the health bene-
12 fit exchange established pursuant to section 1311 of the affordable care
13 act, 42 U.S.C. § 18031.

14 (n) The suspension of issuance of qualifying group health insurance
15 contracts to new qualifying small employers shall not preclude the addi-
16 tion of new employees of an employer already covered under such a
17 contract or new dependents of employees already covered under such
18 contracts.

19 (o) [The suspension of issuance of qualifying individual health insur-
20 ance contracts to new qualifying individuals shall not preclude the
21 addition of new dependents to an existing qualifying individual health
22 insurance contract.

23 (p)] The premiums for qualifying group health insurance contracts must
24 factor in the availability of reimbursement from the small employer stop
25 loss fund. [The premiums for qualifying individual health insurance
26 contracts must factor in the availability of reimbursement from the
27 qualifying individual stop loss funds.

1 (q)] (p) The superintendent may obtain the services of an organization
2 to administer the stop loss funds established by this section. [If the
3 superintendent deems it appropriate, he or she may utilize a separate
4 organization for administration of the small employer stop loss fund and
5 the qualifying individual stop loss fund.] The superintendent shall
6 establish guidelines for the submission of proposals by organizations
7 for the purposes of administering the funds. The superintendent shall
8 make a determination whether to approve, disapprove or recommend modifi-
9 cation to the proposal of an applicant to administer the funds. An
10 organization approved to administer the funds shall submit reports to
11 the superintendent in such form and at times as may be required by the
12 superintendent in order to facilitate evaluation and ensure orderly
13 operation of the funds, including[, but not limited to,] an annual
14 report of the affairs and operations of the fund, such report to be
15 delivered to the superintendent and to the chairs of the senate finance
16 committee and the assembly ways and means committee. An organization
17 approved to administer the funds shall maintain records in a form
18 prescribed by the superintendent and which shall be available for
19 inspection by or at the request of the superintendent. The superinten-
20 dent shall determine the amount of compensation to be allocated to an
21 approved organization as payment for fund administration. Compensation
22 shall be payable from the stop loss coverage funds. An organization
23 approved to administer the funds may be removed by the superintendent
24 and must cooperate in the orderly transition of services to another
25 approved organization or to the superintendent.

26 [(r)] (q) If the superintendent deems it appropriate for the proper
27 administration of the small employer stop loss fund [and/or the qualify-
28 ing individual stop loss fund], the administrator of the fund, on behalf

1 of and with the prior approval of the superintendent, shall be author-
2 ized to purchase stop loss insurance and/or reinsurance from an insur-
3 ance company licensed to write such type of insurance in this state.
4 Such stop loss insurance and/or reinsurance may be purchased to the
5 extent of funds available therefor within such funds which are available
6 for purposes of the stop loss funds established by this section.

7 [(s)] (r) The superintendent may access funding from the small employ-
8 er stop loss fund [and/or the qualifying individual stop loss fund] for
9 the purposes of developing and implementing public education, outreach
10 and facilitated enrollment strategies targeted to small employers [and
11 working adults] without health insurance. The superintendent may
12 contract with marketing organizations to perform or provide assistance
13 with such education, outreach, and enrollment strategies. The super-
14 intendent shall determine the amount of funding available for the
15 purposes of this subsection which in no event shall exceed eight percent
16 of the annual funding amounts for the small employer stop loss fund [and
17 the qualifying individual stop loss fund].

18 [(t)] (s) Brooklyn healthworks pilot program [and upstate healthworks
19 pilot program]. Commencing on July first, two thousand six, the super-
20 intendent shall access funding from the small employer stop loss fund
21 [and the qualifying individual stop loss fund] for the purpose of
22 support and expansion of the existing pilot program Brooklyn healthworks
23 approved by the superintendent [and for the establishment and operation
24 of a pilot program to be located in upstate New York]. For the purpose
25 of this subsection, in no event shall the amount of funding available
26 exceed [two] one percent of the annual funding [amounts] amount for the
27 small employer stop loss fund [and the qualifying individual stop loss
28 fund].

1 § 59. Paragraph 1 of subsection (d) of section 4235 of the insurance
2 law is amended to read as follows:

3 (1) In this section, for the purpose of insurance other than for group
4 hospital, medical, major medical or similar comprehensive-types of
5 expense reimbursed insurance hereunder: "employees" includes the offi-
6 cers, managers, employees and retired employees of the employer and of
7 subsidiary or affiliated corporations of a corporate employer, and the
8 individual proprietors, partners, employees and retired employees of
9 affiliated individuals and firms controlled by the insured employer
10 through stock ownership, contract or otherwise; "employees" may be
11 deemed to include the individual proprietor or partners if the employer
12 is an individual proprietor or a partnership; and "employees" as used in
13 subparagraph (A) of paragraph one of subsection (c) hereof may also
14 include the directors of the employer and of subsidiary or affiliated
15 corporations of a corporate employer.

16 § 60. Subsection (d) of section 4235 of the insurance law is amended
17 by adding a new paragraph 3 to read as follows:

18 (3) In this section, for the purpose of group hospital, medical, major
19 medical or similar comprehensive-types of expense reimbursed insurance
20 hereunder:

21 (A) "employee" shall have the meaning set forth in section 2791 of the
22 public health service act, 42 U.S.C. § 300gg-91(d)(5) or any regulations
23 promulgated thereunder; and

24 (B) "full-time employee" means with respect to any month, an employee
25 who is employed on average for at least thirty hours of service per week
26 as set forth in section 4980H(c)(4) of the internal revenue code, 26
27 U.S.C. § 4980H(c)(4), or any regulations promulgated thereunder.

1 § 61. Subparagraph (B) of paragraph 1 of subsection (e) of section
2 3231 of the insurance law, as amended by chapter 107 of the laws of
3 2010, is amended to read as follows:

4 (B) The expected minimum loss ratio for a policy form subject to this
5 section, for which a rate filing or application is made pursuant to this
6 paragraph, other than a medicare supplemental insurance policy, or, with
7 the approval of the superintendent, an aggregation of policy forms that
8 are combined into one community rating experience pool and rated
9 consistent with community rating requirements, shall not be less than
10 eighty-two percent. In reviewing a rate filing or application, the
11 superintendent may modify the eighty-two percent expected minimum loss
12 ratio requirement if the superintendent determines the modification to
13 be in the interests of the people of this state or if the superintendent
14 determines that a modification is necessary to maintain insurer solven-
15 cy. No later than [June thirtieth] August thirty-first of each year,
16 every insurer subject to this subparagraph shall annually report the
17 actual loss ratio for the previous calendar year in a format acceptable
18 to the superintendent. If an expected loss ratio is not met, the super-
19 intendent may direct the insurer to take corrective action, which may
20 include the submission of a rate filing to reduce future premiums, or to
21 issue dividends, premium refunds or credits, or any combination of
22 these.

23 § 62. Subparagraph (A) of paragraph 3 of subsection (c) of section
24 4308 of the insurance law, as added by chapter 107 of the laws of 2010,
25 is amended to read as follows:

26 (A) The expected minimum loss ratio for a contract form subject to
27 this subsection for which a rate filing or application is made pursuant
28 to this paragraph, other than a medicare supplemental insurance

1 contract, or, with the approval of the superintendent, an aggregation of
2 contract forms that are combined into one community rating experience
3 pool and rated consistent with community rating requirements, shall not
4 be less than eighty-two percent. In reviewing a rate filing or applica-
5 tion, the superintendent may modify the eighty-two percent expected
6 minimum loss ratio requirement if the superintendent determines the
7 modification to be in the interests of the people of this state or if
8 the superintendent determines that a modification is necessary to main-
9 tain insurer solvency. No later than [June thirtieth] August thirty-
10 first of each year, every corporation subject to this subparagraph shall
11 annually report the actual loss ratio for the previous calendar year in
12 a format acceptable to the superintendent. If an expected loss ratio is
13 not met, the superintendent may direct the corporation to take correc-
14 tive action, which may include the submission of a rate filing to reduce
15 future premiums, or to issue dividends, premium refunds or credits, or
16 any combination of these.

17 § 63. Section 3233 of the insurance law is amended by adding a new
18 subsection (d) to read as follows:

19 (d) Notwithstanding any provision of this chapter or any other chap-
20 ter, the superintendent may suspend or terminate, by regulation, the
21 operation, in whole or in part, of any mechanism established and operat-
22 ing pursuant to the authority of this section provided that the super-
23 intendent determines that the objectives stated in subsection (a) of
24 this section are met by the operation of a mechanism or mechanisms
25 established by the federal government pursuant to section 1343 of the
26 affordable care act, 42 U.S.C. § 18063. Notwithstanding subsection (b)
27 of this section, the superintendent may exercise this authority without
28 convening a technical advisory committee.

1 § 64. Subparagraph (D) of paragraph 2 of subsection (p) of section
2 3221 of the insurance law, as added by chapter 661 of the laws of 1997,
3 is amended to read as follows:

4 (D) The insurer is ceasing to offer group or blanket policies in a
5 market in accordance with paragraph three or seven of this subsection.

6 § 65. Subsection (p) of section 3221 of the insurance law is amended
7 by adding a new paragraph 7 to read as follows:

8 (7) An insurer may discontinue offering a particular class of group or
9 blanket policy of hospital, surgical or medical expense insurance
10 offered in the small or large group market, and instead offer a group or
11 blanket policy of hospital, surgical or medical expense insurance that
12 complies with the requirements of section 2707 of the public health
13 service act, § 42 U.S.C. 300gg-6 that become applicable to such policy
14 as of January first, two thousand fourteen, provided that the insurer:

15 (A) discontinues the existing class of policy in such market as of
16 either December thirty-first, two thousand thirteen or the policy
17 renewal date occurring in two thousand fourteen in accordance with this
18 chapter;

19 (B) provides written notice to each policyholder provided coverage of
20 the class in the market (and to all employees and member insureds
21 covered under such coverage) of the discontinuance at least ninety days
22 prior to the date of discontinuance of such coverage. The written notice
23 shall be in a form satisfactory to the superintendent;

24 (C) offers to each policyholder provided coverage of the class in the
25 market, the option to purchase all (or, in the case of the large group
26 market, any) other hospital, surgical and medical expense coverage that
27 complies with the requirements of section 2707 of the public health
28 service act, 42 U.S.C. § 300gg-6 that become applicable to such coverage

1 as of January first, two thousand fourteen, currently being offered by
2 the insurer to a group in that market;

3 (D) in exercising the option to discontinue coverage of the class and
4 in offering the option of coverage under subparagraph (C) of this para-
5 graph, acts uniformly without regard to the claims experience of those
6 policyholders or any health status-related factor relating to any
7 particular covered employee, member insured or dependent, or particular
8 new employee, member insured, or dependent who may become eligible for
9 such coverage, and does not discontinue the coverage of the class with
10 the intent or as a pretext to discontinuing the coverage of any such
11 employee, member insured, or dependent; and

12 (E) at least one hundred twenty days prior to the date of the discon-
13 tinuance of such coverage, provides written notice to the superintendent
14 of the discontinuance, including certification by an officer or director
15 of the insurer that: (i) the reason for the discontinuance is to replace
16 the coverage with new coverage that complies with the requirements of
17 section 2707 of the public health service act, § 42 U.S.C. 300gg-6 that
18 become effective January first, two thousand fourteen; and (ii) the
19 replacement coverage offered in accordance with subparagraph (C) of this
20 paragraph will not result in a loss of any benefit covered under the
21 discontinued policy. For purposes of this subparagraph, a change in cost
22 sharing shall not constitute a loss of a benefit. The written notice
23 shall be in such form and contain such information the superintendent
24 requires.

25 § 66. Item (iii) of subparagraph (C) of paragraph 2 of subsection (c)
26 of section 4304 of the insurance law, as amended by chapter 661 of the
27 laws of 1997, is amended to read as follows:

1 (iii) Discontinuance of all individual hospital, surgical or medical
2 expense insurance contracts for which the premiums are paid by a remit-
3 ting agent of a group, in the small group market, or the large group
4 market, or both markets, in this state, in conjunction with a withdrawal
5 from the small group market, or the large group market, or both markets,
6 in this state. Withdrawal from the small group market, or the large
7 group market, or both markets, shall be governed by the requirements of
8 subparagraphs [(B)] (E) and [(C)] (F) of paragraph three of subsection
9 (j) of section four thousand three hundred five of this article. For
10 purposes of this item, "withdrawal" from a market means that no coverage
11 is offered or maintained in such market under contracts issued pursuant
12 to this section or contracts issued pursuant to section four thousand
13 three hundred five of this article.

14 § 67. Subparagraph (D) of paragraph 2 of subsection (j) of section
15 4305 of the insurance law, as added by chapter 661 of the laws of 1997,
16 is amended to read as follows:

17 (D) The corporation is ceasing to offer group or blanket contracts in
18 a market in accordance with paragraph three or paragraph six of this
19 subsection.

20 § 68. Subsection (j) of section 4305 of the insurance law is amended
21 by adding a new paragraph 6 to read as follows:

22 (6) A corporation may discontinue offering a particular class of group
23 or blanket contract of hospital, surgical or medical expense insurance
24 offered in the small or large group market, and instead offer a group or
25 blanket contract of hospital, surgical or medical expense insurance that
26 complies with the requirements of section 2707 of the public health
27 service act, 42 U.S.C. § 300gg-6 that become applicable to such contract

1 as of January first, two thousand fourteen, provided that the corpo-
2 ration:

3 (A) discontinues the existing class of contract in such market as of
4 either December thirty-first, two thousand thirteen or the contract
5 renewal date occurring in two thousand fourteen in accordance with this
6 chapter;

7 (B) provides written notice to each contract holder provided coverage
8 of the class in the market (and to all employees and member insureds
9 covered under such coverage) of the discontinuance at least ninety days
10 prior to the date of discontinuance of such coverage. The written notice
11 shall be in a form satisfactory to the superintendent;

12 (C) offers to each contract holder provided coverage of the class in
13 the market, the option to purchase all (or, in the case of the large
14 group market, any) other hospital, surgical and medical expense coverage
15 that complies with the requirements of section 2707 of the public health
16 service act, 42 U.S.C. § 300gg-6 that become applicable to such coverage
17 as of January first, two thousand fourteen, currently being offered by
18 the corporation to a group in that market;

19 (D) in exercising the option to discontinue coverage of the class and
20 in offering the option of coverage under subparagraph (C) of this para-
21 graph, acts uniformly without regard to the claims experience of those
22 contract holders or any health status-related factor relating to any
23 particular covered employee, member insured or dependent, or particular
24 new employee, member insured, or dependent who may become eligible for
25 such coverage, and does not discontinue the coverage of the class with
26 the intent or as a pretext to discontinuing the coverage of any such
27 employee, member insured, or dependent; and

1 (E) at least one hundred twenty days prior to the date of the discon-
2 tinuance of such coverage, provides written notice to the superintendent
3 of the discontinuance, including certification by an officer or director
4 of the corporation that: (i) the reason for the discontinuance is to
5 replace the coverage with new coverage that complies with the require-
6 ments of section 2707 of the public health service act, 42 U.S.C. §
7 300gg-6 that become effective January first, two thousand fourteen; and
8 (ii) the replacement coverage offered in accordance with subparagraph
9 (C) of this paragraph will not result in a loss of any benefit covered
10 under the discontinued contract. For purposes of this subparagraph, a
11 change in cost sharing shall not constitute a loss of a benefit. The
12 written notice shall be in such form and contain such information the
13 superintendent requires.

14 § 69. Subsections (a), (b) and (c) of section 3231 of the insurance
15 law, subsection (a) as amended by chapter 661 of the laws of 1997,
16 subsection (b) as amended by chapter 557 of the laws of 2002, subsection
17 (c) as added by chapter 501 of the laws of 1992, are amended to read as
18 follows:

19 (a) (1) No individual health insurance policy and no group health
20 insurance policy covering between [two] one and fifty employees or
21 members of the group or between one and one hundred employees or members
22 of the group for policies issued or renewed on or after January first,
23 two thousand sixteen exclusive of spouses and dependents, hereinafter
24 referred to as a small group, providing hospital and/or medical bene-
25 fits, including medicare supplemental insurance, shall be issued in this
26 state unless such policy is community rated and, notwithstanding any
27 other provisions of law, the underwriting of such policy involves no
28 more than the imposition of a pre-existing condition limitation [as] if

1 otherwise permitted by this article. (2) Any individual, and dependents
2 of such individual, and any small group, including all employees or
3 group members and dependents of employees or members, applying for indi-
4 vidual health insurance coverage, including medicare supplemental cover-
5 age, [or small group health insurance coverage, including medicare
6 supplemental insurance,] or small group health insurance coverage,
7 including medicare supplemental insurance, but not including coverage
8 specified in subsection (1) of section three thousand two hundred
9 sixteen, subsection (1) of section four thousand three hundred four,
10 section four thousand three hundred twenty-one, section four thousand
11 three hundred twenty-two and section four thousand three hundred twen-
12 ty-eight of this chapter must be accepted at all times throughout the
13 year for any hospital and/or medical coverage offered by the insurer to
14 individuals or small groups in this state. (3) Once accepted for cover-
15 age, an individual or small group cannot be terminated by the insurer
16 due to claims experience. Termination of an individual or small group
17 shall be based only on one or more of the reasons set forth in
18 subsection (g) of section three thousand two hundred sixteen or
19 subsection (p) of section three thousand two hundred twenty-one of this
20 article. Group hospital and/or medical coverage, including medicare
21 supplemental insurance, obtained through an out-of-state trust covering
22 a group of fifty or fewer employees or participating persons who are
23 residents of this state must be community rated regardless of the situs
24 of delivery of the policy. Notwithstanding any other provisions of law,
25 the underwriting of such policy may involve no more than the imposition
26 of a pre-existing condition limitation as permitted by this article, and
27 once accepted for coverage, an individual or small group cannot be
28 terminated due to claims experience. Termination of an individual or

1 small group shall be based only on one or more of the reasons set forth
2 in subsection (p) of section three thousand two hundred twenty-one of
3 this article. (4) For the purposes of this section, "community rated"
4 means a rating methodology in which the premium for all persons covered
5 by a policy [or contract] form is the same based on the experience of
6 the entire pool of risks [covered by that policy or contract form] of
7 all individuals or small groups covered by the insurer without regard to
8 age, sex, health status, tobacco usage or occupation, excluding those
9 covered by medicare supplemental insurance. Catastrophic health insur-
10 ance policies issued pursuant to section 1302(e) of the affordable care
11 act, 42 U.S.C. § 18022(e), shall be classified in a distinct community
12 rating pool.

13 (b) [Nothing herein shall prohibit the use of premium rate structures
14 to establish different premium rates for individuals as opposed to fami-
15 ly units or] (1) The superintendent shall set standard premium tiers and
16 standard rating relativities between tiers applicable to all policies
17 subject to this section. The superintendent shall set a standard rela-
18 tivity applicable to child-only policies issued pursuant to section
19 1302(f) of the affordable care act, 42 U.S.C. § 18022(f). The relativ-
20 ity for child-only policies shall be actuarially justifiable using the
21 aggregate experience of insurers to prevent the charging of unjustified
22 premiums. The superintendent may adjust such premium tiers and relativ-
23 ities periodically based upon the aggregate experience of insurers issu-
24 ing policy forms subject to this section. (2) An insurer shall establish
25 separate community rates for individuals as opposed to small groups. (3)
26 If an insurer is required to issue a [contract] policy to individual
27 proprietors pursuant to subsection (i) of this section, such policy
28 shall be subject to subsection (a) of this section.

1 (c) (1) The superintendent shall permit the use of separate community
2 rates for reasonable geographic regions, which may, in a given case,
3 include a single county. The regions shall be approved by the super-
4 intendent as part of the rate filing. The superintendent shall not
5 require the inclusion of any specific geographic regions within the
6 proposed community rated regions selected by the insurer in its rate
7 filing so long as the insurer's proposed regions do not contain config-
8 urations designed to avoid or segregate particular areas within a county
9 covered by the insurer's community rates. (2) Beginning on January
10 first, two thousand fourteen, for every policy subject to this section
11 that provides physician services, medical, major medical or similar
12 comprehensive-type coverage, except for medicare supplement plans,
13 insurers shall use standardized regions established by the superinten-
14 dent.

15 § 70. Subsection (g) of section 3231 of the insurance law, as added by
16 chapter 501 of the laws of 1992, is amended to read as follows:

17 (g) (1) This section shall also apply to policies issued to a group
18 defined in subsection (c) of section four thousand two hundred thirty-
19 five, including but not limited to an association or trust of employers,
20 if the group includes one or more member employers or other member
21 groups which have fifty or fewer employees or members exclusive of
22 spouses and dependents. For policies issued or renewed on or after
23 January first, two thousand fourteen, if the group includes one or more
24 member employers or other member groups eligible for coverage subject to
25 this section, then such member groups shall be classified as small
26 groups for rating purposes and the remaining members shall be rated
27 consistent with the rating rules applicable to such remaining members
28 pursuant to this section.

1 (2) If a policy is issued to a group defined in subsection (c) of
2 section four thousand two hundred thirty-five of this chapter, including
3 an association group, that includes one or more individual or individual
4 proprietor members, for rating purposes the insurer shall include such
5 members in its individual pool of risks in establishing premium rates
6 for such members.

7 (3) Notwithstanding subdivision five of section nine hundred twenty-
8 two of the labor law, if a policy issued to a group that is a profes-
9 sional employer organization as defined in section nine hundred sixteen
10 of the labor law, includes one or more small group members eligible for
11 coverage subject to this section, the insurer shall include such employ-
12 er members in its small group pool of risks in establishing premium
13 rates for such members.

14 § 71. Paragraph 2 of subsection (i) of section 3231 of the insurance
15 law, as amended by chapter 183 of the laws of 2011, is amended to read
16 as follows:

17 (2) For coverage purchased pursuant to this subsection, through Decem-
18 ber thirty-first, two thousand thirteen, individual proprietors shall be
19 classified in their own community rating category, provided however, up
20 to and including December thirty-first, two thousand [fourteen]
21 thirteen, the premium rate established for individual proprietors
22 purchased pursuant to paragraph one of this subsection shall not be
23 greater than one hundred fifteen percent of the rate established for the
24 same coverage issued to groups. Coverage purchased or in effect pursu-
25 ant to this subsection on or after January first, two thousand fourteen
26 shall be classified in the individual rating category.

27 § 72. Section 4317 of the insurance law, as added by chapter 501 of
28 the laws of 1992, subsection (a) as amended by chapter 661 of the laws

1 of 1997, subsection (b) as amended and subsection (f) as added by chap-
2 ter 557 of the laws of 2002, subsection (d) as amended by section 2 of
3 part A of chapter 494 of the laws of 2009, paragraph 2 of subsection (f)
4 as amended by chapter 183 of the laws of 2011, is amended to read as
5 follows:

6 § 4317. Rating of individual and small group health insurance
7 contracts. (a) (1) No individual health insurance contract and no group
8 health insurance contract covering between [two] one and fifty employees
9 or members of the group, or between one and one hundred employees or
10 members of the group for policies issued or renewed on or after January
11 first, two thousand sixteen exclusive of spouses and dependents, includ-
12 ing contracts for which the premiums are paid by a remitting agent for a
13 group, hereinafter referred to as a small group, providing hospital
14 and/or medical benefits, including Medicare supplemental insurance,
15 shall be issued in this state unless such contract is community rated
16 and, notwithstanding any other provisions of law, the underwriting of
17 such contract involves no more than the imposition of a pre-existing
18 condition limitation [as] if otherwise permitted by this article. (2)
19 Any individual, and dependents of such individual, and any small group,
20 including all employees or group members and dependents of employees or
21 members, applying for individual or small group health insurance cover-
22 age or small group health insurance coverage, including Medicare supple-
23 mental insurance, but not including coverage specified in subsection (1)
24 of section three thousand two hundred sixteen, subsection (1) of section
25 four thousand three hundred four, section four thousand three hundred
26 twenty-one, section four thousand three hundred twenty-two and section
27 four thousand three hundred twenty-eight of this chapter, and including
28 coverage that is offered within the health benefit exchange established

1 pursuant to section 1311 of the affordable care act, 42 U.S.C. § 18031
2 and any regulations promulgated thereunder, must be accepted at all
3 times throughout the year for any hospital and/or medical coverage[,
4 including Medicare supplemental insurance,] offered by the corporation
5 to individuals or small groups in this state. (3) Once accepted for
6 coverage, an individual or small group cannot be terminated by the
7 insurer due to claims experience. Termination of coverage for individ-
8 uals or small groups may be based only on one or more of the reasons set
9 forth in subsection (c) of section four thousand three hundred four or
10 subsection (j) of section four thousand three hundred five of this arti-
11 cle. (4) For the purposes of this section, "community rated" means a
12 rating methodology in which the premium for all persons covered by a
13 policy or contract form is the same, based on the experience of the
14 entire pool of risks [covered by that policy or contract form] of all
15 individuals or small groups covered by the corporation without regard to
16 age, sex, health status, tobacco usage or occupation excluding those
17 individuals covered by Medicare supplemental insurance. Catastrophic
18 health insurance contracts issued pursuant to section 1302(e) of the
19 affordable care act, 42 U.S.C. § 18022(e), shall be classified in a
20 distinct community rating pool.

21 (b) [Nothing herein shall prohibit the use of premium rate structures
22 to establish different premium rates for individuals as opposed to fami-
23 ly units or] (1) The superintendent shall set standard premium tiers and
24 standard rating relativities between tiers applicable to all contracts
25 subject to this section. The superintendent shall also set a standard
26 relativity applicable to child-only contracts issued pursuant to section
27 1302(f) of the affordable care act, 42 U.S.C. § 18022(f). The relativi-
28 ty for child-only contracts must be actuarially justifiable using the

1 aggregate experience of corporations to prevent the charging of unjusti-
2 fied premiums. The superintendent may adjust such premium tiers and
3 relativities periodically based upon the aggregate experience of corpo-
4 rations issuing contract forms subject to this section. (2) A corpo-
5 ration shall establish separate community rates for individuals as
6 opposed to small groups. (3) If a corporation is required to issue a
7 contract to individual proprietors pursuant to subsection (f) of this
8 section, such contract shall be subject to the requirements of
9 subsection (a) of this section.

10 (c) (1) The superintendent shall permit the use of separate community
11 rates for reasonable geographic regions, which may, in a given case,
12 include a single county. The regions shall be approved by the super-
13 intendent as part of the rate filing. The superintendent shall not
14 require the inclusion of any specific geographic regions within the
15 proposed community rated regions selected by the corporation in its rate
16 filing so long as the corporation's proposed regions do not contain
17 configurations designed to avoid or segregate particular areas within a
18 county covered by the corporation's community rates. (2) Beginning on
19 January first, two thousand fourteen, for every contract subject to this
20 section that provides physician services, medical, major medical or
21 similar comprehensive-type coverage, except for Medicare supplemental
22 insurance, corporations shall use standardized regions established by
23 the superintendent.

24 (d) (1) [This] For policies issued on or before December thirty-first,
25 two thousand thirteen, this section shall also apply to [contracts] a
26 contract issued to a group defined in subsection (c) of section four
27 thousand two hundred thirty-five of this chapter, including [but not
28 limited] to an association or trust of employers, if the group includes

1 one or more member employers or other member groups [which have fifty or
2 fewer employees or members exclusive of spouses and dependents.] that
3 would be subject to this subsection. For contracts issued or renewed on
4 or after January first, two thousand fourteen, if the group includes one
5 or more member employers or other member groups that have fifty or fewer
6 employees or members exclusive of spouses and dependents, then such
7 member groups shall be classified as small groups for rating purposes
8 and the remaining members shall be rated consistent with the rating
9 rules applicable to such remaining members pursuant to this section.

10 (2) If a contract is issued to a group defined in subsection (c) of
11 section four thousand two hundred thirty-five of this chapter including
12 association groups, that includes one or more individual or individual
13 proprietor members, then for rating purposes the corporation shall
14 include such members in its individual pool of risks in establishing
15 premium rates for such members.

16 (3) Notwithstanding subdivision five of section nine hundred twenty-
17 two of the labor law, if a contract is issued to a group that is a
18 professional employer organization as defined in section nine hundred
19 sixteen of the labor law, and includes one or more employers eligible
20 for coverage subject to this section, then the corporation shall include
21 such employer members in its small group pool of risks in establishing
22 premium rates for such members.

23 ~~[(2)]~~ (4) A corporation shall provide specific claims experience to a
24 municipal corporation, as defined in subsection (f) of section four
25 thousand seven hundred two of this chapter, covered by the corporation
26 under a community rated contract when the municipal corporation requests
27 its claims experience for purposes of forming or joining a municipal
28 cooperative health benefit plan certified pursuant to article forty-sev-

1 en of this chapter. Notwithstanding the foregoing provisions, no corpo-
2 ration shall be required to provide more than three years' claims expe-
3 rience to a municipal corporation making this request.

4 (e) (1) Notwithstanding any other provision of this chapter, no insur-
5 er, subsidiary of an insurer, or controlled person of a holding company
6 system may act as an administrator or claims paying agent, as opposed to
7 an insurer, on behalf of small groups which, if they purchased insur-
8 ance, would be subject to this section. No insurer, subsidiary of an
9 insurer, or controlled person of a holding company may provide stop
10 loss, catastrophic or reinsurance coverage to small groups which, if
11 they purchased insurance, would be subject to this section.

12 (2) This subsection shall not apply to coverage insuring a plan
13 [which] that was in effect on or before December thirty-first, nineteen
14 hundred ninety-one and was issued to a group [which] that includes
15 member small employers or other member small groups, including but not
16 limited to association groups, provided that (A) acceptance of addi-
17 tional small member employers (or other member groups comprised of fifty
18 or fewer employees or members, exclusive of spouses and dependents) into
19 the group on or after June first, nineteen hundred ninety-two and before
20 April first, nineteen hundred ninety-four does not exceed an amount
21 equal to ten percent per year of the total number of persons covered
22 under the group as of June first, nineteen hundred ninety-two, but noth-
23 ing in this subparagraph shall limit the addition of larger member
24 employers; (B) (i) after April first, nineteen hundred ninety-four, the
25 group thereafter accepts member small employers and member small groups
26 without underwriting by any more than the imposition of a pre-existing
27 condition limitation as permitted by this article and the cost for
28 participation in the group for all persons covered shall be the same

1 based on the experience of the entire pool of risks covered under the
2 entire group, without regard to age, sex, health status or occupation;
3 and; (ii) once accepted for coverage, an individual or small group
4 cannot be terminated due to claims experience; (C) the [insurer] corpo-
5 ration has registered the names of such groups, including the total
6 number of persons covered as of June first, nineteen hundred ninety-two,
7 with the superintendent, in a form prescribed by the superintendent, on
8 or before April first, nineteen hundred ninety-three and shall report
9 annually thereafter until such groups comply with the provisions of
10 subparagraph (B) of this paragraph; and (D) the types or categories of
11 employers or groups eligible to join the association are not altered or
12 expanded after June first, nineteen hundred ninety-two.

13 (3) A corporation may apply to the superintendent for an extension or
14 extensions of time beyond April first, nineteen hundred ninety-four in
15 which to implement the provisions of this subsection as they relate to
16 groups registered with the superintendent pursuant to subparagraph (C)
17 of paragraph two of this subsection; any such extension or extensions
18 may not exceed two years in aggregate duration, and the ten percent per
19 year limitation of subparagraph (A) of paragraph two of this subsection
20 shall be reduced to five percent per year during the period of any such
21 extension or extensions. Any application for an extension shall demon-
22 strate that a significant financial hardship to such group would result
23 from such implementation.

24 (f) (1) If the [insurer] corporation issues coverage to an association
25 group (including chambers of commerce), as defined in subparagraph (K)
26 of paragraph one of subsection (c) of section four thousand two hundred
27 thirty-five of this chapter, then the [insurer must] corporation shall
28 issue the same coverage to individual proprietors [which] who purchase

1 coverage through the association group as the [insurer] corporation
2 issues to groups [which] that purchase coverage through the association
3 group; provided, however, that [an insurer which] a corporation that, on
4 the effective date of this subsection, is issuing coverage to individual
5 proprietors not connected with an association group, may continue to
6 issue such coverage provided that the coverage is otherwise in accord-
7 ance with this subsection and all other applicable provisions of law.

8 (2) For coverage purchased pursuant to this subsection through Decem-
9 ber thirty-first, two thousand thirteen, individual proprietors shall be
10 classified in their own community rating category, provided however, up
11 to and including December thirty-first, two thousand [fourteen]
12 thirteen, the premium rate established for individual proprietors
13 purchased pursuant to paragraph one of this subsection shall not be
14 greater than one hundred fifteen percent of the rate established for the
15 same coverage issued to groups. Coverage purchased or in effect pursu-
16 ant to this subsection on or after January first, two thousand fourteen
17 shall be classified in the individual rating category.

18 (3) The [insurer] corporation may require members of the association
19 purchasing health insurance to verify that all employees electing health
20 insurance are legitimate employees of the employers, as documented on
21 New York state tax form NYS-45-ATT-MN or comparable documentation. In
22 order to be eligible to purchase health insurance pursuant to this
23 subsection and obtain the same group insurance products as are offered
24 to groups, a sole employee of a corporation or a sole proprietor of an
25 unincorporated business or entity must (A) work at least twenty hours
26 per week, (B) if purchasing the coverage through an association group,
27 be a member of the association for at least sixty days prior to the
28 effective date of the insurance [policy] contract, and (C) present a

1 copy of the following documentation to the [insurer] corporation or
2 health plan administrator on an annual basis:

3 (i) NYS tax form 45-ATT, or comparable documentation of active employ-
4 ee status;

5 (ii) for an unincorporated business, the prior year's federal income
6 tax Schedule C for an incorporated business subject to Subchapter S with
7 a sole employee, federal income tax Schedule E for other incorporated
8 businesses with a sole employee, a W-2 annual wage statement, or federal
9 tax form 1099 with federal income tax Schedule F; or

10 (iii) for a business in business for less than one year, a cancelled
11 business check, a certificate of doing business, or appropriate tax
12 documentation; and

13 (iv) such other documentation as may be reasonably required by the
14 insurer as approved by the superintendent to verify eligibility of an
15 individual to purchase health insurance pursuant to this subsection.

16 (4) Notwithstanding the provisions of item (I) of clause (i) of
17 subparagraph (K) of paragraph one of subsection (c) of section four
18 thousand two hundred thirty-five of this chapter, for purposes of this
19 section, an association group shall include chambers of commerce with
20 less than two hundred members and which are 501C3 or 501C6 organiza-
21 tions.

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

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

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

16 § 76. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after January 1, 2013;
18 provided that:

19 a. sections thirty-eight, thirty-nine, forty, forty-one, forty-seven,
20 forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three,
21 fifty-four and fifty-five of this act shall take effect January 1, 2014,
22 and shall apply to all policies and contracts issued, renewed, modified,
23 altered or amended on or after such date.

24 b. sections forty-two, forty-three, forty-four, forty-five and forty-
25 six of this act shall apply to all policies and contracts issued,
26 renewed, modified, altered or amended on or after October 1, 2013;

27 c. section fifty-six of this act shall take effect January 1, 2014;

1 d. section fifty-seven of this act shall be deemed repealed January 1,
2 2014;

3 e. sections fifteen and fifty-eight of this act shall take effect
4 January 1, 2015;

5 f. sections fifty-nine and sixty of this act shall take effect January
6 1, 2016 and shall apply to all policies and contracts issued, renewed,
7 modified, altered, or amended on or after such date;

8 g. sections fourteen and fourteen-a of this act shall take effect
9 immediately and shall be deemed to have been in full force and effect on
10 and after April 1, 2013;

11 h. the amendments to paragraphs (e) and (f) of subdivision 2 of
12 section 2511 of the public health law made by sections nineteen and
13 twenty-six of this act shall take effect January 1, 2014 or a later date
14 to be determined by the commissioner of health contingent upon the
15 requirements of the Patient Protection and Affordable Care Act of 2010
16 being fully implemented by the state and as approved by the secretary of
17 the department of health and human services; provided that the commis-
18 sioner of health shall notify the legislative bill drafting commission
19 upon the occurrence of the enactment of the legislation provided for in
20 sections nineteen and twenty-six of this act in order that the commis-
21 sion may maintain an accurate and timely effective data base of the
22 official text of the laws of the state of New York in furtherance of
23 effectuating the provisions of section 44 of the legislative law and
24 section 70-b of the public officers law;

25 h-1. provided however, the amendments to subparagraph (ii) of para-
26 graph (f) of subdivision 2 of section 2511 of the public health law made
27 by section twenty-six of this act shall take effect April 1, 2014;

1 i. the amendments to subdivision 4 of section 2511 of the public
2 health law made by section twenty-one of this act shall not affect the
3 expiration and reversion of such subdivision and shall be deemed to
4 expire therewith;

5 j. the amendments to subparagraph (ii) of paragraph (g) of subdivision
6 2 of section 2511 of the public health law made by section twenty-seven
7 of this act shall not affect the expiration of such paragraph and shall
8 be deemed to expire therewith;

9 j-1. the amendments to subparagraph (iii) of paragraph (a) of subdivi-
10 sion 2 of section 2511 of the public health law made by section thirty
11 of this act shall not affect the expiration of such paragraph and shall
12 be deemed to expire therewith;

13 j-2. the amendments to subparagraph (iv) of paragraph (b) and para-
14 graph (d) of subdivision 9 of section 2511 of the public health law made
15 by section thirty-three of this act shall not affect the expiration of
16 such subdivision and shall be deemed to expire therewith;

17 j-3. the amendments to subdivision 5 of section 365-n of the social
18 services law made by section thirty-three-a of this act shall not affect
19 the repeal of such subdivision and shall be deemed repealed therewith;

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

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

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

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

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

15 PART E

16 Section 1. Subdivisions 9 and 10 of section 2541 of the public health
17 law, as added by chapter 428 of the laws of 1992, are amended to read as
18 follows:

19 9. "Evaluation" means a multidisciplinary professional, objective
20 [assessment] examination conducted by [appropriately] qualified person-
21 nel and conducted pursuant to section twenty-five hundred forty-four of
22 this title to determine a child's eligibility under this title.

23 A "partial evaluation" shall mean an examination of the child in a
24 single developmental area for purposes of determining eligibility, and
25 may also mean an examination of the child to determine the need for a
26 modification to the child's individualized family service plan.

1 10. "Evaluator" means [a team of two or more professionals approved
2 pursuant to section twenty-five hundred fifty-one of this title] a
3 provider approved by the department to conduct screenings and evalu-
4 ations.

5 § 2. Section 2541 of the public health law is amended by adding two
6 new subdivisions 13-b and 15-a to read as follows:

7 13-b. "Multidisciplinary" means the involvement of two or more sepa-
8 rate disciplines or professions, which may mean one individual who meets
9 the definition of qualified personnel as set forth in subdivision
10 fifteen of this section and who is qualified in accordance with state
11 licensure, certification, or other comparable standards, to evaluate all
12 five developmental areas.

13 15-a. "Screening" means the procedures used by qualified personnel,
14 as defined in subdivision fifteen of this section, to determine whether
15 a child is suspected of having a disability and in need of early inter-
16 vention services, and shall include the administration of a standardized
17 screening instrument or instruments approved by the department, where
18 available and appropriate for the child, in accordance with subdivision
19 three of section twenty-five hundred forty-four of this title.

20 § 3. Subdivision 3 of section 2542 of the public health law, as
21 amended by chapter 231 of the laws of 1993, is amended to read as
22 follows:

23 3. [The] (a) Unless an infant or toddler has already been referred to
24 the early intervention official or the health officer of the public
25 health district in which the infant or toddler resides, as designated by
26 the municipality, the following persons and entities, within two working
27 days of identifying an infant or toddler suspected of having a disabili-
28 ty or at risk of having a disability, shall refer such infant or toddler

1 to the early intervention official or the health officer [of the public
2 health district in which the infant or toddler resides, as designated by
3 the municipality,] as applicable but in no event over the objection of
4 the parent made in accordance with procedures established by the depart-
5 ment for use by such primary referral sources[, unless the child has
6 already been referred]: hospitals, child health care providers, day
7 care programs, local school districts, public health facilities, early
8 childhood direction centers and such other social service and health
9 care agencies and providers as the commissioner shall specify in regu-
10 lation; provided, however, that the department shall establish proce-
11 dures, including regulations if required, to ensure that primary refer-
12 ral sources adequately inform the parent or guardian about the early
13 intervention program, including through brochures and written materials
14 created or approved by the department.

15 (b) The primary referral sources identified in paragraph (a) of this
16 subdivision shall, with parent or guardian consent, complete and trans-
17 mit at the time of referral, a referral form developed by the depart-
18 ment, which contains information sufficient to document the primary
19 referral source's concern or basis for suspecting the child has a disa-
20 bility or is at risk of having a disability, and where applicable, spec-
21 ifies the child's diagnosed condition that establishes the child's
22 eligibility for the early intervention program. The primary referral
23 source shall also, with parent or guardian consent, provide such other
24 records or reports pertinent to the child's developmental status or
25 disability. The primary referral source shall further inform the parent
26 or guardian of a child with a diagnosed condition that has a high proba-
27 bility of resulting in developmental delay, that eligibility for the
28 program may be established by medical or other records, and of the

1 importance of providing consent for the primary referral source to tran-
2 smit records or reports necessary to support the diagnosis, or, for
3 parents or guardians of children who do not have a diagnosed condition,
4 records or reports that would assist in determining eligibility for the
5 program.

6 § 4. Section 2544 of the public health law, as added by chapter 428 of
7 the laws of 1992, paragraph (c) of subdivision 2 as added by section 1
8 of part A of chapter 56 of the laws of 2012, and subdivision 11 as added
9 by section 3 of part B3 of chapter 62 of the laws of 2003, is amended to
10 read as follows:

11 § 2544. Screening and evaluations. 1. Each child thought to be an
12 eligible child is entitled to [a multidisciplinary] an evaluation
13 conducted in accordance with this section, and the early intervention
14 official shall ensure such evaluation, with parental consent.

15 2. (a) [The] Subject to the provisions of section twenty-five hundred
16 forty-five-a of this title, the parent may select an evaluator from the
17 list of approved evaluators as described in section twenty-five hundred
18 forty-two of this title to conduct the screening and/or evaluation as
19 applicable and in accordance with this section. The parent or evaluator
20 shall immediately notify the early intervention official of such
21 selection. The evaluator shall review the information and documentation
22 provided with the referral to determine the appropriate screening or
23 evaluation process to follow in accordance with this section. The evalu-
24 ator may begin the screening or evaluation no sooner than four working
25 days after such notification, unless otherwise approved by the initial
26 service coordinator.

27 (b) [the evaluator shall designate an individual as the principal
28 contact for the multidisciplinary team] Initial service coordinators

1 shall inform parents of the screening or evaluation procedures that may
2 be performed, as applicable. For a child referred to the early inter-
3 vention official who has a diagnosed physical or mental condition that
4 has a high probability of resulting in developmental delay, the initial
5 service coordinator shall inform the parent that the evaluation of the
6 child shall be conducted in accordance with the procedures set forth in
7 subdivision five of this section.

8 (c) If, in consultation with the evaluator, the service coordinator
9 identifies a child that is potentially eligible for programs or services
10 offered by or under the auspices of the office for people with develop-
11 mental disabilities, the service coordinator shall, with parent consent,
12 notify the office for people with developmental disabilities' regional
13 developmental disabilities services office of the potential eligibility
14 of such child for said programs or services.

15 3. [(a) To determine eligibility, an evaluator shall, with parental
16 consent, either (i) screen a child to determine what type of evaluation,
17 if any, is warranted, or (ii) provide a multidisciplinary evaluation. In
18 making the determination whether to provide an evaluation, the evaluator
19 may rely on a recommendation from a physician or other qualified person
20 as designated by the commissioner] Screenings for children referred to
21 the early intervention program to determine whether they are suspected
22 of having a disability. (a) For a child referred to the early inter-
23 vention program, the evaluator shall first perform a screening of the
24 child, with parental consent, to determine whether the child is
25 suspected of having a disability.

26 (b) The evaluator shall utilize a standardized screening instrument or
27 instruments approved by the department to conduct the screening. If the
28 evaluator does not utilize a standardized screening instrument or

1 instruments approved by the department for the screening, the evaluator
2 shall document in writing why the same are unavailable or inappropriate
3 for the child.

4 (c) The evaluator shall explain the results of the screening to the
5 parent, and shall fully document the results in writing.

6 [(b)] (d) If, based upon the screening, a child is [believed to be
7 eligible, or if otherwise elected by the parent] suspected of having a
8 disability, the [child shall] evaluator shall proceed, with [the consent
9 of a parent] parental consent, [receive a multidisciplinary] to conduct
10 an evaluation[. All evaluations shall be conducted in accordance with]
11 of the child in accordance with the procedures set forth in subdivision
12 four of this section, the coordinated standards and procedures, and
13 [with] regulations promulgated by the commissioner.

14 (e) If, based upon the screening, a child is not suspected of having a
15 disability, an evaluation shall not be provided, unless requested by the
16 parent. The early intervention official shall provide the parent with
17 written notice of the screening results, which shall include information
18 on the parent's right to request an evaluation.

19 (f) A screening shall not be provided to children who are referred to
20 the early intervention program who have a diagnosed physical or mental
21 condition with a high probability of resulting in developmental delay
22 that establishes eligibility for the program, or for children who have
23 previously received an evaluation under the early intervention program
24 and have been referred again to the early intervention official within
25 six months of the previous evaluation.

26 4. The evaluation of [each] a child shall:

27 (a) include the administration of an evaluation instrument approved by
28 the department. If the evaluator does not utilize an evaluation instru-

1 ment approved by the department as part of the evaluation of the child,
2 the evaluator shall document in writing why such instrument or instru-
3 ments are not appropriate or available for the child;

4 (b) be conducted by personnel trained to utilize appropriate methods
5 and procedures;

6 [(b)] (c) be based on informed clinical opinion;

7 [(c)] (d) be made without regard to the availability of services in
8 the municipality or who might provide such services; [and

9 (d)] (e) with parental consent, include the following:

10 (i) a review of pertinent records related to the child's current
11 health status and medical history;

12 (ii) an evaluation of the child's level of functioning in each of the
13 developmental areas set forth in paragraph (c) of subdivision seven of
14 section twenty-five hundred forty-one of this title[;] to determine
15 whether the child has a disability as defined in this title that estab-
16 lishes the child's eligibility for the program; and

17 (f) if the child has been determined eligible by the evaluator after
18 conducting the procedures set forth in paragraphs (a) through (e) of
19 this subdivision, the evaluation shall also include:

20 [(iii)] (i) an assessment [of the unique needs of] for the purpose of
21 identifying the [child] child's unique strengths and needs in [terms of]
22 each of the developmental areas [set forth in paragraph (c) of subdivi-
23 sion seven of section twenty-five hundred forty-one of this title,
24 including the identification of] and the early intervention services
25 appropriate to meet those needs;

26 (ii) a family-directed assessment, if consented to by the family, in
27 order to identify the family's resources, priorities and concerns and
28 the supports necessary to enhance the family's capacity to meet the

1 developmental needs of the child. The family assessment shall be volun-
2 tary on the part of each family member participating in the assessment;

3 [(iv)] (iii) an [evaluation] assessment of the transportation needs of
4 the child, if any; and

5 [(v)] (iv) such other matters as the commissioner may prescribe in
6 regulation.

7 5. Evaluations for children who are referred to the early intervention
8 official with diagnosed physical or mental conditions that have a high
9 probability of resulting in developmental delay. (a) If a child has a
10 diagnosed physical or mental condition that has a high probability of
11 resulting in developmental delay, the child's medical or other records
12 shall be used, when available to establish the child's eligibility for
13 the program.

14 (b) The evaluator shall, upon review of the referral form provided in
15 accordance with section twenty-five hundred forty-two of this title or
16 any other records, or at the time of initial contact with the child's
17 family, determine whether the child has a diagnosed condition that
18 establishes the child's eligibility for the program. If the evaluator
19 has reason to believe, after speaking with the child's family, that the
20 child may have a diagnosed condition that establishes the child's eligi-
21 bility but the evaluator has not been provided with medical or other
22 documentation of such diagnosis, the evaluator shall, with parental
23 consent, obtain such documentation, when available, prior to proceeding
24 with the evaluation of the child.

25 (c) The evaluator shall review all records received to document that
26 the child's diagnosis as set forth in such records establishes the
27 child's eligibility for the early intervention program.

1 (d) Notwithstanding subdivision four of this section, if the child's
2 eligibility for the early intervention program is established in accord-
3 ance with this subdivision, the evaluation of the child shall consist of
4 (i) a review of the results of the medical or other records that estab-
5 lished the child's eligibility, and any other pertinent evaluations or
6 records available and (ii) the procedures set forth in paragraph (f) of
7 subdivision four of this section. The evaluation procedures set forth in
8 paragraphs (a) through (e) of subdivision four of this section shall not
9 be required or conducted.

10 6. Evaluations for children referred to the early intervention offi-
11 cial after a previous early intervention evaluation found them ineligi-
12 ble for the program. (a) Notwithstanding subdivision four of this
13 section, a partial evaluation shall be conducted for a child that was
14 previously referred to the early intervention official and found ineli-
15 gible after an evaluation if:

16 (i) the child's prior evaluation was completed between three and six
17 months of the date of the child's subsequent referral;

18 (ii) the child's subsequent referral is based on a specific concern in
19 a single developmental area; and

20 (iii) no other new medical, health or developmental concerns are indi-
21 cated.

22 (b) If the partial evaluation establishes the child's eligibility for
23 the early intervention program, the evaluation of the child shall also
24 include the procedures set forth in paragraph (f) of subdivision four of
25 this section. The evaluation procedures set forth in paragraphs (a)
26 through (e) of subdivision four of this section shall not be conducted,
27 unless requested by the parent.

1 (c) An evaluation conducted in accordance with subdivision four of
2 this section shall be provided to a child that was previously referred
3 to the early intervention official and found ineligible after an evalu-
4 ation if the child's parent or primary referral source indicates specif-
5 ic new concerns in more than one developmental area, or if records or
6 other reports indicate a significant change in overall development.

7 (d) For evaluations subject to the provisions of this subdivision, the
8 evaluator who conducted the prior evaluation of the child shall be
9 assigned to conduct the partial evaluation or evaluation, as applicable,
10 unless the evaluator is unavailable or the parent objects to the assign-
11 ment. The evaluator shall review the prior evaluation conducted on the
12 child and any other pertinent records, with parental consent.

13 (e) Notwithstanding any contrary provision of law, a child who is
14 referred to the early intervention official within three months of the
15 completion of a prior evaluation shall not be entitled to a partial
16 evaluation or evaluation, as applicable, unless significant medical,
17 health or developmental changes are indicated.

18 7. An evaluation shall not include a reference to any specific provid-
19 er of early intervention services.

20 [6.] 8. Nothing in this section shall restrict an evaluator from
21 utilizing, in addition to findings from his or her personal examination,
22 other examinations, evaluations or assessments conducted for such child,
23 including those conducted prior to the evaluation under this section, if
24 such examinations, evaluations or assessments are consistent with the
25 coordinated standards and procedures.

26 [7.] 9. Following completion of the evaluation, the evaluator shall
27 provide the parent and service coordinator with a copy of a summary of
28 the full evaluation. To the extent practicable, the summary shall be

1 provided in the native language of the parent. Upon request of the
2 parent, early intervention official or service coordinator, the evalu-
3 ator shall provide a copy of the full evaluation to such parent, early
4 intervention official or service coordinator.

5 [8.] 10. A parent who disagrees with the results of an evaluation may
6 obtain an additional evaluation or partial evaluation at public expense
7 to the extent authorized by federal law or regulation.

8 [9.] 11. Upon receipt of the results of an evaluation, a service coor-
9 dinator may, with parental consent, require additional diagnostic infor-
10 mation regarding the condition of the child, provided, however, that
11 such evaluation or assessment is not unnecessarily duplicative or inva-
12 sive to the child, and provided further, that:

13 (a) where the evaluation has established the child's eligibility, such
14 additional diagnostic information shall be used solely to provide addi-
15 tional information to the parent and service coordinator regarding the
16 child's need for services and cannot be a basis for refuting eligibil-
17 ity;

18 (b) the service coordinator provides the parent with a written expla-
19 nation of the basis for requiring additional diagnostic information;

20 (c) the additional diagnostic procedures are at no expense to the
21 parent; and

22 (d) the evaluation is completed and a meeting to develop an IFSP is
23 held within the time prescribed in subdivision one of section twenty-
24 five hundred forty-five of this title.

25 [10.] 12. (a) If the screening indicates that the infant or toddler is
26 not an eligible child and the parent elects not to have an evaluation,
27 or if the evaluation indicates that the infant or toddler is not an
28 eligible child, the service coordinator shall inform the parent of other

1 programs or services that may benefit such child, and the child's family
2 and, with parental consent, refer such child to such programs or
3 services.

4 (b) A parent may appeal a determination that a child is ineligible
5 pursuant to the provisions of section twenty-five hundred forty-nine of
6 this title, provided, however, that a parent may not initiate such
7 appeal until all evaluations are completed. In addition, for a child
8 referred to the early intervention official who has a diagnosed physical
9 or mental condition that establishes the child's eligibility for the
10 program in accordance with subdivision five of this section, the parent
11 may appeal the denial of a request to have the evaluator conduct the
12 evaluation procedures set forth in paragraphs (a) through (e) of subdivi-
13 vision four of this section, provided, however, that the parent may not
14 initiate the appeal until the evaluation conducted in accordance with
15 subdivision five of this section is completed.

16 [11.] 13. Notwithstanding any other provision of law to the contrary,
17 where a request has been made to review an IFSP prior to the six-month
18 interval provided in subdivision seven of section twenty-five hundred
19 forty-five of this title for purposes of increasing frequency or dura-
20 tion of an approved service, including service coordination, the early
21 intervention official may require an additional evaluation or partial
22 evaluation at public expense by an approved evaluator other than the
23 current provider of service, with parent consent.

24 § 5. Subdivision 1, the opening paragraph of subdivision 2 and subdivi-
25 sion 7 of section 2545 of the public health law, as added by chapter
26 428 of the laws of 1992, are amended to read as follows:

27 1. If the evaluator determines that the infant or toddler is an eligi-
28 ble child, the early intervention official shall convene a meeting, at a

1 time and place convenient to the parent, consisting of the parent, such
2 official, the evaluator, a representative from the child's health insur-
3 er or health maintenance organization, which shall include the medical
4 assistance program or the child health insurance program established in
5 title one-A of this article, or any other governmental third party
6 payor, if the child has health insurance coverage through a health
7 insurer or health maintenance organization and the representative is
8 available to attend the meeting on the date and time chosen by the early
9 intervention official, the initial service coordinator and any other
10 persons who the parent or the initial service coordinator, with the
11 parent's consent, invite, provided that such meeting shall be held no
12 later than forty-five days from the date that the early intervention
13 official was first contacted regarding the child, except under excep-
14 tional circumstances prescribed by the commissioner. The early inter-
15 vention official, at or prior to the time of scheduling the meeting,
16 shall inform the parent of the right to invite any person to the meet-
17 ing. If the representative from the child's health insurer or health
18 maintenance organization is not available to attend the meeting in
19 person on the date and time chosen by the early intervention official,
20 arrangements may be made for the representative's involvement in the
21 meeting by participation in a telephone conference call or by other
22 means.

23 The early intervention official, a representative from the child's
24 health insurer or health maintenance organization, which shall include
25 the medical assistance program or the child health insurance program
26 established in title one-A of this article, or any other governmental
27 third party payor, if the child has health insurance coverage through a
28 health insurer or health maintenance organization and the representative

1 is available to attend or participate in the meeting on the date and
2 time chosen by the early intervention official, initial service coordi-
3 nator, parent and evaluator shall develop an IFSP for an eligible child
4 whose parents request services. The IFSP shall be in writing and shall
5 include, but not be limited to:

6 7. The IFSP shall be reviewed at six month intervals and shall be
7 evaluated annually by the early intervention official, a representative
8 from the child's health insurer or health maintenance organization,
9 which shall include the medical assistance program or the child health
10 insurance program established in title one-A of this article, or any
11 other governmental third party payor, if the child has health insurance
12 coverage through a health insurer or health maintenance organization and
13 the representative is available to participate in the review or attend
14 the annual meeting to evaluate the IFSP on the date and time chosen by
15 the early intervention official, the service coordinator, the parent and
16 providers of services to the eligible child. Upon request of a parent,
17 the plan may be reviewed by such persons at more frequent intervals. If
18 the representative from the child's health insurer or health maintenance
19 organization is not available to participate in the review or attend the
20 meeting to evaluate the IFSP in person on the date and time chosen by
21 the early intervention official, arrangements may be made for the repre-
22 sentative's involvement by participation in a telephone conference call
23 or by other means.

24 § 6. Subdivision 10 of section 2545 of the public health law, as added
25 by section 2-a of part A of chapter 56 of the laws of 2012, is amended
26 to read as follows:

27 10. The service coordinator shall ensure that the IFSP, including any
28 amendments thereto, is implemented [in a timely manner but not] within

1 thirty days from the date the parent signs the IFSP and consents to the
2 services, or, if the projected date for initiation of service as set
3 forth in the IFSP is more than thirty days from the date the parent
4 signs the IFSP and consents to such service, the service coordinator
5 shall ensure that the IFSP is implemented no later than thirty days
6 after the projected [dates] date for initiation of the [services as set
7 forth in the plan] service.

8 § 7. The public health law is amended by adding a new section 2545-a
9 to read as follows:

10 § 2545-a. Use of network providers. 1. For children referred to the
11 early intervention program on or after January first, two thousand four-
12 teen, if a child has health insurance coverage under a health insurance
13 policy, plan or contract, including coverage available under the medical
14 assistance program or the child health insurance program established in
15 title one-A of this article or under any other governmental third party
16 payor, and the health insurance policy, plan or contract provides cover-
17 age for health, diagnostic or developmental screenings or evaluations
18 or, services that may be rendered to the child under the early inter-
19 vention program, the service coordinator, or, in accordance with section
20 twenty-five hundred forty-four of this title, the parent, with respect
21 to screenings or evaluations, shall select a provider approved by the
22 department and within the health insurer's or health maintenance organ-
23 ization's network, if applicable, for the provision of such screening,
24 evaluation or services, provided however that this subdivision shall not
25 apply under the following conditions:

26 (a) special circumstances exist related to a provider's qualifications
27 or availability and the provider is not within the health insurer's or
28 health maintenance organization's network;

1 (b) health insurance policy, plan or contract benefits have been
2 exhausted; or

3 (c) other extraordinary circumstances exist in which there is a clear
4 showing that the child has a demonstrated need, as determined by the
5 health insurer or health maintenance organization, if applicable, for a
6 screening, evaluation or service rendered by a provider who has not
7 entered into a participation agreement with the child's health insurer
8 or health maintenance organization for the provision of such screening,
9 evaluation or service.

10 2. All approved evaluators and providers of early intervention
11 services, except service coordination services, hereinafter collectively
12 referred to as "provider" or "providers" for purposes of this section,
13 shall establish and maintain contracts or agreements with a sufficient
14 number of health insurers or health maintenance organizations, including
15 the medical assistance program or the child health insurance program
16 established under title one-A of this article, as determined necessary
17 by the commissioner to meet health insurer or health maintenance organ-
18 ization network adequacy; provided, however, that the department may, in
19 its discretion, approve a provider who does not have a contract or
20 agreement with one or more health insurers or health maintenance organ-
21 izations if the provider renders a service that meets a unique need for
22 such service under the early intervention program. Approved providers
23 shall submit to the department information and documentation of the
24 health insurers and health maintenance organizations with which the
25 provider holds an agreement or contract. A provider's approval with the
26 department to deliver evaluations or early intervention services shall
27 terminate if the provider fails to provide such information or documen-
28 tation acceptable to the department of its contracts or agreements with

1 health insurers or health maintenance organizations as requested by the
2 department.

3 § 8. Subdivision 1 of section 2557 of the public health law, as
4 amended by section 4 of part C of chapter 1 of the laws of 2002, is
5 amended to read as follows:

6 1. The approved costs, other than those reimbursable in accordance
7 with section twenty-five hundred fifty-nine of this title, for [an
8 eligible] a child who receives [an] a screening, evaluation and early
9 intervention services pursuant to this title shall be a charge upon the
10 municipality wherein the eligible child resides or, where the services
11 are covered by the medical assistance program, upon the social services
12 district of fiscal responsibility with respect to those eligible chil-
13 dren who are also eligible for medical assistance. All approved costs
14 shall be paid in the first instance and at least quarterly by the appro-
15 priate governing body or officer of the municipality upon vouchers
16 presented and audited in the same manner as the case of other claims
17 against the municipality. Notwithstanding the insurance law or regu-
18 lations thereunder relating to the permissible exclusion of payments for
19 services under governmental programs, no such exclusion shall apply with
20 respect to payments made pursuant to this title. Notwithstanding the
21 insurance law or any other law or agreement to the contrary, benefits
22 under this title shall be considered secondary to any [plan of insurance
23 or state government benefit program] health insurance policy, plan or
24 contract under which an eligible child may have coverage, including
25 coverage available under the medical assistance program or the child
26 health insurance program established in title one-A of this article, or
27 under any other governmental third party payor. Nothing in this section
28 shall increase or enhance coverages provided for within [an insurance

1 contract] a health insurance policy, plan or contract subject to the
2 provisions of this title.

3 § 9. Paragraph (c) of subdivision 3 of section 2559 of the public
4 health law, as amended by section 11 of part A of chapter 56 of the laws
5 of 2012, is amended, paragraphs (b) and (d) of such subdivision are
6 relettered (d) and (f) and two new paragraphs (b) and (c) are added to
7 read as follows:

8 (b) Notwithstanding any inconsistent provision of law, rule or regu-
9 lation, payments made by any health insurer or health maintenance organ-
10 ization for screenings, evaluations and services provided under the
11 early intervention program shall be made at rates negotiated by the
12 health insurer or health maintenance organization and provider, if
13 applicable, provided, however, that if the health insurer or health
14 maintenance organization maintains a network of providers and extraor-
15 dinary circumstances exist in which there is a clear showing that a
16 child has a demonstrated need, as determined by the health insurer or
17 health maintenance organization, if applicable, for a screening, evalu-
18 ation or service rendered by a provider who is not within the health
19 insurer's or health maintenance organization's network, payment to such
20 out of network provider shall be made in accordance with the out of
21 network coverage, if any, that is available under the health insurance
22 policy, plan or contract. Payments made by any health insurer or health
23 maintenance organization shall be considered payments in full for such
24 services and the provider shall not seek additional payment from the
25 municipality, child, or his or her parents for any portion of the costs
26 of said services. Nothing herein shall prohibit a health insurer or
27 health maintenance organization from applying a copayment, coinsurance
28 or deductible as set forth in the health insurance policy, plan or

1 contract. Payments for copayments, coinsurance or deductibles shall be
2 made in accordance with paragraph (d) of this subdivision.

3 (c) When payment under a health insurance policy, plan or contract is
4 not available or benefits have been exhausted, providers shall seek
5 payment for services in accordance with section twenty-five hundred
6 fifty-seven of this title; provided, however, that if the service
7 provided is a covered benefit under the health insurance policy, plan or
8 contract and payment has been denied on grounds other than that benefits
9 have been exhausted, the provider shall exhaust all appeals of said
10 denial prior to claiming payment to the municipality for the service in
11 accordance with section twenty-five hundred fifty-seven of this title.
12 Providers shall not discontinue or delay services to eligible children
13 pending payment of the claim or determinations of any appeal denials.

14 [(c)] (e) Payments made for early intervention services under [an] a
15 health insurance policy [or health benefit], plan or contract, including
16 payments made by the medical assistance program or the child health
17 insurance program established under title one-A of this article or other
18 governmental third party payor, which are provided as part of an IFSP
19 pursuant to section twenty-five hundred forty-five of this title shall
20 not be applied by the insurer or plan administrator against any maximum
21 lifetime or annual limits specified in the policy or health benefits
22 plan, pursuant to section eleven of [the] chapter four hundred twenty-
23 eight of the laws of nineteen hundred ninety-two which added this title.

24 § 10. Subdivision 7 of section 2510 of the public health law, as
25 amended by section 21 of part B of chapter 109 of the laws of 2010, is
26 amended to read as follows:

27 7. "Covered health care services" means: the services of physicians,
28 optometrists, nurses, nurse practitioners, midwives and other related

1 professional personnel which are provided on an outpatient basis,
2 including routine well-child visits; diagnosis and treatment of illness
3 and injury; inpatient health care services; laboratory tests; diagnostic
4 x-rays; prescription and non-prescription drugs and durable medical
5 equipment; radiation therapy; chemotherapy; hemodialysis; emergency room
6 services; hospice services; emergency, preventive and routine dental
7 care, including medically necessary orthodontia but excluding cosmetic
8 surgery; emergency, preventive and routine vision care, including
9 eyeglasses; speech and hearing services; and, inpatient and outpatient
10 mental health, alcohol and substance abuse services as defined by the
11 commissioner in consultation with the superintendent. "Covered health
12 care services" shall also include early intervention services provided
13 pursuant to title two-A of this article up to the scope and level of
14 coverage for the same services provided pursuant to this subdivision, as
15 defined by the commissioner. "Covered health care services" shall not
16 include drugs, procedures and supplies for the treatment of erectile
17 dysfunction when provided to, or prescribed for use by, a person who is
18 required to register as a sex offender pursuant to article six-C of the
19 correction law, provided that any denial of coverage of such drugs,
20 procedures or supplies shall provide the patient with the means of
21 obtaining additional information concerning both the denial and the
22 means of challenging such denial.

23 § 11. Paragraph (b) of subdivision 5 of section 4403 of the public
24 health law is relettered paragraph (c) and a new paragraph (b) is added
25 to read as follows:

26 (b) Upon the effective date of this paragraph and at the time of every
27 three year review by the commissioner as set forth in paragraph (a) of
28 this subdivision, and upon application for expansion of service area,

1 the health maintenance organization shall demonstrate that it maintains
2 an adequate network of providers who are approved to deliver evaluations
3 and early intervention program services in accordance with title two-A
4 of article twenty-five of this chapter, by showing to the satisfaction
5 of the commissioner that: (1) there are a sufficient number of
6 geographically accessible participating providers, and (2) there are
7 sufficient providers in each area of specialty of practice to meet the
8 needs of the enrollment population.

9 § 12. Section 4406 of the public health law is amended by adding a new
10 subdivision 6 to read as follows:

11 6. (a) No subscriber contract or benefit package shall exclude cover-
12 age for otherwise covered services solely on the basis that the services
13 constitute early intervention program services under title two-A of
14 article twenty-five of this chapter.

15 (b) Where a subscriber contract or benefit package provides coverage
16 for a health, diagnostic or developmental screening or evaluation, or a
17 service that is provided under the early intervention program and is
18 otherwise covered under the subscriber contract or benefit package, such
19 coverage shall not be applied against any maximum annual or lifetime
20 monetary limits set forth in such subscriber contract or benefit pack-
21 age. Visit limitations and other terms and conditions of the subscriber
22 contract or benefit package will continue to apply to early intervention
23 services. However, any visits used for early intervention program
24 services shall not reduce the number of visits otherwise available to
25 the enrollee and the enrollee's parents and family members who are
26 covered under the subscriber contract or benefit package for such
27 services that are not provided under the early intervention program.

1 (c) The health maintenance organization shall provide the municipality
2 and service coordinator with information on the extent of benefits
3 available to an enrollee under such subscriber contract or benefit pack-
4 age within fifteen days of the health maintenance organization's receipt
5 of written request and notice authorizing such release. The service
6 coordinator shall provide such information to the rendering provider
7 assigned to provide services to the enrollee. The health maintenance
8 organization shall further provide the municipality and service coordi-
9 nator with a list, updated quarterly, of the names of participating
10 providers in the health maintenance organization's network who are
11 approved to deliver evaluations and early intervention program services
12 in accordance with title two-A of article twenty-five of this chapter.

13 (d) No health maintenance organization shall refuse to issue a
14 subscriber contract or benefit package or refuse to renew a subscriber
15 contract or benefit package solely because the applicant or enrollee is
16 receiving services under the early intervention program.

17 (e) Health maintenance organizations shall accept claims submitted for
18 payment under the contract or benefit package from a provider through
19 the department's fiscal agent and data system for such claiming. Health
20 maintenance organizations shall, in a manner and format as required by
21 the department, provide the department with information on claims
22 submitted for screenings, evaluations and early intervention services
23 provided to enrollees under the early intervention program and disposi-
24 tion of such claims.

25 (f) Where a subscriber contract or benefit package provides coverage
26 for a screening, evaluation or service provided under the early inter-
27 vention program, payment shall be made at rates negotiated by the health
28 maintenance organization and provider provided, however, that if

1 extraordinary circumstances exist in which there is a clear showing that
2 an enrollee has a demonstrated need, as determined by the health mainte-
3 nance organization, for a screening, evaluation or service rendered by a
4 provider who is not within the health maintenance organization's
5 network, payment to such out of network provider shall be made in
6 accordance with the out of network coverage, if any, that is available
7 under the subscriber contract or benefit package.

8 (g) Health maintenance organizations shall, for services rendered to
9 enrollees under the early intervention program, authorize such provision
10 of services in settings that are natural or typical for a same-aged
11 infant or toddler without a disability, which shall include the home.
12 The determination of the appropriate location or setting wherein
13 services are to be rendered shall be made by the individualized family
14 service plan participants in accordance with section twenty-five hundred
15 forty-five of this chapter.

16 § 13. Subsections (b) and (c) of section 3235-a of the insurance law,
17 subsection (b) as added by section 3 of part C of chapter 1 of the laws
18 of 2002, subsection (c) as amended by section 17 of part A of chapter 56
19 of the laws of 2012, are amended and five new subsections (e), (f), (g),
20 (h) and (i) are added to read as follows:

21 (b) Where a policy of accident and health insurance, including a
22 contract issued pursuant to [article] articles forty-three and forty-
23 seven of this chapter, provides coverage for [an] a health, diagnostic
24 or developmental screening or evaluation or a service that is provided
25 under the early intervention program [service] and is otherwise covered
26 under the policy or contract, such coverage shall not be applied against
27 any maximum annual or lifetime monetary limits set forth in such policy
28 or contract. Visit limitations and other terms and conditions of the

1 policy will continue to apply to early intervention services. However,
2 any visits used for early intervention program services shall not reduce
3 the number of visits otherwise available to the covered person and the
4 covered person's parents and family members who are covered under the
5 policy or contract for such services that are not provided under the
6 early intervention program.

7 (c) Any right of subrogation to benefits which a municipality or
8 provider is entitled in accordance with paragraph (d) of subdivision
9 three of section twenty-five hundred fifty-nine of the public health law
10 shall be valid and enforceable to the extent benefits are available
11 under any accident and health insurance policy. The right of subrogation
12 does not attach to insurance benefits paid or provided under any acci-
13 dent and health insurance policy prior to receipt by the insurer of
14 written notice from the municipality or provider, as applicable. The
15 insurer shall provide the municipality and service coordinator with
16 information on the extent of benefits available to the covered person
17 under such policy within fifteen days of the insurer's receipt of writ-
18 ten request and notice authorizing such release. The service coordinator
19 shall provide such information to the rendering provider assigned to
20 provide services to the [child] covered person. The insurer shall
21 further provide the municipality and service coordinator with a list,
22 updated quarterly, of the names of providers in the insurer's network,
23 if applicable, who are approved by the commissioner of health to deliver
24 evaluations and early intervention program services in accordance with
25 title two-A of article twenty-five of the public health law.

26 (e) Where a policy of accident and health insurance, including a
27 contract issued pursuant to articles forty-three and forty-seven of this
28 chapter, utilizes a network of providers, the insurer shall demonstrate

1 to the superintendent, in consultation with the commissioner of health,
2 that it maintains an adequate network of providers who are approved to
3 deliver evaluations and early intervention program services in accord-
4 ance with title two-A of article twenty-five of the public health law by
5 documenting that: (1) there are a sufficient number of geographically
6 accessible participating providers; and (2) there are sufficient provid-
7 ers in each area of specialty of practice to meet the needs of the
8 enrollment population.

9 (f) Where a policy of accident and health insurance, including a
10 contract issued pursuant to articles forty-three and forty-seven of this
11 chapter, provides coverage for a health, diagnostic or developmental
12 screening or evaluation, or service provided under the early inter-
13 vention program, payment shall be made at rates negotiated by the insur-
14 er and provider, if applicable, provided, however, that if extraordinary
15 circumstances exist in which there is a clear showing that a covered
16 person has a demonstrated need for a screening, evaluation or service
17 rendered by a provider who is not within the health insurer's network,
18 payment to such provider shall be made in accordance with the out of
19 network coverage, if any, that is available under the policy or
20 contract.

21 (g) Insurers shall accept claims submitted for payment under the poli-
22 cy or contract from a provider through the department of health's fiscal
23 agent and data system for such claiming. Insurers shall, in a manner
24 and format as required by the department of health, provide the depart-
25 ment of health with information on claims submitted for screenings,
26 evaluations and early intervention services provided to covered persons
27 under the early intervention program and the disposition of such claims.

1 (h) Insurers shall, for services rendered to covered persons under the
2 early intervention program, authorize such provision of services in
3 settings that are natural or typical for a same-aged infant or toddler
4 without a disability, which shall include the home. The determination
5 of the appropriate location or setting wherein services are to be
6 rendered shall be made by the individualized family service plan partic-
7 ipants in accordance with section twenty-five hundred forty-five of the
8 public health law.

9 (i) Nothing in this section shall be deemed to limit the superinten-
10 dent's authority to impose network adequacy requirements on insurers in
11 general.

12 § 14. Section 600 of the public health law, as added by chapter 901 of
13 the laws of 1986, is amended to read as follows:

14 § 600. State aid; general requirements. In order to be eligible for
15 state aid under this title, a municipality shall be required to do the
16 following in accordance with the provisions of this article:

17 1. submit an application to the department for state aid which is
18 approved by the commissioner in accordance with section six hundred one
19 of this title;

20 [2. submit a municipal public health services plan to the department
21 for approval;

22 3. implement and adhere to the municipal public health services plan,
23 as approved;

24 4. submit a detailed report to the department of all expenditures on
25 services funded by this title for the immediately preceding fiscal year
26 of such municipality;

1 5. employ a person to supervise the provision of public health
2 services in accordance with the provisions of section six hundred four
3 of this chapter; and

4 6.] 2. provide all core public health services, as defined in section
5 six hundred two of this title;

6 3. submit a community health assessment in accordance with section six
7 hundred two-a of this title;

8 4. establish, collect and report fees and revenue for services
9 provided by the municipality, in accordance with section six hundred six
10 of this title; and

11 5. appropriate or otherwise make funds available to finance a
12 prescribed share of the cost of public health services.

13 § 15. Section 601 of the public health law, as added by chapter 901 of
14 the laws of 1986, is amended to read as follows:

15 § 601. Application for state aid. 1. The governing body of each muni-
16 cipality desiring to make application for state aid under this title
17 shall annually, on such dates as may be fixed by the commissioner,
18 submit an application for such aid.

19 2. The application shall be in such form as the commissioner shall
20 prescribe, and shall include, but not be limited to:

21 (a) an organizational chart of the municipal health agency, and a
22 statement providing the number of employees, by job title, proposed to
23 provide public health services funded by this title;

24 (b) a [detailed] budget of proposed expenditures for services funded
25 by this title;

26 [(c) a description of proposed program activities for services funded
27 by this title;

1 (d) a copy of the municipal public health services plan prepared and
2 submitted pursuant to section six hundred two of this title;

3 (e) a certification by the chief executive officer of the munici-
4 pality, or in those municipalities with no chief executive officer the
5 chairman of the county legislature, that the proposed expenditures and
6 program activities are consistent with the public health services plan;
7 and

8 (f)] (c) a description of how the municipality will provide public
9 health services;

10 (d) an attestation by the chief executive officer of the municipality
11 that sufficient funds have been appropriated to provide the public
12 health services for which the municipality is seeking state aid;

13 (e) an attestation by the municipal officer in charge of administering
14 public health that the municipality has diligently reviewed its state
15 aid application and that the application seeks state aid only for eligi-
16 ble public health services;

17 (f) a list of public health services provided by the municipality that
18 are not eligible for state aid, and the cost of each service;

19 (g) a projection of fees and revenue to be collected for public health
20 services eligible for state aid, in accordance with section six hundred
21 six of this title; and

22 (h) such other information as the commissioner may require.

23 3. The commissioner shall approve the state aid application to the
24 extent that it is consistent with this section and any other conditions
25 or limitations established in, or regulations promulgated pursuant to,
26 this article.

1 4. A municipality may amend its state aid application with the
2 approval of the commissioner, and subject to any rules and regulations
3 that the commissioner may adopt.

4 § 16. Section 602 of the public health law is REPEALED and a new
5 section 602 is added to read as follows:

6 § 602. Core public health services. 1. To be eligible for state aid,
7 a municipality must provide the following core public health services:

8 (a) Family health, which shall include activities designed to reduce
9 perinatal, infant and maternal mortality and morbidity and to promote
10 the health of infants, children, adolescents, and people of childbearing
11 age. Such activities shall include family centered perinatal services
12 and other services appropriate to promote the birth of a healthy baby to
13 a healthy mother, and services to assure that infants, young children,
14 and school age children are enrolled in appropriate health insurance
15 programs and other health benefit programs for which they are eligible,
16 and that the parents or guardians of such children are provided with
17 information concerning health care providers in their area that are
18 willing and able to provide health services to such children. Provision
19 of primary and preventative clinical health care services shall not be
20 eligible for state aid, subject to such exceptions for persons under the
21 age of twenty-one as the commissioner may deem appropriate.

22 (b) Communicable disease control, which shall include activities to
23 control and mitigate the extent of infectious diseases. Such activities
24 shall include, but not be limited to, surveillance and epidemiological
25 programs, programs to detect diseases in their early stages, immuniza-
26 tions against infectious diseases, investigation of diseases and
27 prevention of transmission, prevention and treatment of sexually tran-
28 smissible diseases, and arthropod vector-borne disease prevention.

1 (c) Chronic diseases services, which shall include promoting public,
2 health care provider and other community service provider activities
3 that encourage chronic disease prevention, early detection and quality
4 care delivery. Such activities include, but are not limited to, those
5 that promote healthy communities and reduce risk factors such as tobacco
6 use, poor nutrition and physical inactivity. Provision of clinical
7 services shall not be eligible for state aid, subject to such exceptions
8 as the commissioner may deem appropriate.

9 (d) Community health assessment, as described in section six hundred
10 two-a of this article.

11 (e) Environmental health, which shall include activities that promote
12 health and prevent illness and injury by assuring that safe and sanitary
13 conditions are maintained at public drinking water supplies, food
14 service establishments, and other regulated facilities; investigating
15 public health nuisances to assure abatement by responsible parties;
16 protecting the public from unnecessary exposure to radiation, chemicals,
17 and other harmful contaminants; and conducting investigations of inci-
18 dents that result in illness, injury or death in order to identify and
19 mitigate the environmental causes to prevent additional morbidity and
20 mortality.

21 (f) Public health emergency preparedness and response, including plan-
22 ning, training, and maintaining readiness for public health emergencies.

23 2. The municipality must incorporate into each core public health
24 service the following general activities:

25 (a) ongoing assessment of community health needs;

26 (b) education on public health issues;

27 (c) development of policies and plans to address health needs; and

1 (d) actions to assure that services necessary to achieve agreed upon
2 goals are provided.

3 3. A municipality may provide fewer services than those set forth in
4 subdivision one of this section, if the commissioner determines within
5 his discretion that another entity is willing and able to provide such
6 services.

7 § 17. The public health law is amended by adding a new section 602-a
8 to read as follows:

9 § 602-a. Community health assessment. 1. Every municipality shall, on
10 such dates as may be fixed by the commissioner, submit to the department
11 a community health assessment.

12 2. The community health assessment shall be in such form as the
13 commissioner shall prescribe, and shall include, but not be limited to:

14 (a) an estimate and description of the health status of the population
15 and factors that contribute to health issues;

16 (b) identification of priority areas for health improvement, in
17 conjunction with the state health improvement plan;

18 (c) identification of public health services in the municipality and
19 in the community and other resources that can be mobilized to improve
20 population health, particularly in those priority areas identified in
21 paragraph (b) of this subdivision; and

22 (d) a community health improvement plan consisting of actions, poli-
23 cies, strategies and measurable objectives through which the munici-
24 pality and its community partners will address areas for health improve-
25 ment and track progress toward improvement of public health outcomes.

26 § 18. Section 603 of the public health law, as added by chapter 901 of
27 the laws of 1986, is amended to read as follows:

1 § 603. [Municipal public health services plan] Core public health
2 services; implementation. 1. In order to be eligible for state aid under
3 this title, each municipality shall administer its core public health
4 [programs] services in accordance with [its approved municipal public
5 health services plan and] the standards of performance established by
6 the commissioner through rules and regulations [and] pursuant to section
7 six hundred nineteen of this article. Each municipality shall, in
8 particular, ensure that public health services are provided in an effi-
9 cient and effective manner to all persons in the municipality.

10 2. The commissioner may withhold state aid reimbursement under this
11 title for the appropriate services if, on any audit [and], review of a
12 state aid application or periodic claim for state aid, or other informa-
13 tion available to the department, the commissioner finds that such
14 services are not furnished or rendered in conformance with the rules and
15 regulations established by the commissioner, including but not limited
16 to the standards of performance established pursuant to section six
17 hundred nineteen of this article, or that the expenditures were not
18 [made according to the approved public health services plan required by]
19 for an activity set forth in section six hundred two of this title. In
20 such cases, the commissioner, in order to ensure that the public health
21 is promoted as defined in [paragraph (b) of subdivision three of]
22 section six hundred two of this title, may use any proportionate share
23 of a municipality's per capita or base grant that is withheld to
24 contract with agencies, associations, or organizations. The health
25 department may use any such withheld share to provide services upon
26 approval of the director of the division of the budget. Copies of such
27 transactions shall be filed with the fiscal committees of the legisla-
28 ture.

1 3. Consistent with paragraph (h) of subdivision two of section six
2 hundred one of this title, when determining whether to approve a state
3 aid application or periodic claim for state aid, the commissioner shall
4 have authority to request any and all financial and other documents
5 necessary or relevant to verify that the claimed expenditures are eligi-
6 ble for state aid under this article.

7 § 19. Section 604 of the public health law, as added by chapter 901 of
8 the laws of 1986, is amended to read as follows:

9 § 604. Supervision of public health programs. In order to be eligible
10 for state aid, under this title, each municipality shall employ a full-
11 time local commissioner of health or public health director to supervise
12 the provision of public health services [and to implement the approved
13 public health services plan] for that municipality, subject to the
14 following exceptions:

15 1. such person may serve as the head of a merged agency or multiple
16 agencies, if the approval of the commissioner is obtained; and

17 2. such person may serve as the local commissioner of health or public
18 health director of additional counties, when authorized pursuant to
19 section three hundred fifty-one of this chapter.

20 § 20. Section 605 of the public health law, as added by chapter 901 of
21 the laws of 1986, subdivision 1 as amended by section 6 of part B of
22 chapter 57 of the laws of 2006, subdivision 2 as amended by section 13
23 of part A of chapter 59 of the laws of 2011, is amended to read as
24 follows:

25 § 605. State aid; amount of reimbursement. 1. A state aid base grant
26 shall be reimbursed to municipalities for the [base] core public health
27 services identified in [paragraph (b) of subdivision three of] section
28 six hundred two of this title, in an amount of the greater of [fifty-

1 five] sixty-five cents per capita, for each person in the municipality,
2 or [five] six hundred fifty thousand dollars provided that the munici-
3 pality expends at least [five] six hundred fifty thousand dollars for
4 such [base] core public health services. A municipality must provide all
5 the [basic] core public health services identified in [paragraph (b) of
6 subdivision three of] section six hundred two of this title to qualify
7 for such base grant unless the municipality has the approval of the
8 commissioner to expend the base grant on a portion of such [base] core
9 public health services. If any services in such [paragraph (b)] section
10 are not [approved in the plan or if no plan is submitted for such
11 services] provided, the commissioner may limit the municipality's per
12 capita or base grant to [that proportionate share which will fund those
13 services that are submitted in a plan and subsequently approved] reflect
14 the scope of the reduced services. The commissioner may use the [propor-
15 tionate share] amount that is not granted to contract with agencies,
16 associations, or organizations to provide such services; or the health
17 department may use such proportionate share to provide the services upon
18 approval of the director of the division of the budget.

19 2. State aid reimbursement for public health services provided by a
20 municipality under this title, shall be made if the municipality is
21 providing some or all of the [basic] core public health services identi-
22 fied in [paragraph (b) of subdivision three of] section six hundred two
23 of this title, pursuant to an approved [plan] application for state aid,
24 at a rate of no less than thirty-six per centum of the difference
25 between the amount of moneys expended by the municipality for public
26 health services required by [paragraph (b) of subdivision three of]
27 section six hundred two of this title during the fiscal year and the
28 base grant provided pursuant to subdivision one of this section. No such

1 reimbursement shall be provided for services [if they are not approved
2 in a plan or if no plan is submitted for such services] that are not
3 eligible for state aid pursuant to this article.

4 3. Municipalities shall make every reasonable effort to collect
5 payments for public health services provided. All such revenues shall be
6 reported to the commissioner pursuant to section six hundred six of this
7 title and will be deducted from expenditures identified under subdivi-
8 sion two of this section to produce a net cost eligible for state aid.

9 § 21. Section 606 of the public health law, as added by chapter 901 of
10 the laws of 1986, is amended to read as follows:

11 § 606. Assessment of fees; third-party coverage or indemnification.

12 1. Assessment of fees by municipalities. [Each municipality shall
13 assess fees for services provided by such municipality in accordance
14 with a fee and revenue plan which shall include a schedule of fees that
15 the municipality proposes to charge for each service identified by the
16 commissioner and each additional service identified by the municipality
17 for which a fee is to be charged. In accordance with the provisions of
18 subdivision four of section six hundred two of this chapter, the commis-
19 sioner shall review each fee and revenue plan submitted to him and, on
20 the basis of such review, issue a notice of intent to disapprove the
21 plan or approve the plan, with or without conditions, within ninety days
22 of his receipt of the plan. In determining whether to approve or disap-
23 prove a plan, the commissioner shall consider the extent to which the
24 plan, once implemented, will satisfy standards which the commissioner
25 has promulgated through rules and regulations after consulting with the
26 public health council and county health commissioners, boards and public
27 health directors. Such standards shall include a list of those environ-
28 mental, personal health and other services for which fees shall be

1 charged, the calculation of cost by each municipality and the relation-
2 ship of cost to fees, and provisions for prohibiting the assessment of
3 fees which would impede the delivery of services deemed essential to the
4 protection of the health of the public.] Each municipality shall estab-
5 lish a schedule of fees for public health services provided by the muni-
6 cipality and shall make every reasonable effort to collect such fees.
7 Fees for personal health services shall be reflective of an individual's
8 ability to pay and shall not be inconsistent with the reimbursement
9 guidelines of articles twenty-eight and thirty-six of this chapter and
10 applicable federal laws and regulations. To the extent possible revenues
11 generated shall be used to enhance or expand public health services. In
12 its state aid application, each municipality shall provide the depart-
13 ment with a projection of fees and revenue to be collected for that
14 year. Each municipality shall periodically report to the department fees
15 and revenue actually collected.

16 2. Assessment of fees by the commissioner. In each municipality, the
17 commissioner shall establish a fee and revenue plan for services
18 provided by the department in a manner consistent with the standards and
19 regulations established pursuant to subdivision one of this section.

20 3. Third party coverage or indemnification. For any public health
21 service for which coverage or indemnification from a third party is
22 available, the municipality must seek such coverage or indemnification
23 and report any associated revenue to the department in its state aid
24 application.

25 § 22. Subdivisions 1 and 2 of section 609 of the public health law, as
26 amended by chapter 474 of the laws of 1996, are amended to read as
27 follows:

1 1. Where a laboratory shall have been or is hereafter established
2 pursuant to article five of this chapter, the state, through the legis-
3 lature and within the limits to be prescribed by the commissioner, shall
4 provide aid at a per centum, determined in accordance with the
5 provisions of [paragraph (b) of] subdivision two of section six hundred
6 five of this article, of the actual cost of [installation,] repair,
7 relocation, equipment and maintenance of the laboratory or laboratories
8 for services associated with a core public health service, as described
9 in section six hundred two of this title. Such cost shall be the
10 excess, if any, of such expenditures over available revenues of all
11 types, including adequate and reasonable fees, derived from or attribut-
12 able to the performance of laboratory services.

13 2. Where a county or city provides or shall have provided for labora-
14 tory service by contracting with an established laboratory for services
15 associated with a core public health service, as described in subdivi-
16 sion three of section six hundred two of this title, with the approval
17 of the commissioner, it shall be entitled to state aid at a per centum,
18 determined in accordance with the provisions of [paragraph (b) of]
19 subdivision two of section six hundred five of this article, of the cost
20 of the contracts. [State aid shall be available for a district laborato-
21 ry supply station maintained and operated in accordance with article
22 five of this chapter in the same manner and to the same extent as for
23 laboratory services.]

24 § 23. Sections 610 and 612 of the public health law are REPEALED.

25 § 24. Paragraphs (a) and (c) of subdivision 1 and subdivision 4 of
26 section 613 of the public health law, paragraphs (a) and (c) of subdivi-
27 sion 1 as amended by chapter 36 of the laws of 2010, subdivision 4 as

1 amended by chapter 207 of the laws of 2004, are amended to read as
2 follows:

3 (a) The commissioner shall develop and supervise the execution of a
4 program of immunization, surveillance and testing, to raise to the high-
5 est reasonable level the immunity of the children of the state against
6 communicable diseases including, but not limited to, influenza, poliomi-
7 yelitis, measles, mumps, rubella, haemophilus influenzae type b (Hib),
8 diphtheria, pertussis, tetanus, varicella, hepatitis B, pneumococcal
9 disease, and the immunity of adults of the state against diseases iden-
10 tified by the commissioner, including but not limited to influenza,
11 smallpox, [and] hepatitis and such other diseases as the commissioner
12 may designate through regulation. [The commissioner shall encourage the
13 municipalities] Municipalities in the state [to develop and] shall
14 [assist them in the development and the execution of] develop local
15 programs of [inoculation] immunization to raise the immunity of the
16 children and adults of each municipality to the highest reasonable
17 level. Such programs shall include assurance of provision of vaccine,
18 [surveillance of vaccine effectiveness by means of laboratory tests,]
19 serological testing of individuals and educational efforts to inform
20 health care providers and target populations or their parents, if they
21 are minors, of the facts relative to these diseases and [inoculation]
22 immunizations to prevent their occurrence.

23 (c) The commissioner shall invite and encourage the active assistance
24 and cooperation in such education activities of: the medical societies,
25 organizations of other licensed health personnel, hospitals, corpo-
26 rations subject to article forty-three of the insurance law, trade
27 unions, trade associations, parents and teachers and their associations,
28 organizations of child care resource and referral agencies, the media of

1 mass communication, and such other voluntary groups and organizations of
2 citizens as he or she shall deem appropriate. The public health and
3 health planning council, the department of education, the department of
4 family assistance, and the department of mental hygiene shall provide
5 the commissioner with such assistance in carrying out the program as he
6 or she shall request. All other state agencies shall also render such
7 assistance as the commissioner may reasonably require for this program.
8 Nothing in this subdivision shall authorize mandatory immunization of
9 adults or children, except as provided in sections twenty-one hundred
10 sixty-four and twenty-one hundred sixty-five of this chapter.

11 4. The commissioner shall expend such funds as the legislature shall
12 make available for the purchase of the vaccines described in subdivision
13 one of this section. [All immunization vaccines purchased with such
14 funds shall be purchased by sealed competitive state bids through the
15 office of general services. Immunization vaccine] Vaccines purchased
16 with funds made available under this section shall be made available
17 without charge to licensed private physicians, hospitals, clinics and
18 such others as the commissioner shall determine [in accordance with
19 regulations to be promulgated by the commissioner], and no charge shall
20 be made to any patient for such vaccines.

21 § 25. Subdivisions 5, 6 and 7 of section 613 of the public health law
22 are REPEALED.

23 § 26. Subdivision 2 of section 614 of the public health law, as added
24 by chapter 901 of the laws of 1986, is amended to read as follows:

25 2. "City", each city of the state having a population of [fifty thou-
26 sand] one million or more, according to the last preceding federal
27 census[, but does not include any such city which is included as a part
28 of a county health district pursuant to this chapter].

1 § 27. Section 616 of the public health law, as added by chapter 901 of
2 the laws of 1986 and subdivision 1 as amended by section 9 of part B of
3 chapter 57 of the laws of 2006, is amended to read as follows:

4 § 616. Limitations on state aid. 1. The total amount of state aid
5 provided pursuant to this article shall be limited to the amount of the
6 annual appropriation made by the legislature. In no event, however,
7 shall such state aid be less than an amount to provide the full base
8 grant and, as otherwise provided by paragraph (a) of subdivision two of
9 section six hundred five of this article, at least thirty-six per centum
10 of the difference between the amount of moneys expended by the munici-
11 pality for eligible public health services [required by paragraph (b) of
12 subdivision three of section six hundred two of this article] pursuant
13 to an approved application for state aid during the fiscal year and the
14 base grant provided pursuant to subdivision one of section six hundred
15 five of this article. [A municipality shall also receive not less than
16 thirty-six per centum of the moneys expended for other public health
17 services pursuant to paragraph (b) of subdivision two of section six
18 hundred five of this article, and, at least the minimum amount so
19 required for the services identified in title two of this article.]

20 2. No payments shall be made from moneys appropriated for the purpose
21 of this article to a municipality or contractors of the municipality for
22 contributions by the municipality for indirect costs and fringe bene-
23 fits, including but not limited to, employee retirement funds, health
24 insurance and federal old age and survivors insurance.

25 § 28. Section 617 of the public health law, as added by chapter 901 of
26 the laws of 1986, is amended to read as follows:

27 § 617. Maintenance of effort. Such amount of state aid provided will
28 be used to support and to the extent practicable, to increase the level

1 of funds that would otherwise be made available for such purposes and
2 not to supplant the amount to be provided by the municipalities. If a
3 municipality that is provided state aid pursuant to title one of this
4 article reduces its expenditures beneath the amount expended in its base
5 year, which is [the greater of its expenditures in its fiscal year
6 ending in either nineteen hundred eighty-five or] the most recent fiscal
7 year for which the municipality has filed [an annual] all expenditure
8 [report] reports to the department, state aid reimbursement provided
9 pursuant to subdivision one of section six hundred five of this article
10 will be reduced by the [difference between the reduction in local
11 expenditures between its base year and its current fiscal year and the
12 reduction in state aid between the base year and the current fiscal year
13 pursuant to paragraphs (a) and (b) of subdivision two of section six
14 hundred five of this article. A municipality may include revenue,
15 excluding third party reimbursement, raised by the municipality in
16 calculating its maintenance of effort] percentage reduction in expendi-
17 tures between its base year and its current fiscal year. For purposes of
18 this section, reductions in expenditures shall be adjusted for: an
19 absence of extraordinary expenditures of a temporary nature, such as
20 disaster relief; unavoidable or justifiable program reductions, such as
21 a program being subsumed by another agency; or in circumstances where
22 the municipality can demonstrate, to the department's satisfaction, that
23 the need for the expenditure no longer exists.

24 § 29. Section 618 of the public health law, as added by chapter 901 of
25 the laws of 1986, is amended to read as follows:

26 § 618. Performance and accountability. The commissioner shall estab-
27 lish, in consultation with the municipalities, uniform statewide
28 performance standards for the services funded pursuant to this article;

1 provided, however, the commissioner may modify a specific standard for a
2 municipality if such municipality demonstrates adequate justification.
3 The commissioner shall recognize the particular needs and capabilities
4 of the various municipalities. The commissioner shall monitor the
5 performance and expenditures of each municipality to ensure that each
6 one satisfies the performance standards. Any municipality failing to
7 satisfy its standards may be subject to a reduction or loss of aid until
8 such municipality can demonstrate that it has the capacity to satisfy
9 such standards. [The commissioner shall establish a uniform accounting
10 system for monitoring the expenditures for services of each municipality
11 to which aid is granted, and for determining the appropriateness of the
12 costs of such services. The commissioner shall also establish a uniform
13 reporting system to determine the appropriateness of the amount and
14 types of services provided, and the number of people receiving such
15 services. Such reporting system shall also require information on the
16 amount of public health moneys received from the federal government, the
17 private sector, grants, and fees. Each such municipality shall comply
18 with the regulations of such accounting and reporting systems. The
19 commissioner shall determine the extent to which the services maintained
20 and improved the health status of a municipality's residents and main-
21 tained and improved the accessibility and quality of care, and
22 controlled costs of the health care system.]

23 § 30. Section 619 of the public health law, as added by chapter 901 of
24 the laws of 1986, is amended to read as follows:

25 § 619. Commissioner; regulatory powers. The commissioner [shall] may
26 adopt regulations to effectuate the provisions and purposes of this
27 article, including, but not limited to:

1 1. setting standards of performance [and reasonable costs] for the
2 provision of [basic] core public health services which shall include
3 performance criteria to ensure that reimbursable health services are
4 delivered in an efficient and effective manner by a municipality; and

5 2. monitoring, collecting data and evaluating the provision of [basic]
6 core public health services by the municipalities and the amounts
7 expended by the municipalities for such services.

8 § 31. The public health law is amended by adding a new section 619-a
9 to read as follows:

10 § 619-a. Incentive standards of performance. 1. The commissioner may
11 establish statewide incentive performance standards for the delivery of
12 core public health services.

13 2. Within amounts appropriated, and subject to the approval of the
14 director of the budget, the commissioner may increase state aid to any
15 municipality that meets or exceeds statewide incentive performance stan-
16 dards established under this section, provided that the total of such
17 payments to all municipalities may not exceed one million dollars annu-
18 ally.

19 § 32. The article heading of article 23 of the public health law, as
20 amended by chapter 878 of the laws of 1980, is amended to read as
21 follows:

22 CONTROL OF SEXUALLY [TRANSMISSIBLE] TRANSMITTED DISEASES

23 § 33. Sections 2300, 2301, 2302 and 2303 of the public health law are
24 REPEALED.

25 § 34. The section heading and subdivisions 1 and 2 of section 2304 of
26 the public health law, as amended by chapter 878 of the laws of 1980,
27 are amended and two new subdivisions 4 and 5 are added to read as
28 follows:

1 Sexually [transmissible] transmitted diseases; treatment facilities;
2 administration. 1. It shall be the responsibility of each board of
3 health of a health district to provide adequate facilities for the
4 [free] diagnosis and treatment of persons living within its jurisdiction
5 who are suspected of being infected or are infected with a sexually
6 [transmissible] transmitted disease.

7 2. The health officer of said health district shall administer these
8 facilities directly or through contract and shall promptly examine or
9 arrange for the examination of persons suspected of being infected with
10 a sexually [transmissible] transmitted disease, and shall promptly
11 institute treatment or arrange for the treatment of those found or
12 otherwise known to be infected with a sexually [transmissible] transmit-
13 ted disease, provided that any person may, at his option, be treated at
14 his own expense by a [licensed physician] health care practitioner of
15 his choice.

16 4. Each board of health and local health officer shall ensure that
17 diagnosis and treatment services are available and, to the greatest
18 extent practicable, seek third party coverage or indemnification for
19 such services; provided, however, that no board of health, local health
20 officer, or other municipal officer or entity shall request or require
21 that such coverage or indemnification be utilized as a condition of
22 providing diagnosis or treatment services.

23 5. The term "health officer" as used in this article shall mean a
24 county health officer, a city health officer, a town health officer, a
25 village health officer, the health officer of a consolidated health
26 district or a state district health officer.

27 § 35. Section 2305 of the public health law, as amended by chapter 878
28 of the laws of 1980, is amended to read as follows:

1 § 2305. Sexually [transmissible] transmitted diseases; [treatment by
2 licensed physician or staff physician of a hospital; prescriptions]
3 treatment of minors. [1. No person, other than a licensed physician,
4 or, in a hospital, a staff physician, shall diagnose, treat or prescribe
5 for a person who is infected with a sexually transmissible disease, or
6 who has been exposed to infection with a sexually transmissible disease,
7 or dispense or sell a drug, medicine or remedy for the treatment of such
8 person except on prescription of a duly licensed physician.

9 2. A licensed physician, or in a hospital, a staff physician,] A
10 health care practitioner who is authorized under title eight of the
11 education law to diagnose and prescribe drugs for sexually transmitted
12 infections, acting within his or her lawful scope of practice, may diag-
13 nose, treat or prescribe for a person under the age of [twenty-one]
14 eighteen years without the consent or knowledge of the parents or guard-
15 ian of said person[, where such person is infected with a sexually tran-
16 smissible disease, or has been exposed to infection with a sexually
17 transmissible disease].

18 [3. For the purposes of this section, the term "hospital" shall mean a
19 hospital as defined in article twenty-eight of this chapter.]

20 § 36. Section 2306 of the public health law, as amended by chapter 41
21 of the laws of 2010, is amended to read as follows:

22 § 2306. Sexually [transmissible] transmitted diseases; reports and
23 information, confidential. All reports or information secured by a board
24 of health or health officer under the provisions of this article shall
25 be confidential except in so far as is necessary to carry out the
26 purposes of this article. Such report or information may be disclosed by
27 court order in a criminal proceeding in which it is otherwise admissible
28 or in a proceeding pursuant to article ten of the family court act in

1 which it is otherwise admissible, to the prosecution and to the defense,
2 or in a proceeding pursuant to article ten of the family court act in
3 which it is otherwise admissible, to the petitioner, respondent and
4 attorney for the child, provided that the subject of the report or
5 information has waived the confidentiality provided for by this section
6 except insofar as is necessary to carry out the purposes of this arti-
7 cle. Information may be disclosed to third party reimbursers or their
8 agents to the extent necessary to reimburse health care providers for
9 health services; provided that, when necessary, an otherwise appropriate
10 authorization for such disclosure has been secured by the provider. A
11 person waives the confidentiality provided for by this section if such
12 person voluntarily discloses or consents to disclosure of such report or
13 information or a portion thereof. If such person lacks the capacity to
14 consent to such a waiver, his or her parent, guardian or attorney may so
15 consent. An order directing disclosure pursuant to this section shall
16 specify that no report or information shall be disclosed pursuant to
17 such order which identifies or relates to any person other than the
18 subject of the report or information. Reports and information may be
19 used in the aggregate in programs approved by the commissioner for the
20 improvement of the quality of medical care provided to persons with
21 sexually transmitted diseases; or with patient identifiers when used
22 within the state or local health department by public health disease
23 programs to assess co-morbidity or completeness of reporting and to
24 direct program needs, in which case patient identifiers shall not be
25 disclosed outside the state or local health department.

26 § 37. The section heading and subdivisions 1 and 2 of section 2308 of
27 the public health law are amended to read as follows:

1 [Venereal] Sexually transmitted disease; pregnant women; blood test
2 for syphilis. 1. Every physician, or health care practitioner acting
3 within his or her lawful scope of practice, attending pregnant women in
4 the state shall in the case of every woman so attended take or cause to
5 be taken a sample of blood of such woman at the time of first examina-
6 tion, and submit such sample to an approved laboratory for a standard
7 serological test for syphilis.

8 2. Every other person permitted by law to attend upon pregnant women
9 in the state but not permitted by law to take blood tests, shall cause a
10 sample of the blood of such pregnant woman to be taken promptly by a
11 duly licensed physician, or other health care practitioner acting within
12 his or her lawful scope of practice, and submitted to an approved labo-
13 ratory for a standard serological test for syphilis.

14 § 38. Section 2308-a of the public health law, as amended by chapter
15 878 of the laws of 1980, is amended to read as follows:

16 § 2308-a. Sexually [transmissible] transmitted diseases; tests for
17 sexually [transmissible] transmitted diseases. 1. The administrative
18 officer or other person in charge of a clinic or other facility provid-
19 ing gynecological, obstetrical, genito-urological, contraceptive, steri-
20 lization or termination of pregnancy services or treatment shall require
21 the staff of such clinic or facility to offer to administer to every
22 resident of the state of New York coming to such clinic or facility for
23 such services or treatment, appropriate examinations or tests for the
24 detection of sexually [transmissible] transmitted diseases.

25 2. Each physician providing gynecological, obstetrical, genito-urolog-
26 ical, contraceptive, sterilization, or termination of pregnancy services
27 or treatment shall offer to administer to every resident of the state of
28 New York coming to such physician for such services or treatment, appro-

1 priate examinations or tests for the detection of sexually [transmissi-
2 ble] transmitted diseases.

3 § 39. Sections 2309 and 2310 of the public health law are REPEALED.

4 § 40. Section 2311 of the public health law, as added by chapter 878
5 of the laws of 1980, is amended to read as follows:

6 § 2311. Sexually [transmissible] transmitted disease list. The commis-
7 sioner shall promulgate a list of sexually [transmissible] transmitted
8 diseases, such as gonorrhea and syphilis, for the purposes of this arti-
9 cle. The commissioner, in determining the diseases to be included in
10 such list, shall consider those conditions principally transmitted by
11 sexual contact, other sections of this chapter addressing communicable
12 diseases and the impact of particular diseases on individual morbidity
13 and the health of newborns.

14 § 41. Section 2 of chapter 577 of the laws of 2008, amending the
15 public health law relating to expedited partner therapy for persons
16 infected with chlamydia trachomatis, is amended to read as follows:

17 § 2. This act shall take effect on the one hundred twentieth day after
18 it shall have become a law [and shall expire and be deemed repealed
19 January 1, 2014].

20 § 42. The public health law is amended by adding a new article 12-A to
21 read as follows:

22 ARTICLE 12-A

23 OUTCOME BASED CONTRACTING AND

24 OUTCOME BASED HEALTH PLANNING

25 Section 1202. Legislative findings.

26 1203. Outcome based contracting and outcome based health plan-
27 ning.

28 1204. Outcome based areas.

1 § 1202. Legislative findings. 1. The legislature declares that a
2 comprehensive, integrated approach to public health and health care
3 requires that the department have the flexibility to promote better
4 health outcomes, target resources effectively and address existing and
5 new or emerging health issues.

6 2. To ensure that resources are used efficiently and effectively, it
7 is important that contractors, to the extent deemed necessary by the
8 commissioner, carry out the purposes of this article and be subject to
9 outcome-based performance measures.

10 § 1203. Outcome based contracting and outcome based health planning.

11 1. Within amounts appropriated therefor, the commissioner is authorized
12 to make grants, awards, disbursements, and other payments and transfers,
13 and may enter into or continue existing contracts and agreements and
14 otherwise disburse funds to governmental, public, non-profit or private
15 entities as necessary to accomplish the purposes of this article, in
16 each of the areas set forth in section twelve hundred four of this arti-
17 cle.

18 2. Funding shall be awarded under this article in the number, amounts
19 and manner determined by the commissioner on a competitive basis, when-
20 ever practicable, pursuant to one or more requests for
21 application/proposal processes covering each or multiple areas set forth
22 in section twelve hundred four of this article or other allowable
23 options in the state finance law. The commissioner shall post on the
24 department's website notices of funding availability and include state-
25 ments to encourage existing and new providers to participate.

26 3. Payments pursuant to grant awards and other disbursements or trans-
27 fers made under this article shall be based on the intended achievement
28 of outcomes as specified by the commissioner.

1 4. Notwithstanding any inconsistent provision of law within this chap-
2 ter, the commissioner shall not award grants, enter into contracts or
3 continue contracts or make disbursements or conduct program activities
4 with respect to any program or activity authorized in this chapter that
5 the commissioner deems to fall within the areas set forth in section
6 twelve hundred four of this article, unless the commissioner evaluates
7 the program or program activity and determines that it is consistent
8 with the objectives and standards of this article.

9 § 1204. Outcome based areas. Grant awards, and other disbursements,
10 payments or transfers and program activities in the following areas
11 shall be subject to this article:

12 1. Within amounts appropriated, the area of chronic disease prevention
13 and treatment, which shall be designed to implement evidence and best
14 practice based approaches to chronic disease that emphasize the impor-
15 tance of preventive care and healthier environments. Such grants should
16 also, to the extent feasible, complement the state's efforts to promote
17 integrated care management strategies in the provision of health care
18 and long term care support. The department shall identify chronic
19 diseases that are public health priorities. To that end and subject to
20 the provisions of this article the department is authorized to:

21 (a) develop and/or support implementation of environmental approaches
22 that promote health and prevent disease and support and reinforce heal-
23 thy behaviors in various sectors;

24 (b) develop and/or support programs of public health marketing and
25 communication, including developing, adapting, promoting and disseminat-
26 ing public education materials and campaigns to reduce morbidity,
27 mortality and health disparities;

1 (c) develop and/or support activities to promote early detection and
2 quality care delivery by healthcare and other community service provid-
3 ers;

4 (d) conduct and/or support epidemiology and surveillance to gather,
5 analyze, and disseminate data and information and conduct evaluations to
6 inform, prioritize, deliver and monitor program activities and popula-
7 tion-level risk factors, diseases and health; and

8 (e) any other functions deemed necessary by the commissioner to imple-
9 ment the purposes of this article.

10 2. Within amounts appropriated, in the area of environmental health
11 and infectious disease, which shall be designed to minimize risk to
12 population health posed by environmental factors and infectious disease
13 and implement evidence and best practice based approaches that emphasize
14 the importance of prevention of exposures. The department shall identify
15 environmental conditions and related diseases and exposures that impact
16 human health and identify priority communicable diseases and shall
17 develop programs to prevent and address those priority environmental
18 conditions and communicable diseases, their risk factors, modes of tran-
19 smision and prevention. To that end and subject to the provisions of
20 this article the department is authorized to:

21 (a) develop and/or support programs for identification, screening,
22 inspection, investigation, assessment, surveillance, prevention, treat-
23 ment and outreach;

24 (b) develop and/or support programs for population based prevention,
25 public education and outreach;

26 (c) develop and/or support programs for professional education and
27 training in outreach, prevention, detection and treatment; and

1 (d) any other functions deemed necessary by the commissioner to imple-
2 ment the purposes of this article.

3 3. Within amounts appropriated, in the area of maternal and child
4 health and nutrition, which shall be designed to implement evidence and
5 best practice based approaches to maternal and child health and nutri-
6 tion that emphasize the importance of preventive care. The department
7 shall identify adverse maternal and child health outcomes and nutrition
8 risks that are priorities, and shall develop programs to prevent and
9 address those priority adverse maternal and child health outcomes and
10 nutrition risks and their causes, and reduce health disparities. To that
11 end and subject to the provision of this article the department is
12 authorized to:

13 (a) develop and/or support programs for identification, screening,
14 investigation, prevention, treatment and outreach, surveillance, evalu-
15 ation and service provision;

16 (b) develop and/or support programs for professional education and
17 training in outreach, prevention, detection treatment and service
18 provision; and

19 (c) any other functions deemed necessary by the commissioner to imple-
20 ment the purposes of this article.

21 4. Within the amounts appropriated, in the areas of HIV, AIDS, Hepati-
22 tis C and sexually transmitted diseases, which shall be designed to
23 implement evidence and best practice based approaches to HIV, AIDS,
24 Hepatitis C and sexually transmitted disease prevention and care. The
25 department shall identify HIV and AIDS, STD and Hepatitis C prevention,
26 identification and treatment priorities and shall develop programs to
27 prevent and address HIV and AIDS, STD and Hepatitis C. To that end and

1 subject to the provision of this article the department is authorized

2 to:

3 (a) develop and/or support programs for identification, screening,
4 investigation, surveillance, prevention, treatment, support, outreach
5 and service provision;

6 (b) develop and/or support programs for professional education and
7 training in outreach, prevention, detection, support, treatment and
8 service provision;

9 (c) develop and/or support programs that ensure the appropriateness
10 and quality of HIV/AIDS, STD, and Hepatitis C services; and

11 (d) any other functions deemed necessary by the commissioner to imple-
12 ment the purposes of this article.

13 5. Within amounts appropriated, in the area of health quality and
14 outcomes, which shall be designed to support core priority initiatives
15 that address improved population health outcomes, patient safety and
16 quality. To that end and subject to the provisions of this article the
17 department is authorized to:

18 (a) carry out patient safety and outcomes research;

19 (b) use evidence and population health principles and best practices
20 to drive improvement in healthcare quality and patient safety;

21 (c) develop or support programs to assess, evaluate and communicate
22 findings related to health care quality and safety; and

23 (d) any other functions deemed necessary by the commissioner to imple-
24 ment the purposes of this article.

25 6. Within amounts appropriated, in the area of workforce development,
26 which shall be designed to better address the goals of improving care,
27 improving health, and reducing costs, and preparing for the increased
28 demand for services resulting from the implementation of federal health

1 care reform. To that end and subject to the provisions of this article
2 the department is authorized to:

3 (a) train additional health care workers;

4 (b) focus on training new health care workers and re-training existing
5 health care employees in emerging models of collaborative care, work in
6 culturally competent, patient-centered interdisciplinary teams, maximiz-
7 ing utilization of health information technology, and to otherwise
8 address changes in the health care delivery system;

9 (c) train health care workers to care for high need and vulnerable
10 populations with complex medical, behavioral, and long-term care needs;

11 (d) provide services in communities that experience shortages of
12 physicians and other health care workers;

13 (e) provide training of physicians in clinical research in order to
14 improve the health status of the population through advances in biomed-
15 ical research; and

16 (f) any other functions deemed necessary by the commissioner to imple-
17 ment the purposes of this article.

18 § 43. Subdivisions 1, 2, 2-a, 2-b and 3 of section 2802 of the public
19 health law, subdivisions 1, 2 and 2-b as amended by section 58 of part A
20 of chapter 58 of the laws of 2010, subdivision 2-a as added and para-
21 graph (e) of subdivision 3 as amended by chapter 731 of the laws of
22 1993, subdivision 3 as amended by chapter 609 of the laws of 1982, are
23 amended to read as follows:

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

1 agency, if any, having geographical jurisdiction of the area where the
2 hospital is located.

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

1 services, the construction may be approved without regard for public
2 need.

3 2-a. The council shall afford the applicant an opportunity to present
4 information in person concerning an application to a committee desig-
5 nated by the council.

6 2-b. Beginning on January first, nineteen hundred ninety-four, and
7 each year thereafter, a complete application received between January
8 first and June thirtieth of each year shall be reviewed by the appropri-
9 ate health systems agency and the department and presented to the public
10 health and health planning council for its consideration prior to June
11 thirtieth of the following year and a complete application received
12 between July first and December thirty-first of each year shall be
13 reviewed by the appropriate health systems agency and the department and
14 presented to the public health and health planning council for consider-
15 ation prior to December thirty-first of the following year.

16 3. Subject to the provisions of paragraph (b) of subdivision two, the
17 commissioner in approving the construction of a hospital shall take into
18 consideration and be empowered to request information and advice as to
19 (a) the availability of facilities or services such as preadmission,
20 ambulatory or home care services which may serve as alternatives or
21 substitutes for the whole or any part of the proposed hospital
22 construction;

23 (b) the need for special equipment in view of existing utilization of
24 comparable equipment at the time and place and under the circumstances
25 proposed;

26 (c) the possible economies and improvements in service to be antic-
27 ipated from the operation of joint central services including, but not

1 limited to laboratory, research, radiology, pharmacy, laundry and
2 purchasing;

3 (d) the adequacy of financial resources and sources of future revenue,
4 provided that the commissioner may, but is not required to, consider the
5 adequacy of financial resources and sources of future revenue in
6 relation to applications under subparagraphs (ii) and (iii) of paragraph
7 (b) of subdivision two of this section; and

8 (e) whether the facility is currently in substantial compliance with
9 all applicable codes, rules and regulations, provided, however, that the
10 commissioner shall not disapprove an application solely on the basis
11 that the facility is not currently in substantial compliance, if the
12 application is specifically:

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

14 (ii) to correct deficiencies which are necessary to protect the life,
15 health, safety and welfare of facility patients, residents or staff;

16 (iii) for replacement of equipment that no longer meets the generally
17 accepted operational standards existing for such equipment at the time
18 it was acquired; and

19 (iv) for decertification of beds and services.

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

23 1. Notwithstanding any provision of this chapter or regulations or any
24 other state law or regulation, for any eligible capital project as
25 defined in subdivision six of this section, the department shall have
26 thirty days of receipt of the certificate of need or construction appli-
27 cation, pursuant to section twenty-eight hundred two of this article,
28 for a limited or administrative review to deem such application

1 complete. If the department determines the application is incomplete or
2 that more information is required, the department shall notify the
3 applicant in writing within thirty days of the date of the application's
4 submission, and the applicant shall have twenty business days to provide
5 additional information or otherwise correct the deficiency in the appli-
6 cation.

7 2. For an eligible capital project requiring a limited or administra-
8 tive review, within ninety days of the department deeming the applica-
9 tion complete, the department shall make a decision to approve or disap-
10 prove the certificate of need or construction application for such
11 project. If the department determines to disapprove the project, the
12 basis for such disapproval shall be provided in writing; however, disap-
13 proval shall not be based on the incompleteness of the application. If
14 the department fails to take action to approve or disapprove the appli-
15 cation within ninety days of the certificate of need application being
16 deemed complete, the application will be deemed approved.

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

21 § 45. Intentionally omitted.

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

24 3-b. Notwithstanding any other provisions of this chapter to the
25 contrary, the public health and health planning council may approve the
26 establishment of diagnostic or treatment centers to be issued operating
27 certificates for the purpose of providing primary care, as defined by
28 the commissioner in regulations, without regard to the requirements of

1 public need and financial resources as set forth in subdivision three of
2 this section.

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

6 3. The public health and health planning council shall not approve a
7 certificate of incorporation, articles of organization or application
8 for establishment unless it is satisfied, insofar as applicable, as to
9 (a) the public need for the existence of the institution at the time and
10 place and under the circumstances proposed, provided, however, that in
11 the case of an institution proposed to be established or operated by an
12 organization defined in subdivision one of section one hundred seventy-
13 two-a of the executive law, the needs of the members of the religious
14 denomination concerned, for care or treatment in accordance with their
15 religious or ethical convictions, shall be deemed to be public need; (b)
16 the character, competence, and standing in the community, of the
17 proposed incorporators, directors, sponsors, stockholders, members or
18 operators; with respect to any proposed incorporator, director, sponsor,
19 stockholder, member or operator who is already or within the past [ten]
20 seven years has been an incorporator, director, sponsor, member, princi-
21 pal stockholder, principal member, or operator of any hospital, private
22 proprietary home for adults, residence for adults, or non-profit home
23 for the aged or blind which has been issued an operating certificate by
24 the state department of social services, or a halfway house, hostel or
25 other residential facility or institution for the care, custody or
26 treatment of the mentally disabled which is subject to approval by the
27 department of mental hygiene, no approval shall be granted unless the
28 public health and health planning council, having afforded an adequate

1 opportunity to members of health systems agencies, if any, having
2 geographical jurisdiction of the area where the institution is to be
3 located to be heard, shall affirmatively find by substantial evidence as
4 to each such incorporator, director, sponsor, member, principal stock-
5 holder, principal member, or operator that a substantially consistent
6 high level of care is being or was being rendered in each such hospital,
7 home, residence, halfway house, hostel, or other residential facility or
8 institution with which such person is or was affiliated; for the
9 purposes of this paragraph, the public health and health planning coun-
10 cil shall adopt rules and regulations, subject to the approval of the
11 commissioner, to establish the criteria to be used to determine whether
12 a substantially consistent high level of care has been rendered,
13 provided, however, that there shall not be a finding that a substantial-
14 ly consistent high level of care has been rendered where there have been
15 violations of the state hospital code, or other applicable rules and
16 regulations, that (i) threatened to directly affect the health, safety
17 or welfare of any patient or resident, and (ii) were recurrent or were
18 not promptly corrected, unless the proposed incorporator, director,
19 sponsor, stockholder, member or operator demonstrates, and the public
20 health and health planning council finds, that the violations cannot be
21 attributed to the action or inaction of such proposed incorporator,
22 director, sponsor, stockholder, member or operator due to the timing,
23 extent or manner of the affiliation; (c) the financial resources of the
24 proposed institution and its sources of future revenues; and (d) such
25 other matters as it shall deem pertinent.

26 § 48. Subdivision 4 of section 2801-a of the public health law, as
27 amended by section 57 of part A of chapter 58 of the laws of 2010, is
28 amended to read as follows:

1 4. (a) Any change in the person who is the operator of a hospital
2 shall be approved by the public health and health planning council in
3 accordance with the provisions of subdivisions two and three of this
4 section. Notwithstanding any inconsistent provision of this paragraph,
5 any change by a natural person who is the operator of a hospital seeking
6 to transfer part of his or her interest in such hospital to another
7 person or persons so as to create a partnership shall be approved in
8 accordance with the provisions of paragraph (b) of this subdivision.

9 (b) [(i)] Any transfer, assignment or other disposition of ten percent
10 or more of [an] direct or indirect interest or voting rights in [a part-
11 nership or limited liability company, which is the] an operator of a
12 hospital to a new stockholder, partner or member, or any transfer,
13 assignment or other disposition of a direct or indirect interest or
14 voting rights of such an operator which results in the ownership or
15 control of more than ten percent of the interest or voting rights of
16 such operator by any person not previously approved by the public health
17 and health planning council, or its predecessor, for that operator shall
18 be approved by the public health and health planning council, in accord-
19 ance with the provisions of subdivisions two and three of this section,
20 except that: (A) any such change shall be subject to the approval by the
21 public health and health planning council in accordance with paragraph
22 (b) of subdivision three of this section only with respect to the new
23 stockholder, partner or member, and any remaining stockholders, partners
24 or members who have not been previously approved for that facility in
25 accordance with such paragraph, and (B) such change shall not be subject
26 to paragraph (a) of subdivision three of this section. In the absence of
27 such approval, the operating certificate of such hospital shall be
28 subject to revocation or suspension.

1 [(ii)] (c) (i) With respect to a transfer, assignment or disposition
2 involving less than ten percent of [an] a direct or indirect interest or
3 voting rights in [such partnership or limited liability company] an
4 operator of a hospital to a new stockholder, partner or member, no prior
5 approval of the public health and health planning council shall be
6 required. However, no such transaction shall be effective unless at
7 least ninety days prior to the intended effective date thereof, the
8 [partnership or limited liability company] operator fully completes and
9 files with the public health and health planning council notice on a
10 form, to be developed by the public health and health planning council,
11 which shall disclose such information as may reasonably be necessary for
12 the public health and health planning council to determine whether it
13 should bar the transaction for any of the reasons set forth in item (A),
14 (B), (C) or (D) below. Within ninety days from the date of receipt of
15 such notice, the public health and health planning council may bar any
16 transaction under this subparagraph: (A) if the equity position of the
17 [partnership or limited liability company,] operator, determined in
18 accordance with generally accepted accounting principles, would be
19 reduced as a result of the transfer, assignment or disposition; (B) if
20 the transaction would result in the ownership of a [partnership or
21 membership] direct or indirect interest or voting rights by any persons
22 who have been convicted of a felony described in subdivision five of
23 section twenty-eight hundred six of this article; (C) if there are
24 reasonable grounds to believe that the proposed transaction does not
25 satisfy the character and competence criteria set forth in subdivision
26 three of this section; or (D) upon the recommendation of the department,
27 if the transaction, together with all transactions under this subpara-
28 graph for the [partnership] operator, or successor, during any five year

1 period would, in the aggregate, involve twenty-five percent or more of
2 the interest in the [partnership] operator. The public health and health
3 planning council shall state specific reasons for barring any trans-
4 action under this subparagraph and shall so notify each party to the
5 proposed transaction.

6 [(iii) With respect to a transfer, assignment or disposition of an
7 interest or voting rights in such partnership or limited liability
8 company to any remaining partner or member, which transaction involves
9 the withdrawal of the transferor from the partnership or limited liabil-
10 ity company, no prior approval of the public health and health planning
11 council shall be required. However, no such transaction shall be effec-
12 tive unless at least ninety days prior to the intended effective date
13 thereof, the partnership or limited liability company fully completes
14 and files with the public health and health planning council notice on a
15 form, to be developed by the public health and health planning council,
16 which shall disclose such information as may reasonably be necessary for
17 the public health and health planning council to determine whether it
18 should bar the transaction for the reason set forth below. Within ninety
19 days from the date of receipt of such notice, the public health and
20 health planning council may bar any transaction under this subparagraph
21 if the equity position of the partnership or limited liability company,
22 determined in accordance with generally accepted accounting principles,
23 would be reduced as a result of the transfer, assignment or disposition.
24 The public health and health planning council shall state specific
25 reasons for barring any transaction under this subparagraph and shall so
26 notify each party to the proposed transaction.

27 (c) Any transfer, assignment or other disposition of ten percent or
28 more of the stock or voting rights thereunder of a corporation which is

1 the operator of a hospital or which is a member of a limited liability
2 company which is the operator of a hospital to a new stockholder, or any
3 transfer, assignment or other disposition of the stock or voting rights
4 thereunder of such a corporation which results in the ownership or
5 control of more than ten percent of the stock or voting rights there-
6 under of such corporation by any person not previously approved by the
7 public health and health planning council, or its predecessor, for that
8 corporation shall be subject to approval by the public health and health
9 planning council, in accordance with the provisions of subdivisions two
10 and three of this section and rules and regulations pursuant thereto;
11 except that: any such transaction shall be subject to the approval by
12 the public health and health planning council in accordance with para-
13 graph (b) of subdivision three of this section only with respect to a
14 new stockholder or a new principal stockholder; and shall not be subject
15 to paragraph (a) of subdivision three of this section. In the absence of
16 such approval, the operating certificate of such hospital shall be
17 subject to revocation or suspension.] (ii) No prior approval of the
18 public health and health planning council shall be required with respect
19 to a transfer, assignment or disposition of ten percent or more of [the
20 stock] a direct or indirect interest or voting rights [thereunder of a
21 corporation which is the] in an operator of a hospital [or which is a
22 member of a limited liability company which is the owner of a hospital]
23 to any person previously approved by the public health and health plan-
24 ning council, or its predecessor, for that [corporation] operator.
25 However, no such transaction shall be effective unless at least ninety
26 days prior to the intended effective date thereof, the [stockholder]
27 operator fully completes and files with the public health and health
28 planning council notice on forms to be developed by the public health

1 and health planning council, which shall disclose such information as
2 may reasonably be necessary for the public health and health planning
3 council to determine whether it should bar the transaction. Such trans-
4 action will be final as of the intended effective date unless, prior
5 thereto, the public health and health planning council shall state
6 specific reasons for barring such transactions under this paragraph and
7 shall notify each party to the proposed transaction. Nothing in this
8 paragraph shall be construed as permitting a person not previously
9 approved by the public health and health planning council for that
10 [corporation] operator to become the owner of ten percent or more of the
11 [stock of a corporation which is] interest or voting rights, directly or
12 indirectly, in the operator of a hospital [or which is a member of a
13 limited liability company which is the owner of a hospital] without
14 first obtaining the approval of the public health and health planning
15 council.

16 (d) No hospital shall be approved for establishment which would be
17 operated by a limited partnership, or by a partnership any of the
18 members of which are not natural persons.

19 (e) No hospital shall be approved for establishment which would be
20 operated by a corporation any of the stock of which is owned by another
21 corporation or a limited liability company if any of its corporate
22 members' stock is owned by another corporation.

23 (f) No corporation shall be a member of a limited liability company
24 authorized to operate a hospital unless its proposed incorporators,
25 directors, stockholders or principal stockholders shall have been
26 approved in accordance with the provisions of subdivision three of this
27 section applicable to the approval of the proposed incorporators, direc-

1 tors or stockholders of any other corporation requiring approval for
2 establishment.

3 (g) A natural person appointed as trustee of an express testamentary
4 trust, created by a deceased sole proprietor, partner or shareholder in
5 the operation of a hospital for the benefit of a person of less than
6 twenty-five years of age, may, as the trustee, apply pursuant to subdivi-
7 sion two of this section for approval to operate or participate in the
8 operation of a facility or interest therein which is included in the
9 corpus of such trust until such time as all beneficiaries attain the age
10 of twenty-five, unless the trust instrument provides for earlier termi-
11 nation, or such beneficiaries receive establishment approval in their
12 own right, or until a transfer of the trust corpus is approved by the
13 public health and health planning council, in accordance with this
14 subdivision and subdivisions two and three of this section, whichever
15 first occurs. The public health and health planning council shall not
16 approve any such application unless it is satisfied as to:

17 (i) the character, competence and standing in the community of each
18 proposed trustee operator pursuant to the provisions of paragraph (b) of
19 subdivision three of this section; and

20 (ii) the ability of the trustee under the terms of the trust instru-
21 ment to operate or participate in the operation of the hospital in a
22 manner consistent with this chapter and regulations promulgated pursuant
23 thereto.

24 (h) A natural person appointed conservator pursuant to article eight-
25 y-one of the mental hygiene law, or a natural person appointed committee
26 of the property of an incompetent pursuant to article eighty-one of the
27 mental hygiene law or a sole proprietor, partner or shareholder of a
28 hospital, may apply pursuant to subdivision two of this section for

1 approval to operate a hospital owned by the conservatee or incompetent
2 for a period not exceeding two years or until a transfer of the hospital
3 is approved by the public health and health planning council in accord-
4 ance with subdivisions two and three of this section, whichever occurs
5 first. The public health and health planning council shall not approve
6 any such application unless it is satisfied as to:

7 (i) the character, competence and standing in the community of the
8 proposed conservator operator or committee operator pursuant to the
9 provisions of paragraph (b) of subdivision three of this section; and

10 (ii) the ability of the conservator or committee under the terms of
11 the court order to operate the hospital in a manner consistent with this
12 chapter and regulations promulgated pursuant thereto.

13 § 49. Section 3611-a of the public health law, as amended by section
14 92 of part C of chapter 58 of the laws of 2009, subdivisions 1 and 2 as
15 amended by section 67 of part A of chapter 58 of the laws of 2010, is
16 amended to read as follows:

17 § 3611-a. Change in the operator or owner. 1. Any change in the
18 person who, or any transfer, assignment, or other disposition of an
19 interest or voting rights of ten percent or more, or any transfer,
20 assignment or other disposition which results in the ownership or
21 control of an interest or voting rights of ten percent or more, in a
22 limited liability company or a partnership which is the operator of a
23 licensed home care services agency or a certified home health agency
24 shall be approved by the public health and health planning council, in
25 accordance with the provisions of subdivision four of section thirty-six
26 hundred five of this article relative to licensure or subdivision two of
27 section thirty-six hundred six of this article relative to certificate
28 of approval, except that:

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

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

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

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

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

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

17 (ii) No such transaction under subparagraph (i) of this paragraph
18 shall be effective unless at least ninety days prior to the intended
19 effective date thereof, the [partner or member] operator completes and
20 files with the public health and health planning council notice on forms
21 to be developed by the public health council, which shall disclose such
22 information as may reasonably be necessary for the public health and
23 health planning council to determine whether it should bar the trans-
24 action. Such transaction will be final as of the intended effective date
25 unless, prior thereto, the public health and health planning council
26 shall state specific reasons for barring such transactions under this
27 paragraph and shall notify each party to the proposed transaction.

1 2. Any transfer, assignment or other disposition of ten percent or
2 more of the stock or voting rights thereunder of a corporation which is
3 the operator of a licensed home care services agency or a certified home
4 health agency, or any transfer, assignment or other disposition of the
5 stock or voting rights thereunder of such a corporation which results in
6 the ownership or control of more than ten percent of the stock or voting
7 rights thereunder of such corporation by any person shall be subject to
8 approval by the public health and health planning council in accordance
9 with the provisions of subdivision four of section thirty-six hundred
10 five of this article relative to licensure or subdivision two of section
11 thirty-six hundred six of this article relative to certificate of
12 approval, except that:

13 (a) Public health and health planning council approval shall be
14 required only with respect to the person or entity acquiring such stock
15 or voting rights; and

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

21 (c) No prior approval of the public health and health planning council
22 shall be required with respect to a transfer, assignment or disposition
23 of an interest or voting rights to any person previously approved by the
24 public health and health planning council, or its predecessor, for that
25 operator. However, no such transaction shall be effective unless at
26 least one hundred twenty days prior to the intended effective date ther-
27 eof, the partner or member completes and files with the public health
28 and health planning council notice on forms to be developed by the

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

8 3. (a) The commissioner shall charge to applicants for a change in
9 operator or owner of a licensed home care services agency or a certified
10 home health agency an application fee in the amount of two thousand
11 dollars.

12 (b) The fees paid by certified home health agencies pursuant to this
13 subdivision for any application approved in accordance with this section
14 shall be deemed allowable costs in the determination of reimbursement
15 rates established pursuant to this article. All fees pursuant to this
16 section shall be payable to the department of health for deposit into
17 the special revenue funds - other, miscellaneous special revenue fund -
18 339, certificate of need account.

19 § 50. The public health law is amended by adding a new section 2806-a
20 to read as follows:

21 § 2806-a. Temporary operator. 1. For the purposes of this section:

22 (a) "adult care facility" shall mean an adult home or enriched housing
23 program licensed pursuant to article seven of the social services law or
24 an assisted living residence licensed pursuant to article forty-six-B of
25 this chapter;

26 (b) "established operator" shall mean the operator of an adult care
27 facility, a general hospital or a diagnostic and treatment center that

1 has been established and issued an operating certificate as such pursu-
2 ant to this article;

3 (c) "facility" shall mean (i) a general hospital or a diagnostic and
4 treatment center that has been issued an operating certificate as such
5 pursuant to this article; or (ii) an adult care facility;

6 (d) "temporary operator" shall mean any person or entity that:

7 (i) agrees to operate a facility on a temporary basis in the best
8 interests of its residents or patients and the community served by the
9 facility; and

10 (ii) has demonstrated that he or she has the character, competence and
11 financial ability to operate the facility in compliance with applicable
12 standards;

13 (e) "serious financial instability" shall include but not be limited
14 to defaulting or violating key covenants of loans, or missed mortgage
15 payments, or general untimely payment of obligations, including but not
16 limited to employee benefit fund, payroll tax, and insurance premium
17 obligations, or failure to maintain required debt service coverage
18 ratios or, as applicable, factors that have triggered a written event of
19 default notice to the department by the dormitory authority of the state
20 of New York; and

21 (f) "extraordinary financial assistance" shall mean state funds
22 provided to a facility upon such facility's request for the purpose of
23 assisting the facility to address serious financial instability. Such
24 funds may be derived from existing programs within the department,
25 special appropriations, or other funds.

26 2.(a) In the event that: (i) a facility seeks extraordinary financial
27 assistance and the commissioner finds that the facility is experiencing
28 serious financial instability that is jeopardizing existing or continued

1 access to essential services within the community, or (ii) the commis-
2 sioner finds that there are conditions within the facility that serious-
3 ly endanger the life, health or safety of residents or patients, the
4 commissioner may appoint a temporary operator to assume sole control and
5 sole responsibility for the operations of that facility. The appointment
6 of the temporary operator shall be effectuated pursuant to this section
7 and shall be in addition to any other remedies provided by law.

8 (b) The established operator of a facility may at any time request the
9 commissioner to appoint a temporary operator. Upon receiving such a
10 request, the commissioner may, if he or she determines that such an
11 action is necessary to restore or maintain the provision of quality care
12 to the residents or patients or alleviate the facility's financial
13 instability, enter into an agreement with the established operator for
14 the appointment of a temporary operator to assume sole control and sole
15 responsibility for the operations of that facility.

16 3. (a) A temporary operator appointed pursuant to this section shall,
17 prior to his or her appointment as temporary operator, provide the
18 commissioner with a work plan satisfactory to the commissioner to
19 address the facility's deficiencies and serious financial instability
20 and a schedule for implementation of such plan. A work plan shall not be
21 required prior to the appointment of the temporary operator pursuant to
22 clause (ii) of paragraph (a) of subdivision two of this section if the
23 commissioner has determined that the immediate appointment of a tempo-
24 rary operator is necessary because public health or safety is in immi-
25 nent danger or there exists any condition or practice or a continuing
26 pattern of conditions or practices which poses imminent danger to the
27 health or safety of any patient or resident of the facility. Where such
28 immediate appointment has been found to be necessary, the temporary

1 operator shall provide the commissioner with a work plan satisfactory to
2 the commissioner as soon as practicable.

3 (b) The temporary operator shall use his or her best efforts to imple-
4 ment the work plan provided to the commissioner, if applicable, and to
5 correct or eliminate any deficiencies or financial instability in the
6 facility and to promote the quality and accessibility of health care
7 services in the community served by the facility. Such correction or
8 elimination of deficiencies or serious financial instability shall not
9 include major alterations of the physical structure of the facility.
10 During the term of his or her appointment, the temporary operator shall
11 have the sole authority to direct the management of the facility in all
12 aspects of operation and shall be afforded full access to the accounts
13 and records of the facility. The temporary operator shall, during this
14 period, operate the facility in such a manner as to promote safety and
15 the quality and accessibility of health care services or residential
16 care in the community served by the facility. The temporary operator
17 shall have the power to let contracts therefor or incur expenses on
18 behalf of the facility, provided that where individual items of repairs,
19 improvements or supplies exceed ten thousand dollars, the temporary
20 operator shall obtain price quotations from at least three reputable
21 sources. The temporary operator shall not be required to file any bond.
22 No security interest in any real or personal property comprising the
23 facility or contained within the facility, or in any fixture of the
24 facility, shall be impaired or diminished in priority by the temporary
25 operator. Neither the temporary operator nor the department shall engage
26 in any activity that constitutes a confiscation of property without the
27 payment of fair compensation.

1 4. The temporary operator shall be entitled to a reasonable fee, as
2 determined by the commissioner, and necessary expenses incurred during
3 his or her performance as temporary operator, to be paid from the reven-
4 ue of the facility. The temporary operator shall collect incoming
5 payments from all sources and apply them to the reasonable fee and to
6 costs incurred in the performance of his or her functions as temporary
7 operator in correcting deficiencies and causes of serious financial
8 instability. The temporary operator shall be liable only in his or her
9 capacity as temporary operator for injury to person and property by
10 reason of conditions of the facility in a case where an established
11 operator would have been liable; he or she shall not have any liability
12 in his or her personal capacity, except for gross negligence and inten-
13 tional acts.

14 5. (a) The initial term of the appointment of the temporary operator
15 shall not exceed one hundred eighty days. After one hundred eighty days,
16 if the commissioner determines that termination of the temporary opera-
17 tor would cause significant deterioration of the quality of, or access
18 to, health care or residential care in the community or that reappoint-
19 ment is necessary to correct the conditions within the facility that
20 seriously endanger the life, health or safety of residents or patients,
21 or the financial instability that required the appointment of the tempo-
22 rary operator, the commissioner may authorize up to two additional nine-
23 ty-day terms.

24 (b) Upon the completion of the two ninety-day terms referenced in
25 paragraph (a) of this subdivision, if the commissioner determines that
26 the temporary operator requires additional terms to meet the objectives
27 of the work plan submitted pursuant to subdivision three of this
28 section, the commissioner may reappoint the temporary operator for addi-

1 tional ninety-day terms, provided that the commissioner shall provide
2 for notice and a hearing as set forth in subdivision six of this subdi-
3 vision.

4 (c) Within fourteen days prior to the termination of each term of the
5 appointment of the temporary operator, the temporary operator shall
6 submit to the commissioner and to the established operator a report
7 describing:

8 (i) the actions taken during the appointment to address such deficien-
9 cies and financial instability,

10 (ii) objectives for the continuation of the temporary operatorship if
11 necessary and a schedule for satisfaction of such objectives, and

12 (iii) recommended actions for the ongoing operation of the facility
13 subsequent to the term of the temporary operator. The report shall
14 reflect best efforts to produce a full and complete accounting.

15 (d) The term of the initial appointment and of any subsequent reap-
16 pointment may be terminated prior to the expiration of the designated
17 term, if the established operator and the commissioner agree on a plan
18 of correction and the implementation of such plan.

19 6. (a) The commissioner, upon making a determination to appoint a
20 temporary operator pursuant to paragraph (a) of subdivision two of this
21 section shall, prior to the commencement of the appointment, cause the
22 established operator of the facility to be notified of the determination
23 by registered or certified mail addressed to the principal office of the
24 established operator. Such notification shall include a detailed
25 description of the findings underlying the determination to appoint a
26 temporary operator, and the date and time of a required meeting with the
27 commissioner and/or his or her designee within ten business days of the
28 date of such notice. At such meeting, the established operator shall

1 have the opportunity to review and discuss all relevant findings. At
2 such meeting or within ten additional business days, the commissioner
3 and the established operator shall attempt to develop a mutually satis-
4 factory plan of correction and schedule for implementation. In the event
5 such plan of correction is agreed upon, the commissioner shall notify
6 the established operator that the commissioner no longer intends to
7 appoint a temporary operator. A meeting shall not be required prior to
8 the appointment of the temporary operator pursuant to clause (ii) of
9 paragraph (a) of subdivision two of this section if the commissioner has
10 determined that the immediate appointment of a temporary operator is
11 necessary because public health or safety is in imminent danger or there
12 exists any condition or practice or a continuing pattern of conditions
13 or practices which poses imminent danger to the health or safety of any
14 patient or resident of the facility. Where such immediate appointment
15 has been found to be necessary, the commissioner shall provide the
16 established operator with a notice as required under this paragraph on
17 the date of the appointment of the temporary operator.

18 (b) Should the commissioner and the established operator be unable to
19 establish a plan of correction pursuant to paragraph (a) of this subdivi-
20 vision, or should the established operator fail to respond to the
21 commissioner's initial notification, a temporary operator shall be
22 appointed as soon as is practicable and shall operate pursuant to the
23 provisions of this section.

24 (c) The established operator shall be afforded an opportunity for an
25 administrative hearing on the commissioner's determination to appoint a
26 temporary operator. Such administrative hearing shall occur prior to
27 such appointment, except that the hearing shall not be required prior to
28 the appointment of the temporary operator pursuant to clause (ii) of

1 paragraph (a) of subdivision two of this section if the commissioner has
2 determined that the immediate appointment of a temporary operator is
3 necessary because public health or safety is in imminent danger or there
4 exists any condition or practice or a continuing pattern of conditions
5 or practices which poses imminent danger to the health or safety of any
6 patient or resident of the facility. An administrative hearing as
7 provided for under this paragraph shall begin no later than sixty days
8 from the date of the notice to the established operator and shall not be
9 extended without the consent of both parties. Any such hearing shall be
10 strictly limited to the issue of whether the determination of the
11 commissioner to appoint a temporary operator is supported by substantial
12 evidence. A copy of the decision shall be sent to the established opera-
13 tor.

14 (d) The commissioner shall, upon making a determination to reappoint a
15 temporary operator for the first of an additional ninety-day term pursu-
16 ant to paragraph (a) of subdivision five of this section, cause the
17 established operator of the facility to be notified of the determination
18 by registered or certified mail addressed to the principal office of the
19 established operator. If the commissioner determines that additional
20 reappointments pursuant to paragraph (b) of subdivision five of this
21 section are required, the commissioner shall again cause the established
22 operator of the facility to be notified of such determination by regis-
23 tered or certified mail addressed to the principal office of the estab-
24 lished operator at the commencement of the first of every two additional
25 terms. Upon receipt of such notification at the principal office of the
26 established operator and before the expiration of ten days thereafter,
27 the established operator may request an administrative hearing on the
28 determination to begin no later than sixty days from the date of the

1 reappointment of the temporary operator. Any such hearing shall be
2 strictly limited to the issue of whether the determination of the
3 commissioner to reappoint the temporary operator is supported by
4 substantial evidence.

5 7. No provision contained in this section shall be deemed to relieve
6 the established operator or any other person of any civil or criminal
7 liability incurred, or any duty imposed by law, by reason of acts or
8 omissions of the established operator or any other person prior to the
9 appointment of any temporary operator hereunder; nor shall anything
10 contained in this section be construed to suspend during the term of the
11 appointment of the temporary operator any obligation of the established
12 operator or any other person for the payment of taxes or other operating
13 and maintenance expenses of the facility nor of the established operator
14 or any other person for the payment of mortgages or liens.

15 § 51. The mental hygiene law is amended by adding a new section 32.20
16 to read as follows:

17 § 32.20 Temporary operator. 1. For the purposes of this section:

18 (a) "chemical dependence treatment program" shall mean a program
19 certified pursuant to section 32.05 of this article;

20 (b) "established operator" shall mean the operator of a chemical
21 dependence treatment program that has been established and issued an
22 operating certificate pursuant to section 32.05 of this article;

23 (c) "temporary operator" shall mean any OASAS staff member, person or
24 entity that:

25 (i) agrees to operate a program on a temporary basis in the best
26 interests of its patients and the community served by the program;

1 (ii) has demonstrated that he or she has the character, competence and
2 ability to operate an OASAS-certified program in compliance with appli-
3 cable standards; and

4 (iii) prior to his or her appointment as temporary operator, develops
5 with guidance from the commissioner a satisfactory plan to address the
6 program's deficiencies;

7 (d) "serious financial instability" shall include but not be limited
8 to defaulting or violating key covenants of bond issues, missed mortgage
9 payments, general untimely payment of debts, failure to pay its employ-
10 ees or vendors, insufficient funds to meet the general operating
11 expenses of the program and/or facility, failure to maintain required
12 debt service coverage ratios and/or, as applicable, factors that have
13 triggered a written event of default notice to the office by the dormi-
14 tory authority of the state of New York; and

15 (e) "extraordinary financial assistance" shall mean state funds
16 provided to, or requested by, a program for the express purpose of
17 preventing the closure of the program that the commissioner finds
18 provides essential and necessary services within the community.

19 2. (a) In the event that: (i) the office imposed a penalty on a
20 program within the prior twelve months; (ii) the program is seeking
21 extraordinary financial assistance; (iii) office collected data indi-
22 cates that the program is experiencing serious financial instability
23 issues; (iv) office collected data indicates that the program's board of
24 directors or administration are unable or unwilling to ensure the proper
25 operation of the program; (v) the program has violated the terms of its
26 contract with the state; or (vi) office collected data indicates there
27 are conditions that seriously endanger or jeopardize continued access to
28 necessary chemical dependence treatment services within the community,

1 the commissioner shall notify the established operator of his or her
2 intention to appoint a temporary operator to assume sole responsibility
3 for the program's treatment operations of that facility for a limited
4 period of time. The appointment of a temporary operator shall be effec-
5 tuated pursuant to this section, and shall be in addition to any other
6 remedies provided by law.

7 (b) The established operator of a program may at any time request the
8 commissioner to appoint a temporary operator. Upon receiving such a
9 request, the commissioner may, if he or she determines that such an
10 action is necessary, enter into an agreement with the established opera-
11 tor for the appointment of a temporary operator to restore or maintain
12 the provision of quality care to the patients until the established
13 operator can resume operations within the designated time period; the
14 patients may be transferred to other OASAS-certified providers; or the
15 program operations of that facility should be completely discontinued.

16 3. (a) A temporary operator appointed pursuant to this section shall
17 use his or her best efforts to implement the plan developed with the
18 guidance of the commissioner to correct or eliminate any deficiencies in
19 the program and to promote the quality and accessibility of chemical
20 dependence treatment services in the community served by the program.

21 (b) If the identified program deficiencies cannot be addressed in the
22 time period designated in the plan, the patients shall be transferred to
23 other OASAS-certified providers.

24 (c) During the term of his or her appointment, the temporary operator
25 shall have the authority to direct the program staff of the facility in
26 all aspects necessary to appropriately treat and/or transfer the
27 patients. The temporary operator shall, during this period, operate the
28 program in such a manner as to promote safety and the quality and acces-

1 sibility of chemical dependence treatment services in the community
2 served by the facility until either the established operator can resume
3 program operations or until the patients are appropriately transferred
4 to other OASAS-certified providers.

5 (d) The temporary operator shall not be required to file any bond. No
6 security interest in any real or personal property comprising the facil-
7 ity or contained within the facility or in any fixture of the facility,
8 shall be impaired or diminished in priority by the temporary operator.
9 Neither the temporary operator nor the office shall engage in any activ-
10 ity that constitutes a confiscation of property.

11 4. The temporary operator shall be entitled to a reasonable fee, as
12 determined by the commissioner, and necessary expenses incurred during
13 his or her performance as temporary operator. The temporary operator
14 shall be liable only in his or her capacity as temporary operator of the
15 program for injury to person and property by reason of his or her opera-
16 tion of such program; he or she shall not have any liability in his or
17 her personal capacity, except for gross negligence and intentional acts.

18 5. (a) The initial term of the appointment of the temporary operator
19 shall not exceed ninety days. After ninety days, if the commissioner
20 determines that termination of the temporary operator would cause
21 significant deterioration of the quality of, or access to, health care
22 in the community or that reappointment is necessary to correct the defi-
23 ciencies that required the appointment of the temporary operator, the
24 commissioner may authorize an additional ninety-day term. However, such
25 authorization shall include the commissioner's requirements for conclu-
26 sion of the temporary operatorship to be satisfied within the additional
27 term.

1 (b) Within fourteen days prior to the termination of each term of the
2 appointment of the temporary operator, the temporary operator shall
3 submit to the commissioner and to the established operator a report
4 describing:

5 (i) the actions taken during the appointment to address: the identi-
6 fied program deficiencies; the resumption of program operations by the
7 established operator; or the transfer of the patients to other
8 OASAS-certified providers;

9 (ii) objectives for the continuation of the temporary operatorship if
10 necessary and a schedule for satisfaction of such objectives; and

11 (iii) if applicable, the recommended actions for the ongoing operation
12 of the program subsequent to the temporary operatorship.

13 (c) The term of the initial appointment and of any subsequent reap-
14 pointment may be terminated prior to the expiration of the designated
15 term, if the established operator and the commissioner agree on a plan
16 of correction and the implementation of such plan.

17 6. (a) The commissioner shall, upon making a determination of an
18 intention to appoint a temporary operator pursuant to paragraph (a) of
19 subdivision two of this section cause the established operator of the
20 facility to be notified of the intention by registered or certified mail
21 addressed to the principal office of the established operator. Such
22 notification shall include a detailed description of the findings under-
23 lying the intention to appoint a temporary operator, and the date and
24 time of a required meeting with the commissioner and/or his or her
25 designee within ten business days of the receipt of such notice. At such
26 meeting, the established operator shall have the opportunity to review
27 and discuss all relevant findings. At such meeting, the commissioner and
28 the established operator shall attempt to develop a mutually satisfac-

1 tory plan of correction and schedule for implementation. In such event,
2 the commissioner shall notify the established operator that the commis-
3 sioner will abstain from appointing a temporary operator contingent upon
4 the established operator remediating the identified deficiencies within
5 the agreed upon timeframe.

6 (b) Should the commissioner and the established operator be unable to
7 establish a plan of correction pursuant to paragraph (a) of this subdi-
8 vision, or should the established operator fail to respond to the
9 commissioner's initial notification, there shall be an administrative
10 hearing on the commissioner's determination to appoint a temporary oper-
11 ator to begin no later than thirty days from the date of the notice to
12 the established operator. Any such hearing shall be strictly limited to
13 the issue of whether the determination of the commissioner to appoint a
14 temporary operator is supported by substantial evidence. A copy of the
15 decision shall be sent to the established operator.

16 (c) If the decision to appoint a temporary operator is upheld such
17 temporary operator shall be appointed as soon as is practicable and
18 shall operate the program pursuant to the provisions of this section.

19 7. Notwithstanding the appointment of a temporary operator, the estab-
20 lished operator remains obligated for the continued operation of the
21 facility so that the program can function in a normal manner. No
22 provision contained in this section shall be deemed to relieve the
23 established operator or any other person of any civil or criminal
24 liability incurred, or any duty imposed by law, by reason of acts or
25 omissions of the established operator or any other person prior to the
26 appointment of any temporary operator of the program hereunder; nor
27 shall anything contained in this section be construed to suspend during
28 the term of the appointment of the temporary operator of the program any

1 obligation of the established operator or any other person for the main-
2 tenance and repair of the facility, provision of utility services,
3 payment of taxes or other operating and maintenance expenses of the
4 facility, nor of the established operator or any other person for the
5 payment of mortgages or liens.

6 § 52. Section 3000 of the public health law, as amended by chapter 804
7 of the laws of 1992, is amended to read as follows:

8 § 3000. Declaration of policy and statement of purpose. The furnishing
9 of medical assistance in an emergency and non-emergency situation is a
10 matter of vital concern affecting the public health, safety and welfare.
11 Prehospital emergency medical care, the provision of prompt and effec-
12 tive communication among ambulances, advanced life support services and
13 hospitals and safe and effective care and transportation of the sick and
14 injured are essential public health services.

15 It is the purpose of this article to promote [the] public health and
16 wellness, safety and welfare by providing for certification of all
17 advanced life support first response services and ambulance services;
18 the creation of regional emergency medical services [councils] advisory
19 boards; and a New York state emergency medical services [council] advi-
20 sory board to [develop] advise the department and the commissioner in
21 the development of minimum training standards for certified first
22 responders, emergency medical technicians and advanced emergency medical
23 technicians and minimum equipment and communication standards for
24 advanced life support first response services and ambulance services.

25 § 53. Subdivision 2 and paragraphs (a), (c) and (e) of subdivision 3
26 of section 3000-b of the public health law, subdivision 2 as amended by
27 chapter 583 of the laws of 1999, paragraph (a) of subdivision 3 as
28 amended by chapter 243 of the laws of 2010 and paragraphs (c) and (e) of

1 subdivision 3 as added by chapter 552 of the laws of 1998, are amended
2 to read as follows:

3 2. Collaborative agreement. A person, firm, organization or other
4 entity may purchase, acquire, possess and operate an automated external
5 defibrillator pursuant to a collaborative agreement with an emergency
6 health care provider. The collaborative agreement shall include a writ-
7 ten agreement and written practice protocols, and policies and proce-
8 dures that shall assure compliance with this section. The public access
9 defibrillation provider shall file a copy of the collaborative agreement
10 with the department and with the appropriate regional [council] board
11 prior to operating the automated external defibrillator.

12 (a) No person may operate an automated external defibrillator unless
13 the person has successfully completed a training course in the operation
14 of an automated external defibrillator approved by a nationally-recog-
15 nized organization or the [state emergency medical services council]
16 commissioner and the completion of the course was recent enough to still
17 be effective under the standards of the approving organization. Howev-
18 er, this section shall not prohibit operation of an automated external
19 defibrillator, (i) by a health care practitioner licensed or certified
20 under title VIII of the education law or a person certified under this
21 article acting within his or her lawful scope of practice; (ii) by a
22 person acting pursuant to a lawful prescription; or (iii) by a person
23 who operates the automated external defibrillator other than as part of
24 or incidental to his or her employment or regular duties, who is acting
25 in good faith, with reasonable care, and without expectation of monetary
26 compensation, to provide first aid that includes operation of an auto-
27 mated external defibrillator; nor shall this section limit any good

1 samaritan protections provided in section three thousand-a of this arti-
2 cle.

3 (c) The public access defibrillation provider shall notify the appro-
4 priate regional [council] board of the existence, location and type of
5 any automated external defibrillator it possesses.

6 (e) The emergency health care provider shall participate in the
7 regional quality improvement program pursuant to subdivision one of
8 section three thousand [four-a] four of this article.

9 § 54. Subdivision 2 and paragraph (a) of subdivision 3 of section
10 3000-c of the public health law, as added by chapter 578 of the laws of
11 1999, are amended to read as follows:

12 2. Collaborative agreement. Any eligible person, firm, organization or
13 other entity may purchase, acquire, possess and use epinephrine auto-in-
14 jector devices pursuant to a collaborative agreement with an emergency
15 health care provider. The collaborative agreement shall include a writ-
16 ten agreement that incorporates written practice protocols, and policies
17 and procedures that shall ensure compliance with the provisions of this
18 section. The person, firm, organization or entity shall file a copy of
19 the collaborative agreement with the department and with the appropriate
20 regional [council] board prior to using any epinephrine auto-injector
21 device.

22 (a) No person shall use an epinephrine auto-injector device unless
23 such person shall have successfully completed a training course in the
24 use of epinephrine auto-injector devices approved by the commissioner
25 [pursuant to the rules of the department]. This section does not prohib-
26 it the use of an epinephrine auto-injector device (i) by a health care
27 practitioner licensed or certified under title eight of the education

1 law acting within the scope of his or her practice, or (ii) by a person
2 acting pursuant to a lawful prescription.

3 § 55. Section 3001 of the public health law, as amended by chapter 804
4 of the laws of 1992, subdivisions 13 and 15 as amended by chapter 445 of
5 the laws of 1993, is amended to read as follows:

6 § 3001. Definitions. As used in this article, unless the context
7 otherwise requires:

8 1. "Emergency medical service" means initial emergency and out of
9 hospital medical assistance including, but not limited to, the treatment
10 of trauma, burns, respiratory, circulatory [and], obstetrical emergen-
11 cies and response in disasters.

12 1-a. "Pediatric care" means medical care provided to neonates,
13 infants, toddlers, preschoolers, school agers and adolescents.

14 1-b. "Trauma care" means health care provided to patients at high risk
15 of death or disability from multiple and severe injuries.

16 1-c. "Disaster care" means care provided to patients who are the
17 victims of natural or man-made disasters, including but not limited to
18 biologic, nuclear, incendiary, chemical and explosive disasters.

19 2. "Ambulance service" means an individual, partnership, association,
20 corporation, municipality or any legal or public entity or subdivision
21 thereof engaged in providing emergency and out of hospital medical care
22 and the transportation of sick or injured persons by motor vehicle,
23 aircraft or other forms of transportation to, from, or between general
24 hospitals or other health care facilities.

25 3. "Voluntary ambulance service" means an ambulance service (i) oper-
26 ating not for pecuniary profit or financial gain, and (ii) no part of
27 the assets or income of which is distributable to, or enures to the

1 benefit of, its members, directors or officers except to the extent
2 permitted under this article.

3 4. "Voluntary advanced life support first response service" means
4 advanced life support first response service (i) operating not for pecu-
5 niary profit or financial gain, and (ii) no part of the assets or income
6 of which is distributable to, or enures to the benefit of, its members,
7 directors or officers except to the extent permitted under this article.

8 5. "Certified first responder" means an individual who meets the mini-
9 mum training, education and certification requirements established by
10 [regulations pursuant to section three thousand two of this article] the
11 commissioner and who is responsible for administration of initial life
12 saving care of sick and injured persons.

13 6. "Emergency medical technician" means an individual who meets the
14 minimum training, education and certification requirements established
15 by [regulations pursuant to section three thousand two of this article]
16 the commissioner and who is responsible for administration or super-
17 vision of initial emergency medical care and transportation of sick or
18 injured persons.

19 7. "Advanced emergency medical technician" means an emergency medical
20 technician who [has satisfactorily completed an advanced course of
21 training approved by the state council under regulations pursuant to
22 section three thousand two of this article] meets the minimum training,
23 education and certification requirements established by the commissioner
24 and who is responsible for administration or supervision of advanced
25 emergency and out of hospital medical care and transportation of sick or
26 injured persons.

27 7-a. "Paramedic" means an individual that meets the minimum training,
28 education and certification requirements established by the commissioner

1 and who is responsible for administration or supervision of advanced
2 emergency care, out of hospital medical care and transportation of sick
3 or injured persons.

4 8. "State [council] board" means the New York state emergency medical
5 services [council] advisory board established pursuant to this article.

6 9. "Regional [council] board" means a regional emergency medical
7 services [council] advisory board established pursuant to this article.

8 10. "Enrolled member" means any member of a voluntary ambulance
9 service or voluntary advanced life support first response service who
10 provides emergency medical care or transportation of sick or injured
11 persons without expectation of monetary compensation.

12 11. "Advanced life support care" means definitive acute medical care
13 provided, under medical control, by advanced emergency medical techni-
14 cians within an advanced life support system.

15 12. "Advanced life support system" means an organized acute medical
16 care system to provide advanced life support care on site or en route
17 to, from, or between general hospitals or other health care facilities.

18 13. "Advanced life support mobile unit" means an ambulance or advanced
19 life support first response vehicle approved to provide advanced life
20 support services pursuant to this article.

21 14. "Qualified medical and health personnel" means physicians, regis-
22 tered professional nurses and advanced emergency medical technicians
23 competent in the management of patients requiring advanced life support
24 care.

25 15. "Medical control" means: (a) advice and direction provided by a
26 physician or under the direction of a physician to certified first
27 responders, emergency medical technicians or advanced emergency medical
28 technicians who are providing medical care at the scene of an emergency

1 or en route to a health care facility; and (b) indirect medical control
2 including the written policies, procedures, and protocols for prehospi-
3 tal emergency medical care and transportation developed by [the state
4 emergency medical advisory committee, approved by the state emergency
5 medical services council and] the commissioner, and implemented by
6 regional emergency medical advisory committees.

7 16. "Regional emergency medical advisory committee" means a group of
8 five or more physicians, and one or more non-voting individuals repre-
9 sentative of each of the following: hospitals, basic life support
10 providers, advanced life support providers and emergency medical
11 services training sponsor medical directors approved by the affected
12 regional [emergency medical services councils] boards.

13 17. "Advanced life support first response service" means an organiza-
14 tion which provides advanced life support care, but does not transport
15 patients.

16 18. ["EMS program agency" means a not-for-profit corporation or muni-
17 cipality designated by the state council and approved by the affected
18 regional council or councils to facilitate the development and operation
19 of an emergency medical services system within a region as directed by
20 the regional council under this article.

21 19.] "Operator" means any person who by reason of a direct or indirect
22 ownership interest (whether of record or beneficial) has the ability,
23 acting either alone or in concert with others with ownership interests,
24 to direct or cause the direction of the management or policies of an
25 ambulance service or advanced life support first response service.

26 [20] 19. "Mutual aid agreement" means a written agreement, entered
27 into by two or more ambulance services or advanced life support first
28 response services possessing valid [ambulance service or advanced life

1 support first response service certificates or statements of registra-
2 tion] operating authority, fire services as defined by section two
3 hundred nine-b of the general municipal law, or the governing body of
4 any city, town or village, for the organized, supervised, coordinated,
5 and cooperative reciprocal mobilization of personnel, equipment,
6 services, or facilities for [back-up or support upon request as required
7 pursuant to a written mutual aid plan] outside service upon request. An
8 ambulance service and advanced life support first response service may
9 participate in one or more mutual aid agreements.

10 [21] 20. "Primary territory" means the geographic area or subdivi-
11 sions listed on an ambulance service certificate [or statement of regis-
12 tration within which the ambulance service may receive patients for
13 transport].

14 § 56. Section 3002 of the public health law is REPEALED and a new
15 section 3002 is added to read as follows:

16 § 3002. New York state emergency medical services advisory board. 1.
17 There is hereby created within the department of health the New York
18 state emergency medical services advisory board. The board shall consist
19 of thirty-one members, appointed by the commissioner, who shall be
20 representative of the diversity of the emergency medical and trauma
21 system in the state, particularly regarding diversity in geography,
22 industry and patient care. Members shall serve at the pleasure of the
23 commissioner for three year terms, except that the term of eleven of the
24 initial advisory members shall be for two years; provided that a member
25 shall continue to serve in full capacity until such time as the member
26 resigns, is removed or replaced. No person may serve as a member for
27 more than two consecutive terms total. The commissioner shall appoint a

1 chair and a vice-chair. Members of the state board shall receive no
2 compensation for their services as members.

3 2. No civil action shall be brought in any court against any member,
4 officer or employee of the state board for any act done, failure to act,
5 or statement or opinion made, while discharging his or her duties as a
6 member, officer or employee of the state board, without leave from a
7 justice of the supreme court, first had and obtained. In no event shall
8 such member, officer or employee be liable for damages in any such
9 action if he or she shall have acted in good faith, with reasonable care
10 and upon probable cause.

11 3. The state board shall advise the department on issues related to
12 emergency medical services, pediatric care, trauma care and disaster
13 care, and assist in the coordination of such, including but not limited
14 to the development, periodic revision, and application of rules and
15 regulations, appropriateness review standards, and quality improvement
16 guidelines, as the commissioner and the department may request. The
17 state board shall have the same authority granted to regional boards by
18 the article in any region of the state in which a regional board has not
19 been established. The state board may meet as frequently as requested by
20 the department.

21 4. Upon appeal from any concerned party, the state board may recommend
22 amendment, modification and reversal of determinations of the regional
23 boards and regional emergency medical advisory committees made pursuant
24 to any section of this article. The commissioner shall review all recom-
25 mendations of the state board and may approve, disapprove or modify such
26 recommendations. All recommendations approved, disapproved or modified
27 by the commissioner shall be subject to review as provided in article
28 seventy-eight of the civil practice law and rules. Application for such

1 review must be made within sixty days after service in person or by
2 registered or certified mail.

3 5. The commissioner may appoint a technical advisory group to compile
4 and review data, draft documents, or perform other tasks related to the
5 discovery or production of information needed in order for the state
6 board to properly consider a matter. Technical advisory groups shall be
7 appointed only for a limited and defined period of time in the perform-
8 ance of a specific task in relation to a specific matter. Information
9 obtained or produced by the technical advisory group shall be provided
10 to and examined by the state advisory board.

11 § 57. Section 3002-a of the public health law is REPEALED.

12 § 58. Section 3003 of the public health law, as added by chapter 1053
13 of the laws of 1974, subdivision 1 as amended by chapter 1054 of the
14 laws of 1974, subdivisions 2 and 5 as amended by chapter 445 of the laws
15 of 1993, subdivisions 3 and 5-a as added and paragraph (a) of subdivi-
16 sion 10 as amended by chapter 804 of the laws of 1992, subdivision 4 as
17 amended by chapter 580 of the laws of 2007 and subdivision 10 as added
18 by chapter 1016 of the laws of 1981, is amended to read as follows:

19 § 3003. Regional emergency medical services [councils] advisory
20 boards. 1. The commissioner[, with the approval of the state council,]
21 shall designate regional emergency medical services [councils on or
22 before January first, nineteen hundred seventy-eight] boards but in no
23 event shall the number of regional [councils] boards exceed [eighteen]
24 ten. Such a regional [councils] board shall be established on the basis
25 of application for designation as a regional [councils] board submitted
26 by local organizations, the members of which are knowledgeable in vari-
27 ous aspects of emergency medical services. Such application shall
28 describe the geographic area to be served and contain a list of nominees

1 for appointment to membership on such regional [councils] board and a
2 statement as to the proposed method of operation in such detail as the
3 commissioner[, with the approval of the state council,] shall prescribe.

4 2. Each regional [council] board shall be comprised of at least
5 fifteen but not more than thirty members to be initially appointed by
6 the commissioner, [with the approval of the state council] in consulta-
7 tion with the state board, from nominations submitted by local organiza-
8 tions applying for establishment as the regional [council] board. Such
9 members shall be representative of the diversity of emergency medical
10 services in the region; particularly with respect to diversity in
11 geography, industry and patient care. Not less than one-third of the
12 membership of the regional [councils] boards shall be representatives of
13 ambulance services and the remaining membership of the regional [coun-
14 cils] boards shall consist of, but not be limited to, representatives of
15 existing local emergency medical care committees, physicians, nurses,
16 hospitals, health planning agencies, fire department emergency and
17 rescue squads, public health officers and the general public. The county
18 EMS coordinator, established pursuant to section two hundred twenty-
19 three-b of the county law, of any county within the region shall serve
20 as an ex officio member of the regional [council] board; provided,
21 however, nothing in this subdivision shall prevent a county EMS coordi-
22 nator from serving as a voting member of a regional [council] board.
23 Members of each regional [council] board shall be residents living with-
24 in the geographic area to be served by the regional [council] board. The
25 presence of a majority of members shall constitute a quorum.

26 3. Each regional [council] board shall assist the regional emergency
27 medical advisory committees, other regional boards, state board, depart-
28 ment and commissioner, as required by this article and requested by the

1 department and commissioner, in carrying out the provisions of this
2 article, and shall have the power to:

3 (a) [have a seal and alter the same at pleasure;

4 (b) acquire, lease, hold, and dispose of real and personal property or
5 any interest therein for its purposes;

6 (c) make and alter by-laws for its organization and internal manage-
7 ment, and rules and regulations governing the exercise of its powers and
8 the fulfillment of its purposes under this article; such rules and regu-
9 lations must be filed with the secretary of state and the state EMS
10 council;

11 (d) enter into contracts for employment of such officers and employees
12 as it may require for the performance of its duties; and to fix and
13 determine their qualifications, duties, and compensation, and to retain
14 and employ such personnel as may be required for its purposes; and
15 private consultants on a contract basis or otherwise, for the rendering
16 of professional or technical services and advice;

17 (e) enter into contracts, leases, and subleases and to execute all
18 instruments necessary or convenient for the conduct of its business,
19 including contracts with the commissioner and any state agency or munic-
20 ipal entity; and contracts with hospitals and physicians for the
21 purposes of carrying out its powers under this article;

22 (f)] undertake or cause to be undertaken plans, surveys, analyses and
23 studies necessary, convenient or desirable for the effectuation of its
24 purposes and powers, and to prepare recommendations and reports in
25 regard thereto;

26 [(g)] (b) fix and collect reasonable fees, rents, and other charges
27 for the use of its equipment and the provision of its services;

1 [(h) contract for and to accept any gifts or grants, subsidies, or
2 loans of funds or property, or financial or other aid in any form from
3 the federal or state government or any agency or instrumentality there-
4 of; or from any other source, public or private, and to comply, subject
5 to the provisions of this article, with the terms and conditions there-
6 of; provided, however, that the councils may contract for payment of
7 debt evidenced by bonds or notes or other evidence of indebtedness,
8 either directly or through a lease purchase agreement;

9 (i)] (c) recommend to the department approval of training course spon-
10 sors within its region, and to develop, promulgate and implement annual-
11 ly an EMS training plan which addresses the needs of its region;

12 [(j)] (d) enter into [contracts or memoranda of agreement] agreements
13 with other regional [councils] boards to provide services in a joint or
14 cooperative manner; and [to enter into contracts or memoranda of agree-
15 ment with an EMS program agency to carry out one or more of its respon-
16 sibilities under this article;

17 (k) procure insurance against any loss or liability in connection with
18 the use, management, maintenance, and operation of its equipment and
19 facilities, in such amounts and from such insurers as it reasonably
20 deems necessary;

21 (l) approve] (e) recommend to the commissioner individuals for
22 appointment to its regional medical advisory committee [nominees;

23 (m) provide focused technical assistance and support to those volun-
24 tary ambulance services operating under exemptions, to assist such
25 services in progressing toward the uniform standards established pursu-
26 ant to this section. Such assistance and support shall include, but not
27 be limited to, volunteer recruitment and management training; and

1 (n) do all things necessary, convenient and desirable to carry out its
2 purposes and for the exercise of the powers granted in this article].

3 4. Each regional [council] board shall have the responsibility to
4 coordinate emergency medical services programs within its region,
5 including but not limited to, the establishment of emergency medical
6 technician courses and the issuance of uniform emergency medical techni-
7 cian insignia and certificates. Such training courses shall be made
8 available by video or computer to the maximum extent possible.

9 5. [The] Each regional [council] board shall have the responsibility
10 to make determinations of public need for the establishment of addi-
11 tional emergency medical services and ambulance services within its
12 geographic area and to make the determinations of public need as
13 provided in section three thousand eight of this article. The regional
14 [council] board shall make such determination by an affirmative vote of
15 a majority of all of those members consisting of voting members.

16 [5-a. The regional emergency medical services council is authorized to
17 grant an exemption from the staffing standards set forth in section
18 three thousand five-a of this article to a voluntary ambulance service
19 operating solely with enrolled members or paid emergency medical techni-
20 cians which has demonstrated a good faith effort to meet the standards
21 and is unable to meet such standards because of factors deemed appropri-
22 ate by the regional council. An exemption shall be for a period not to
23 exceed two years and shall be conditioned on the participation by the
24 voluntary service in a program to achieve compliance which shall include
25 technical assistance and support from the regional council tailored to
26 the needs and resources at the local level, as provided by paragraph (m)
27 of subdivision three of this section, to be funded by the New York state
28 emergency medical services training account established pursuant to

1 section ninety-seven-q of the state finance law, such account as funded
2 by a chapter of the laws of nineteen hundred ninety-three. Nothing shall
3 prevent the regional council from issuing subsequent exemptions. Such
4 exemptions shall have no effect whatsoever on the insurability of the
5 organization receiving such exemption and such exemption shall not be
6 used as a basis for increasing insurance rates or premiums related ther-
7 eto, notwithstanding any other provision of law, rule, regulation, or
8 commissioner's ruling or advisory to the contrary. Prior to issuing an
9 exemption, the regional council shall provide written notice by certi-
10 fied mail to the chief executive officers of all general hospitals and
11 municipalities in the county or counties within which the service
12 requesting an exemption operates. Such notice shall provide opportunity
13 for comment on the issuance of the exemption. Notice of the determi-
14 nation of the regional council shall be provided within ten days of the
15 determination to the applicant, the department, and any party receiving
16 notification of the application who requests notice of the determi-
17 nation. The applicant, the department, or any concerned party may appeal
18 the determination of the regional council to the state council within
19 thirty days after the regional council makes its determination.]

20 6. The term of office of members of [the] each regional [council]
21 board shall be four years, except that of those members first appointed,
22 at least one-half but not more than two-thirds shall be for [terms] a
23 term not to exceed two years.

24 7. Each regional [council] board shall meet as frequently as its busi-
25 ness may require.

26 8. [The commissioner, upon request of the regional council, may desig-
27 nate an officer or employee of the department to act as secretary of the

1 regional council, and may assign from time to time such other employees
2 as the regional council may require.

3 9.] No civil action shall be brought in any court against any member,
4 officer or employee of any designated regional [council] board for any
5 act done, failure to act, or statement or opinion made, while discharg-
6 ing his duties as a member, officer or employee of the regional [coun-
7 cil] board, without leave from a justice of the supreme court, first had
8 and obtained. In any event such member, officer or employee shall not be
9 liable for damages in any such action if he shall have acted in good
10 faith, with reasonable care and upon probable cause.

11 [10. (a) The department shall provide each regional council with the
12 funds necessary to enable such regional council to carry out its respon-
13 sibilities as mandated under this section within amounts appropriated
14 therefor.

15 (b) Such funds shall be provided upon approval by the department of an
16 application submitted by a regional council. The application shall
17 contain such information and be in such form as the commissioner shall
18 require pursuant to rules and regulations which he shall promulgate
19 after consultation with the state council in order to effect the
20 purposes and provisions of this subdivision.]

21 9. All determinations of the regional boards may be appealed to the
22 state board pursuant to subdivision three of section three thousand two
23 of this article.

24 § 59. Section 3003-a of the public health law is REPEALED.

25 § 60. Section 3004-a of the public health law, as added by chapter 804
26 of the laws of 1992, subdivision 4 as added by chapter 445 of the laws
27 of 1993, is renumbered section 3004 and amended to read as follows:

1 § 3004. Regional emergency medical advisory committees. 1. Regional
2 emergency medical advisory committees shall develop policies, proce-
3 dures, and triage, treatment, and transportation protocols for emergency
4 medical services which are consistent with the state-wide minimum stand-
5 ards [of the state emergency medical advisory committee] established by
6 the commissioner in consultation with the state board, and which address
7 specific local conditions. Regional emergency medical advisory commit-
8 tees may also approve physicians to provide on line medical control,
9 coordinate the development of regional medical control systems, and
10 participate in quality improvement activities addressing system-wide
11 concerns. Hospitals and prehospital medical care services shall be
12 authorized to release patient outcome information to regional emergency
13 medical advisory committees for purposes of assessing prehospital care
14 concerns. Regional quality improvement programs shall be presumed to be
15 an extension of the quality improvement program set forth in section
16 three thousand six of this article, and the provisions of subdivisions
17 two and three of such section three thousand six shall apply to such
18 programs.

19 2. [The committee shall nominate to the commissioner a physician with
20 demonstrated knowledge and experience in emergency medical services to
21 serve on the state emergency medical advisory committee.

22 3.] No civil action shall be brought in any court against any member,
23 officer or employee of the committee for any act done, failure to act,
24 or statement or opinion made, while discharging his or her duties as a
25 member, officer, or employee of the committee, without leave from a
26 justice of the supreme court, first had and obtained. In no event shall
27 such member, officer, or employee be liable for damages in any such

1 action if he or she shall have acted in good faith, with reasonable care
2 and upon probable cause.

3 [4.] 3. Any decision of a regional emergency medical advisory commit-
4 tee regarding provision of a level of care, including staffing require-
5 ments, may be appealed to the state [emergency medical advisory commit-
6 tee] board by any regional [EMS council] board, ambulance service,
7 advanced life support service, certified first responder, emergency
8 medical technician, or advanced emergency medical technician adversely
9 affected. No action shall be taken to implement a decision regarding
10 existing levels of care or staffing while an appeal of such decision is
11 pending. [Any decision of the state emergency medical advisory committee
12 may be appealed pursuant to subdivision two-a of section three thousand
13 two-a of this article.]

14 § 61. Section 3005 of the public health law, as amended by chapter 804
15 of the laws of 1992, subdivision 5 as amended and subdivision 8 as added
16 by chapter 445 of the laws of 1993, is amended to read as follows:

17 § 3005. Ambulance service certificates. 1. No ambulance service [oper-
18 ating for profit, hospital ambulance service or municipal ambulance
19 service of a city of over one million population shall operate on or
20 after September first, nineteen hundred seventy-five unless it possesses
21 a valid ambulance service certificate issued pursuant to this article.
22 Effective January first, nineteen hundred ninety-seven, no ambulance
23 service shall be operated unless it possesses a valid ambulance service
24 operating certificate issued pursuant to this article or has been issued
25 a statement of registration. No advanced life support first response
26 service shall operate unless it possesses a valid advanced life support
27 first responder service operating certificate. Effective January first,
28 two thousand, no ambulance service] or advanced life support first

1 response service shall be operated unless it possesses a valid operating
2 certificate.

3 2. [The department shall issue an initial certificate to an ambulance
4 service certified prior to the effective date of this section upon
5 submission of proof that it is the holder of a valid ambulance service
6 certificate and is otherwise in compliance with provisions of section
7 three thousand nine of this article.

8 2-a. Prior to January first, two thousand, the department shall issue
9 an initial certificate to a registered ambulance service in possession
10 of a valid registration provided that such service has been issued an
11 exemption issued by a regional council pursuant to subdivision five-a of
12 section three thousand three of this article.

13 3. The department shall issue an initial certificate to an advanced
14 life support first response service upon submission of proof that such
15 advanced life support first response service is staffed and equipped in
16 accordance with rules and regulations promulgated pursuant to this arti-
17 cle and is otherwise in compliance with provisions of section three
18 thousand nine of this article.

19 4.] A certificate issued by the department to an ambulance service or
20 advanced life support first response service shall be valid for two
21 years. The initial certification fee shall be one hundred dollars. Ther-
22 eafter the biennial fee shall be in accordance with the schedule of fees
23 established by the commissioner pursuant to this article. However, there
24 shall be no initial or renewal certification fee required of a voluntary
25 ambulance service or voluntary advanced life support first response
26 service.

27 [5.] 3. No initial certificate [(except initial certificates issued
28 pursuant to subdivision two of this section)] shall be issued unless the

1 commissioner finds that the proposed operator or operators are competent
2 and fit to operate the service and that the ambulance service or
3 advanced life support first response service is staffed and equipped in
4 accordance with rules and regulations promulgated pursuant to this arti-
5 cle.

6 [6.] 4. No ambulance service or advanced life support first response
7 service shall begin operation without prior approval of the appropriate
8 regional [council] board, or if there is no appropriate regional [coun-
9 cil] board established such ambulance service or advanced life support
10 first response service shall apply for approval from the state [council]
11 board as to the public need for the establishment of additional ambu-
12 lance service or advanced life support first response service, pursuant
13 to section three thousand eight of this article.

14 [7.] 5. Applications for a certificate shall be made by the owner of
15 an ambulance service or advanced life support first response service
16 operating for profit or the responsible official of a voluntary ambu-
17 lance service or advanced life support first response service upon forms
18 provided by the department. The application shall state the name and
19 address of the owner and provide such other information as the depart-
20 ment may require pursuant to rules and regulations.

21 [8.] 6. For purposes of this article, competent means that any
22 proposed operator of any ambulance service or advanced life support
23 first response service who is already or had been within the last ten
24 years an incorporator, director, sponsor, principal stockholder, or
25 operator of any ambulance service, hospital, private proprietary home
26 for adults, residence for adults, or non-profit home for the aged or
27 blind which has been issued an operating certificate by the state
28 department of social services, or a halfway house, hostel, or other

1 residential facility or institution for the care, custody, or treatment
2 of the mentally disabled subject to the approval by the department of
3 mental hygiene, or any invalid coach service subject to approval by the
4 department of transportation, is rendering or did render a substantially
5 consistent high level of care. For purposes of this subdivision, the
6 [state emergency medical services council] commissioner, in consultation
7 with the state board, shall [adopt] promulgate rules and regulations[,
8 subject to the approval of the commissioner,] to establish the criteria
9 to be used to define substantially consistent high level of care with
10 respect to ambulance services[,] and advanced life support first
11 response services, [and invalid coaches,] except that the commissioner
12 may not find that a consistently high level of care has been rendered
13 where there have been violations of the state EMS code, or other appli-
14 cable rules and regulations, that (i) threatened to directly affect the
15 health, safety, or welfare of any patient, and (ii) were recurrent or
16 were not promptly corrected. For purposes of this article, the rules
17 adopted by the state [hospital review and planning council] public
18 health and health planning council with respect to subdivision three of
19 section twenty-eight hundred one-a of this chapter shall apply to other
20 types of operators. Fit means that the operator or proposed operator (a)
21 has not been convicted of a crime or pleaded nolo contendere to a felony
22 charge involving murder, manslaughter, assault, sexual abuse, theft,
23 robbery, fraud, embezzlement, drug abuse, or sale of drugs and (b) is
24 not or was not subject to a state or federal administrative order relat-
25 ing to fraud or embezzlement, unless the commissioner finds that such
26 conviction or such order does not demonstrate a present risk or danger
27 to patients or the public.

1 § 62. Section 3005-a of the public health law, as added by chapter 804
2 of the laws of 1992, subdivision 1 as amended by chapter 445 of the laws
3 of 1993, is amended to read as follows:

4 § 3005-a. Staffing standards; ambulance services and advanced life
5 support first response services. 1. The following staffing standards
6 shall be in effect unless otherwise provided by this section:

7 [(a) effective January first, nineteen hundred ninety-seven the mini-
8 mum staffing standard for a registered ambulance service shall be a
9 certified first responder with the patient;

10 (b) effective January first, two thousand, the] The minimum staffing
11 standard for [a voluntary] each ambulance service shall be an emergency
12 medical technician with the patient;

13 [(c) the minimum staffing standard for all other ambulance services
14 shall be an emergency medical technician with the patient; and

15 (d)] 2. the minimum staffing standard for an advanced life support
16 first response service shall be an advanced emergency medical technician
17 with the patient. Circumstances permitting other than advanced life
18 support care by an advanced life support first response service may be
19 established by rule promulgated by [the state council, subject to the
20 approval of] the commissioner, in consultation with the state board.

21 [2. Any service granted an exemption by the regional council pursuant
22 to subdivision five-a of section three thousand three of this article
23 shall be subject to the standards and terms of the exemption.

24 3. Notwithstanding any other provision of this article, the effective
25 date of the standards established by this section shall be delayed by
26 one year for each fiscal year, prior to January first, two thousand, in
27 which the amounts appropriated are less than that which would have been

1 expended pursuant to the provisions of section ninety-seven-q of the
2 state finance law.]

3 § 63. Section 3005-b of the public health law is REPEALED.

4 § 64. Section 3006 of the public health law, as added by chapter 804
5 of the laws of 1992, subdivision 1 as amended and subdivision 4 as added
6 by chapter 445 of the laws of 1993, is amended to read as follows:

7 § 3006. Quality improvement program. 1. [By January first, nineteen
8 hundred ninety-seven, every] Every ambulance service and advanced life
9 support first response service shall establish or participate in a qual-
10 ity improvement program, which shall be an ongoing system to monitor and
11 evaluate the quality and appropriateness of the medical care provided by
12 the ambulance service or advanced life support first response service,
13 and which shall pursue opportunities to improve patient care and to
14 resolve identified problems. The quality improvement program may be
15 conducted independently or in collaboration with other services, with
16 the appropriate regional [council, with an EMS program agency] board,
17 with a hospital, or with another appropriate organization approved by
18 the department. Such program shall include a committee of at least five
19 members, at least three of whom do not participate in the provision of
20 care by the service. At least one member shall be a physician, and the
21 others shall be nurses, or emergency medical technicians, or advanced
22 emergency medical technicians, or other appropriately qualified allied
23 health personnel. The quality improvement committee shall have the
24 following responsibilities:

25 (a) to review the care rendered by the service, as documented in
26 prehospital care reports and other materials. The committee shall have
27 the authority to use such information to review and to recommend to the
28 governing body changes in administrative policies and procedures, as may

1 be necessary, and shall notify the governing body of significant defi-
2 ciencies;

3 (b) to periodically review the credentials and performance of all
4 persons providing emergency medical care on behalf of the service;

5 (c) to periodically review information concerning compliance with
6 standard of care procedures and protocols, grievances filed with the
7 service by patients or their families, and the occurrence of incidents
8 injurious or potentially injurious to patients. A quality improvement
9 program shall also include participation in the department's prehospital
10 care reporting system and the provision of continuing education programs
11 to address areas in which compliance with procedures and protocols is
12 most deficient and to inform personnel of changes in procedures and
13 protocols. Continuing education programs may be provided by the service
14 itself or by other organizations; and

15 (d) to present data to the regional emergency medical advisory commit-
16 tee and to participate in system-wide evaluation.

17 1-a. The department shall develop and maintain statewide and regional
18 quality improvement programs for trauma and disaster care, which shall
19 be integrated with the quality improvement program for emergency medical
20 services, and incorporate quality improvement programs from all compo-
21 nents of the trauma system, including, but not limited to, fully inte-
22 grated statewide and regional trauma registries.

23 2. The information required to be collected and maintained, including
24 [information from the prehospital care reporting system which identifies
25 an individual] patient identifying information and protected health
26 information, shall be kept confidential and shall not be released except
27 to the department or pursuant to section three thousand [four-a] four of
28 this article.

1 3. Notwithstanding any other provisions of law, none of the medical
2 records, documentation, or [committee] actions or records required of
3 any quality improvement committee pursuant to this section shall be
4 subject to disclosure under article six of the public officers law or
5 article thirty-one of the civil practice law and rules, except as here-
6 inafter provided or as provided in any other provision of law. No person
7 in attendance at a meeting of any [such] quality improvement committee
8 shall be required to testify as to what transpired thereat. The prohi-
9 bition related to disclosure of testimony shall not apply to the state-
10 ments made by any person in attendance at such a meeting who is a party
11 to an action or proceeding the subject of which was reviewed at the
12 meeting. The prohibition of disclosure of information from the prehos-
13 pital care reporting system shall not apply to information which does
14 not identify a particular ambulance service or individual.

15 4. Any person who in good faith and without malice provides informa-
16 tion to further the purpose of this section or who, in good faith and
17 without malice, participates on the quality improvement committee shall
18 not be subject to any action for civil damages or other relief as a
19 result of such activity.

20 § 65. Section 3008 of the public health law, as added by chapter 1053
21 of the laws of 1974, subdivisions 1 and 2 as amended by chapter 804 of
22 the laws of 1992, subdivision 3 as amended by chapter 252 of the laws of
23 1981, subdivision 6 as added by chapter 850 of the laws of 1992, subdi-
24 vision 7 as added by chapter 510 of the laws of 1997 and paragraph (b)
25 of subdivision 7 as amended by chapter 464 of the laws of 2012, is
26 amended to read as follows:

27 § 3008. Applications for determinations of public need. 1. Every
28 application for a determination of public need shall be made in writing

1 to the appropriate regional [council] board, shall specify the primary
2 territory within which the applicant requests to operate, be verified
3 under oath, and shall be in such form and contain such information as
4 required by the rules and regulations promulgated pursuant to this arti-
5 cle.

6 2. Notice of the application shall be forwarded by registered or
7 certified mail by the appropriate regional [council] board to the chief
8 executive officers of all general hospitals, ambulance services, and
9 municipalities operating within the same county or counties where the
10 services seeks to operate. The notice shall provide opportunity for
11 comment.

12 3. Notice pursuant to this section shall be deemed filed with the
13 ambulance service and municipality upon being mailed by the appropriate
14 regional board or state [council] board by registered or certified mail.

15 4. The appropriate regional [council] board or the state [council]
16 board shall make its determination of public need within sixty days
17 after receipt of the application.

18 5. The applicant or any concerned party may appeal the determination
19 of the appropriate regional [council] board to the state council within
20 thirty days after the regional [council] board makes its determination.

21 6. [In the case of an application for certification under this article
22 by a municipal ambulance service to serve the area within the munici-
23 pality, and the municipal ambulance service meets appropriate training,
24 staffing and equipment standards, there should be a presumption in favor
25 of approving the application.

26 7.] (a) Notwithstanding any other provision of law and subject to the
27 provisions of this article, any municipality within this state, or fire
28 district acting on behalf of any such municipality, and acting through

1 its local legislative body, is hereby authorized and empowered to adopt
2 and amend local laws, ordinances or resolutions to establish and operate
3 advanced life support first [responder] response services or municipal
4 ambulance services within the municipality, upon meeting or exceeding
5 all standards set by the department for appropriate training, staffing
6 and equipment, and upon filing with the [New York state emergency
7 medical services council] department, a written request for such author-
8 ization. Upon such filing, the department shall determine whether such
9 municipal advanced life support first [responder] response service or
10 municipal ambulance service [shall be deemed to have] has satisfied any
11 and all requirements for determination of public need for the establish-
12 ment of additional emergency medical services pursuant to this article
13 [for a period of two years following the date of such filing]. Nothing
14 in this article shall be deemed to [exclude] exempt the municipal
15 advanced life support first [responder] response service or municipal
16 ambulance service authorized to be established and operated pursuant to
17 this article from [complying with] appropriate training, staffing and
18 equipment standards and any other requirement or provision of this arti-
19 cle or any other applicable provision of law.

20 (b) [In the case of an application for certification pursuant to this
21 subdivision, for a municipal advanced life support or municipal ambu-
22 lance service, to serve the area within the municipality, where the
23 proposed service meets or exceeds the appropriate training, staffing and
24 equipment standards, there shall be a strong presumption in favor of
25 approving the application.] Notwithstanding any other provision of this
26 article, for applications submitted prior to April first, two thousand
27 thirteen, any city with a population of fourteen thousand seven hundred
28 or sixty-two thousand two hundred thirty-five, according to the two

1 thousand ten federal decennial census, or fire district acting on behalf
2 of any such city, that applies for permanent certification pursuant to
3 this section at the conclusion of the two year period provided in this
4 subdivision, shall not be required to apply to its regional emergency
5 medical services council or the state emergency medical services council
6 for a determination of need, and the application shall be submitted to
7 and approved by the commissioner unless the commissioner finds that the
8 municipal advanced life support first responder service or municipal
9 ambulance service has failed to meet the appropriate training, staffing
10 and equipment standards.

11 § 66. Section 3009 of the public health law is REPEALED.

12 § 67. Section 3010 of the public health law, as amended by chapter 804
13 of the laws of 1992, subdivision 1 as amended by chapter 588 of the laws
14 of 1993 and subdivisions 2 and 3 as amended by chapter 445 of the laws
15 of 1993, is amended to read as follows:

16 § 3010. Area of operation; transfers. 1. Every ambulance or advanced
17 life support first response service certificate [or statement of regis-
18 tration] issued under this article shall specify the primary territory
19 within which the ambulance or advanced life support first response
20 service shall be permitted to operate. An ambulance or advanced life
21 support first response service shall receive patients only within the
22 primary territory specified on its ambulance or advanced life support
23 first response service certificate [or statement of registration],
24 except: (a) when receiving a patient which it initially transported to a
25 facility or location outside its primary territory; (b) as required for
26 the fulfillment of a mutual aid agreement authorized by the regional
27 [council] board, department and commissioner; (c) upon express approval
28 of the department and the appropriate regional [emergency medical

1 services council] board for a maximum of sixty days if necessary to meet
2 an emergency need; provided that in order to continue such operation
3 beyond the sixty day maximum period necessary to meet an emergency need,
4 the ambulance or advanced life support first response service must
5 satisfy the requirements of this article, regarding determination of
6 public need and specification of the primary territory on the ambulance
7 or advanced life support first response service certificate or statement
8 of registration; or (d) an ambulance service or advanced life support
9 first response service organization formed to serve the need for the
10 provision of emergency medical services in accordance with the religious
11 convictions of a religious denomination may serve such needs in an area
12 adjacent to such primary territory and, while responding to a call for
13 such service, the needs of other residents of such area at the emergency
14 scene. Any ambulance or advanced life support first response service
15 seeking to operate in more than one region shall make application to
16 each appropriate regional [council] board. Whenever an application is
17 made simultaneously to more than one regional [council] board, the
18 applications submitted to the regional [councils] boards shall be iden-
19 tical, or copies of each application shall be submitted to all the
20 regional [councils] boards involved.

21 2. No ambulance or advanced life support first response service
22 certificate shall be transferable unless the regional [council] board
23 and the department [reviews] review and [approves] approve the transfer
24 as follows:

25 a. Any change in the individual who is the sole proprietor of an ambu-
26 lance or advanced life support first response service shall only be
27 approved upon a determination that the proposed new operator is compe-
28 tent and fit to operate the service.

1 b. Any change in a partnership which is the owner of an ambulance or
2 advanced life support first response service shall be approved based
3 upon a determination that the new partner or partners are competent and
4 fit to operate the service. The remaining partners shall not be subject
5 to a character and fitness review.

6 c. Any transfer, assignment or other disposition of ten percent or
7 more of the stock or voting rights thereunder of a corporation which is
8 the owner of an ambulance or advanced life support first response
9 service, or any transfer, assignment or other disposition of the stock
10 or voting rights thereunder of such a corporation which results in the
11 ownership or control of ten percent or more of the stock or voting
12 rights thereunder by any person, shall be approved based upon a determi-
13 nation that the new stockholder or stockholder proposing to obtain ten
14 percent or more of the stock or voting rights thereunder of such corpo-
15 ration is competent and fit to operate the service. The remaining stock-
16 holders shall not be subject to a character and fitness review.

17 d. Any transfer of all or substantially all of the assets of a corpo-
18 ration which owns or operates a [certified] ambulance or advanced life
19 support first response service shall be approved based upon a determi-
20 nation that the individual, partnership, or corporation proposing to
21 obtain all or substantially all of the assets of the corporation is
22 competent and fit to operate the service.

23 e. Any transfer affected in the absence of the review and approval
24 required by this section shall be null and void and the certificate of
25 such ambulance or advanced life support first response service shall be
26 subject to revocation or suspension.

27 3. Nothing contained in this section shall be construed to prohibit
28 any voluntary ambulance or advanced life support first response service

1 authorized by its governing authority to do so from transporting any
2 sick or injured resident of its primary territory from any general
3 hospital or other health care facility licensed by the department,
4 whether or not such general hospital or health care facility is within
5 the service's primary territory, to any other general hospital or health
6 care facility licensed by the department for further care, or to such
7 resident's home. Nothing contained in this section shall be construed to
8 prohibit any proprietary ambulance or advanced life support first
9 response service authorized by its governing body to do so from trans-
10 porting any sick or injured patient from any general hospital or other
11 health care facility licensed by the department whether or not such
12 general hospital or health care facility is within the service's primary
13 territory, to any other general hospital or health care facility
14 licensed by the department within the service's primary territory for
15 further care, or to such patient's home, if such patient's home is with-
16 in its primary territory. Any ambulance or advanced life support first
17 response service owned by or under contract to a general hospital
18 licensed by the department may transport any specialty patient from any
19 other general hospital or health care facility licensed by the depart-
20 ment to the hospital owning such ambulance or advanced life support
21 first response service, or with which it has a contract. Categories of
22 specialty patients shall be defined by rule promulgated by [the state
23 emergency medical services council, subject to the approval of] the
24 commissioner.

25 4. No ambulance or advanced life support first response service
26 certificate of an ambulance or advanced life support first response
27 service which has discontinued operations for a continuous period in

1 excess of thirty days shall be transferable without the approval of the
2 appropriate regional [council] board and the department.

3 § 68. Section 3011 of the public health law, as amended by chapter 804
4 of the laws of 1992, subdivision 3 as amended and subdivision 3-a as
5 added by chapter 501 of the laws of 2000, subdivision 10 as amended by
6 chapter 206 of the laws of 2008 and subdivision 11 as added by chapter
7 542 of the laws of 1995, is amended to read as follows:

8 § 3011. Powers and duties of the department and the commissioner. 1.
9 The commissioner shall issue certification for certified first respon-
10 der, emergency medical technician or advanced emergency medical techni-
11 cian to an individual who meets the minimum requirements established by
12 regulations.

13 2. The commissioner shall issue certification for ambulance and
14 advanced life support first response services who have received a deter-
15 mination of need by the appropriate regional advisory board and meet the
16 minimum requirements established by regulations.

17 3. The department may inquire into the operation of ambulance services
18 and advanced life support first response services and conduct periodic
19 inspections of facilities, communication services, vehicles, methods,
20 procedures, materials, [staff and] staffing, records, equipment and
21 quality assurance activities and documentation. It may also evaluate
22 data received from ambulance services and advanced life support first
23 response services.

24 [2.] 4. The department may require ambulance services and advanced
25 life support first response services to submit periodic reports of calls
26 received, services performed and such other information as may be neces-
27 sary to carry out the provisions of this article.

1 [3.] 5. The commissioner, in consultation with the state board, shall
2 develop statewide minimum standards for: (a) medical control; (b) scope
3 of prehospital care practice; (c) treatment, transportation and triage
4 protocols, including protocols for invasive procedures and infection
5 control; and (d) the use of regulated medical devices and drugs by emer-
6 gency medical services personnel certified pursuant to this article.
7 The commissioner may issue advisory guidelines in any of these areas.
8 The department shall review protocols developed by regional emergency
9 medical advisory committees for consistency with statewide standards.

10 6. The commissioner, [with the advice and consent of the state coun-
11 cil] in consultation with the state board, shall designate not more than
12 [eighteen] ten geographic areas within the state wherein a regional
13 [emergency medical services council] board shall be established. In
14 making the determination of a geographic area, the commissioner shall
15 take into consideration the presence of ambulance services, hospital
16 facilities, existing emergency medical services committees, trained
17 health personnel, health planning agencies and communication and trans-
18 portation facilities[; and shall establish separate regional emergency
19 medical services councils for the counties of Nassau and Westchester].
20 The commissioner shall [promote and encourage the establishment of]
21 establish a regional [emergency medical services council] board in each
22 of said designated areas.

23 [3-a. Notwithstanding any inconsistent provision of this article:

24 a. The creation of any regional council or emergency medical services
25 program agency on or after January first, two thousand shall not dimin-
26 ish any then existing funding appropriated after the effective date of
27 this subdivision to regional councils or emergency medical services
28 program agencies;

1 b. Subject to the provisions of paragraph c of this subdivision, fund-
2 ing for regional councils and emergency medical services program agen-
3 cies existing on or after January first, two thousand shall be increased
4 in proportion to any funding appropriated therefor by the department and
5 in such proportion as determined by the department;

6 c. Funding for any regional council or emergency medical services
7 program agency created on or after January first, two thousand shall be
8 in addition to any funds appropriated on the effective date of this
9 subdivision for regional councils or emergency medical services program
10 agencies existing on January first, two thousand. Funding for any
11 regional council or emergency medical services program agency created
12 after January first, two thousand shall be in an amount at least equal
13 to the minimum funding level appropriated to regional councils or emer-
14 gency medical services program agencies existing on such date, or in an
15 amount equal to the proportion that such new regional council or emer-
16 gency medical services program agency represented on the basis of popu-
17 lation in its former regional council or emergency medical services
18 program agency, whichever is larger.

19 4. The commissioner may propose rules and regulations and amendments
20 thereto for consideration by the state council.] 7. The commissioner
21 shall establish a schedule of certification fees for ambulance services
22 and advanced life support first response services other than voluntary
23 ambulance services and voluntary advanced life support first response
24 services.

25 [5.] 8. For the purpose of promoting the public health, safety and
26 welfare the commissioner is hereby authorized and empowered to contract
27 with [voluntary ambulance services and municipal ambulance services, or
28 with the fire commissioners of fire districts operating voluntary] ambu-

1 lance services, upon such terms and conditions as he or she shall deem
2 appropriate and within amounts made available therefor, for reimburse-
3 ment of the necessary and incidental costs incurred by such ambulance
4 services in order to effectuate the provisions of this article.

5 [6.] 9. The commissioner is hereby authorized, for the purposes of
6 effectuating the provisions of this article in the development of a
7 statewide emergency medical service system, to contract with any ambu-
8 lance service or with the fire commissioners of fire districts operating
9 certified voluntary ambulance services for the use of necessary equip-
10 ment upon such terms and conditions as the commissioner shall deem
11 appropriate.

12 [7.] 10. The department and commissioner shall prepare, and period-
13 ically update as necessary, a statewide emergency medical services mobi-
14 lization plan, which provides for the identification and deployment of
15 emergency medical services personnel and resources throughout the state
16 in response to a local or regional request. Upon notification to the
17 state board, the regional boards, and the regional emergency medical
18 advisory committees, the plan shall become the statewide emergency
19 medical services mobilization plan.

20 11. The commissioner [may recommend to the state council minimum qual-
21 ifications] shall, in consultation with the state board, establish a
22 minimum scope of practice, education, training, certification and
23 credentialing qualifications for certified first responders [(which
24 shall not exceed fifty-one hours)], emergency medical technicians and
25 advanced emergency medical technicians in all phases of emergency
26 medical technology including but not limited to, communications, first
27 aid, equipment, maintenance, emergency techniques and procedures,

1 patient management and knowledge of procedures and equipment for emer-
2 gency medical care.

3 [8. The commissioner shall provide every certified ambulance service
4 and advanced life support first response service with an official insig-
5 nia which may be attached to every vehicle owned or operated by a certi-
6 fied ambulance service or advanced life support first response service.

7 9. The department shall provide the state council with such assistance
8 as the council may request in order to carry out its responsibilities as
9 set forth in subdivision two-a of section three thousand two of this
10 article.

11 10.] 12. The department shall require every certified ambulance
12 service and advanced life support first response service to display an
13 official insignia which must be attached to every vehicle owned or oper-
14 ated by a certified ambulance service or advanced life support first
15 response service.

16 13. The commissioner is hereby authorized and empowered to extend the
17 certification for emergency medical technicians, advanced emergency
18 medical technicians or certified first responders who have been ordered
19 to active military duty, other than for training, [on or after the elev-
20 enth day of September, two thousand one] and whose certification will
21 expire during their military duty [or within the six months immediately
22 following separation from military service]. The extended certification
23 shall be for the period of military duty and for twelve months after
24 they have been released from active military duty.

25 [11.] 14. The commissioner, [with the advice and consent of the state
26 council] in consultation with the state board, shall promulgate rules
27 and regulations necessary to ensure compliance with the provisions of
28 subdivision two of section sixty-seven hundred thirteen of the education

1 law; and may facilitate development and periodic revision of appropri-
2 ateness review standards for emergency medical services and emergency
3 departments, pediatric services and pediatric centers, trauma services
4 and trauma centers, burn services and burn centers, and disaster care
5 under article twenty-eight of this chapter, for adoption by the commis-
6 sioner or state public health and health planning council, as appropri-
7 ate.

8 15. The department and commissioner, in consultation with the state
9 board, shall continue the categorization of general hospitals and other
10 health care facilities for emergency medical care and trauma care under
11 article twenty-eight of this chapter, and the designation of emergency
12 facilities in general hospitals and other health care facilities, as
13 emergency departments or emergency services appropriate for emergency
14 medical care and general hospitals and other health care facilities as
15 trauma centers or trauma stations appropriate for trauma care, based
16 upon such categorization.

17 16. The department and commissioner, in consultation with the state
18 board, shall develop and maintain a statewide system for recognition of
19 facilities able to provide sustentative or definitive specialty pedia-
20 tric emergency medical and trauma care for sudden childhood illness and
21 injury and for preferential transport of suddenly ill or injured chil-
22 dren to such facilities, and shall promote the use of such facilities in
23 accordance with written protocols or transfer agreements as appropriate.

24 17. Upon appeal of any interested party, the commissioner may amend,
25 modify, and reverse decisions of the state board, any regional board, or
26 any regional emergency medical advisory committee; provided that in
27 consideration of a regional board or regional emergency medical advisory

1 committee decision, the commissioner shall consult the state advisory
2 board.

3 § 69. Section 3012 of the public health law, as added by chapter 1053
4 of the laws of 1974, subdivision 1 as amended by chapter 445 of the laws
5 of 1993, subdivision 2 as amended by chapter 804 of the laws of 1992 and
6 subdivisions 3 and 4 as amended by chapter 252 of the laws of 1981, is
7 amended to read as follows:

8 § 3012. Enforcement. 1. Any ambulance service or advanced life
9 support first response service certificate issued pursuant to section
10 three thousand five of this article may be revoked, suspended, limited
11 or annulled by the department upon proof that the operator or certif-
12 icate holder or one or more enrolled members or one or more persons in
13 his or her employ:

14 (a) has been guilty of misrepresentation in obtaining the certificate
15 or in the operation of the ambulance service or advanced life support
16 first response service; or

17 (b) has not been competent in the operation of the service or has
18 shown inability to provide adequate ambulance services or advanced life
19 support first response service; or

20 (c) has failed to pay the biennial certification fee as required
21 [except in the case of any voluntary ambulance service or voluntary
22 advanced life support first response service]; or

23 (d) has failed to file any report required by the provisions of this
24 article or the rules and regulations promulgated thereunder; or

25 (e) has violated or aided and abetted in the violation of any
26 provision of this article, the rules and regulations promulgated or
27 continued thereunder, or the state sanitary code; or

1 (f) had discontinued operations for a period in excess of one month;
2 or

3 (g) a voluntary ambulance service or voluntary advanced life support
4 first response service has failed to meet the minimum staffing standard
5 and has not been issued an exemption[, except that such certificate
6 shall not be suspended or revoked unless the commissioner finds that an
7 adequate alternative service exists. The commissioner shall consider the
8 recommendation of the regional emergency medical services council in
9 making a finding]; or

10 (h) an ambulance service operating for profit has failed to meet the
11 minimum staffing standard; or

12 (i) has been convicted of a crime or pleaded nolo contendere to a
13 felony charge involving murder, manslaughter, assault, sexual abuse,
14 theft, robbery, fraud, embezzlement, drug abuse, or sale of drugs,
15 unless the commissioner finds that such conviction does not demonstrate
16 a present risk or danger to patients or the public; or

17 (j) is or was subject to a state or federal administrative order
18 relating to fraud or embezzlement, unless the commissioner finds that
19 such order does not demonstrate a present risk or danger to patients or
20 the public.

21 2. Proceedings under this section may be initiated by any person,
22 corporation, association, or public officer, or by the department by the
23 filing of written charges with the department. Whenever the department
24 seeks revocation or suspension of a certificate of an ambulance service
25 or an advanced life support first response service, a copy of the charg-
26 es shall be referred to the appropriate regional [council] board for
27 review and recommendation to the department prior to a hearing. [Such
28 recommendation shall include a determination as to whether the public

1 need would be served by a revocation, suspension, annulment or limita-
2 tion. If there is no appropriate regional council established, the state
3 council shall make such determination and present to the department its
4 recommendations.]

5 3. No certificate shall be revoked, [suspended,] limited or annulled
6 without a hearing. However, a certificate may be [temporarily] suspended
7 without a hearing and without the [approval] review of the appropriate
8 regional [council] board or state [council] board for a period not in
9 excess of [thirty] ninety days upon notice to the certificate holder
10 following a finding by the department that the public health, safety or
11 welfare is in imminent danger.

12 4. The [commissioner] department shall fix a time and place for the
13 hearing. A copy of the charges and the recommendations of the appropri-
14 ate regional [council] board or state [council] board together with the
15 notice of the time and place of the hearing, shall be mailed to the
16 certificate holder by registered or certified mail, at the address spec-
17 ified on the certificate, at least fifteen days before the date fixed
18 for the hearing. The appropriate regional [council] board may be a party
19 to such hearing. The certificate holder may file with the department,
20 not less than five days prior to the hearing, a written answer to the
21 charges.

22 § 70. Section 3016 of the public health law, as amended by chapter 252
23 of the laws of 1981, is amended to read as follows:

24 § 3016. Continuance of rules and regulations. All rules and regu-
25 lations heretofore adopted by the commissioner pertaining to all ambu-
26 lance or advanced life support response services shall continue in full
27 force and effect as rules and regulations until duly modified or super-
28 seded by rules and regulations hereafter adopted and enacted by the

1 [state council pursuant to section three thousand two of this article]
2 commissioner.

3 § 71. Section 3017 of the public health law is REPEALED.

4 § 72. Intentionally omitted.

5 § 73. Section 3030 of the public health law, as added by chapter 439
6 of the laws of 1979, is amended to read as follows:

7 § 3030. Advanced life support services. Advanced life support
8 services provided by an advanced emergency medical technician, shall be
9 (1) provided under the direction of qualified medical and health person-
10 nel utilizing patient information and data transmitted by voice or
11 telemetry, (2) limited to the category or categories in which the
12 advanced emergency medical technician is certified pursuant to this
13 article, [and] (3) recorded for each patient, on an individual treat-
14 ment-management record, and (4) limited to participation in an advance
15 life support system.

16 § 74. Section 3031 of the public health law, as added by chapter 439
17 of the laws of 1979, is amended to read as follows:

18 § 3031. Advanced life support system. Advanced life support system
19 must (1) be under the overall supervision and direction of a qualified
20 physician [with respect to the advanced life support services provided],
21 (2) utilize advanced life support protocols developed by the regional
22 emergency medical advisory committee and approved by the commissioner,
23 (3) be staffed by qualified medical and health personnel, [(3)] (4)
24 utilize advanced emergency medical technicians whose certification is
25 appropriate to the advanced life support services provided, [(4)] (5)
26 utilize advanced support mobile units appropriate to the advanced life
27 support services provided, [(5)] (6) maintain a treatment-management
28 record for each patient receiving advanced life support services, and

1 [(6)] (7) be integrated with a hospital emergency, intensive care, coro-
2 nary care or other appropriate service.

3 § 75. Section 3032 of the public health law, as amended by chapter 445
4 of the laws of 1993, is amended to read as follows:

5 § 3032. Rules and regulations. The [state council, with the approval
6 of the] commissioner, in consultation with the state board, shall
7 promulgate rules and regulations to effectuate the purposes of sections
8 three thousand thirty and three thousand thirty-one of this article.

9 § 76. Section 3052 of the public health law, as added by chapter 727
10 of the laws of 1986, is amended to read as follows:

11 § 3052. Establishment of a training program for emergency medical
12 services personnel. 1. There is hereby established a training program
13 for emergency medical services personnel including, but not limited to,
14 first responders, emergency medical technicians, advanced emergency
15 medical technicians and emergency vehicle operators.

16 1-a. Such training program may use any combination of coursework,
17 testing, continuing education and continuous practice to provide the
18 means by which such personnel, including instructor level personnel, may
19 be trained and certified. The program may include means that allow for
20 certification of emergency medical technicians and advanced emergency
21 medical technicians without the requirement of practical skills or writ-
22 ten examination.

23 1-b. The commissioner, in consultation with the state board, shall
24 develop such training program, promulgating rules and regulations as may
25 be necessary for administration and compliance.

26 2. The commissioner shall provide state aid within the amount appro-
27 priated to entities such as local governments, regional [emergency
28 medical services councils] boards, and voluntary agencies and organiza-

1 tions to conduct training courses for emergency medical services person-
2 nel and to conduct practical examinations for certification of such
3 personnel. The commissioner shall establish a schedule for determining
4 the amount of state aid provided pursuant to this section.

5 [a. Such schedule may include varying rates for distinct geographic
6 areas of the state and for various course sizes, giving special consid-
7 eration to areas with the most need for additional emergency medical
8 technicians. In determining the need for additional emergency medical
9 technicians, the commissioner shall use measurements such as the average
10 number of emergency medical technicians per ambulance service, the ratio
11 of emergency medical technicians per square mile, the average number of
12 calls per service and the percentage of calls to which an emergency
13 medical technician has responded, provided such data is available to the
14 commissioner.

15 b.] Such schedule shall provide sufficient reimbursement to permit
16 sponsors to offer basic emergency medical technician courses which
17 adhere to curricula approved by the [New York state emergency medical
18 services council and the] commissioner without the need to charge
19 tuition to participants.

20 3. Upon request, the [commissioner] department shall provide manage-
21 ment advice and technical assistance to regional [emergency medical
22 services councils] boards, county emergency medical services coordina-
23 tors, and course sponsors and instructors to stimulate the improvement
24 of training courses and the provision of courses in a manner which
25 encourages participation. Such advice and technical assistance may
26 relate to, but need not be limited to the location, scheduling and
27 structure of courses.

1 4. The department is authorized, either directly or through contractu-
2 al arrangement, to develop and distribute training materials for use by
3 course instructors and sponsors, to recruit additional instructors and
4 sponsors and to provide training courses for instructors.

5 [5. The commissioner shall conduct a public service campaign to
6 recruit additional volunteers to join ambulance services targeted to
7 areas in need for additional emergency medical technicians.]

8 § 77. Section 3053 of the public health law, as amended by chapter 445
9 of the laws of 1993, is amended to read as follows:

10 § 3053. Reporting. Advanced life support first response services and
11 ambulance services [registered or] certified pursuant to article thirty
12 of this chapter shall submit detailed individual call reports on a form
13 to be [provided] determined by the department, or may submit data elec-
14 tronically in a format approved by the department. The [state emergency
15 medical services council, with the approval of the] commissioner, in
16 consultation with the state board, may adopt rules and regulations
17 permitting or requiring ambulance and advanced life support first
18 response services whose volume exceeds [twenty thousand calls per year]
19 a specified annual threshold to submit call report data electronically.
20 Such rules shall define the data elements to be submitted, and may
21 include requirements that assure availability of data to the regional
22 boards and regional emergency medical advisory [committee] committees.

23 § 78. Articles 30-B and 30-C of the public health law are REPEALED.

24 § 79. Subdivisions 3 and 4 of section 97-q of the state finance law,
25 as added by chapter 804 of the laws of 1992, are amended to read as
26 follows:

27 3. Moneys of the account, when allocated, shall be available to the
28 department of health for the purpose of funding the training of emergen-

1 cy medical services personnel, and funding as shall be provided by
2 appropriation for the [state] operation of the state's emergency medical
3 services [council, regional emergency medical services councils, emer-
4 gency medical services program agencies or other emergency medical
5 services training programs] system, in order to carry out the purposes
6 of articles thirty and thirty-A of the public health law.

7 4. [Not less than fifty percent of the] The monies of the account
8 shall be expended for the direct costs of providing emergency medical
9 services training at the local level. [The legislature shall annually
10 appropriate from the remaining available monies, funding for the state
11 emergency medical services council, the regional emergency medical
12 services councils, the emergency medical services program agencies and]
13 Annual appropriations shall be used to enable the department of health
14 [in order to carry out] to achieve the purposes of articles thirty and
15 thirty-A of the public health law. At the end of any fiscal year, any
16 funds not encumbered for these purposes shall be reallocated for the
17 costs of training advanced life support personnel.

18 § 80. Paragraph 4 of subdivision a of section 19-162.2 of the adminis-
19 trative code of the city of New York, as added by local law number 40 of
20 the city of New York for the year 1997, is amended to read as follows:

21 4. "certified first responder" shall mean an individual who meets the
22 minimum requirements established by [regulations pursuant to section
23 three thousand two] the commissioner of health pursuant to article thir-
24 ty of the public health law and who is responsible for administration of
25 initial life saving care of sick and injured persons.

26 § 81. Subdivision 1-a of section 122-b of the general municipal law,
27 as amended by chapter 303 of the laws of 1980, is amended to read as
28 follows:

1 1-a. As used in this section:

2 (a) "Emergency medical technician" means an individual who meets the
3 minimum requirements established by [regulations pursuant to section
4 three thousand two] the commissioner of health pursuant to article thir-
5 ty of the public health law and who is responsible for administration or
6 supervision of initial emergency medical assistance and handling and
7 transportation of sick, disabled or injured persons.

8 (b) "Advanced emergency medical technician" means an emergency medical
9 technician who has satisfactorily completed an advanced course of train-
10 ing approved by the [state council under regulations pursuant to section
11 three thousand two] commissioner of health pursuant to article thirty of
12 the public health law.

13 § 82. Subparagraph (iii) of paragraph (e) of subdivision 3 of section
14 219-e of the general municipal law, as added by chapter 514 of the laws
15 of 1998, is amended to read as follows:

16 (iii) A volunteer ambulance worker appointed to serve on the New York
17 state emergency medical services [council, the state emergency medical
18 advisory committee] advisory board, a regional emergency medical
19 services [council] advisory board or a regional emergency medical advi-
20 sory committee, established pursuant to article thirty of the public
21 health law shall also be eligible to receive one point per meeting.

22 § 83. Subparagraph (iii) of paragraph (e) of subdivision 3 of section
23 219-m of the general municipal law, as added by chapter 558 of the laws
24 of 1998, is amended to read as follows:

25 (iii) A volunteer ambulance worker appointed to serve on the New York
26 state emergency medical services [council, the state emergency medical
27 advisory committee] advisory board, a regional emergency medical
28 services [council] advisory board or a regional emergency medical advi-

1 sory committee, established pursuant to article thirty of the public
2 health law shall also be eligible to receive one point per meeting.

3 § 84. Subdivision 2 of section 10 of the workers' compensation law, as
4 added by chapter 872 of the laws of 1985, is amended to read as follows:

5 2. Notwithstanding any other provisions of this chapter, an injury
6 incurred by an individual currently employed as an emergency medical
7 technician or an advanced emergency medical technician who is certified
8 pursuant to [section three thousand two] article thirty of the public
9 health law, while voluntarily and without expectation of monetary
10 compensation rendering medical assistance at the scene of an accident
11 shall be deemed to have arisen out of and in the course of the employ-
12 ment with that emergency medical technician or advanced emergency
13 medical technician's current employer.

14 § 85. Subdivision 1 of section 580 of the executive law, as amended by
15 chapter 40 of the laws of 2012, is amended to read as follows:

16 1. Creation; members. There is hereby created in the department of
17 state an emergency services council, the members of which shall be the
18 directors of the office of fire prevention and control, the bureau of
19 emergency medical services and the state emergency management office,
20 the superintendent of state police, the commissioner of health, the
21 secretary of state, the director of the state office for the aging and
22 the director of state operations who shall be the chairperson unless
23 otherwise appointed by the governor. There shall also be two represen-
24 tatives appointed by the state emergency medical services [council]
25 advisory board, one of whom shall be a representative of volunteer ambu-
26 lance service and one of whom shall be a representative of proprietary
27 ambulance service; two representatives appointed by the fire advisory
28 board, one of which shall be representative of volunteer fire service

1 and one of which shall be representative of paid fire service; one
2 representative shall be appointed by the disaster preparedness commis-
3 sion; one physician shall be appointed by the [state emergency medical
4 advisory committee] commissioner of health; one appointment shall be
5 made by the governor; one appointment shall be made by the temporary
6 president of the senate; and one appointment shall be made by the speak-
7 er of the assembly.

8 § 86. Section 804-d of the education law, as added by chapter 315 of
9 the laws of 2005, is amended to read as follows:

10 § 804-d. Automated external defibrillator instruction. Instructions
11 regarding the correct use of an automated external defibrillator shall
12 be included as a part of the health education curriculum in all senior
13 high schools when cardiopulmonary resuscitation instruction is being
14 provided as authorized by section eight hundred four-c of this article.
15 In addition to the requirement that all teachers of health education
16 shall be certified to teach health, persons instructing pupils in the
17 correct use of automated external defibrillators shall possess valid
18 certification by a nationally recognized organization or the [state
19 emergency medical services council] commissioner of health offering
20 certification in the operation of an automated external defibrillator
21 and in its instruction.

22 § 87. Subparagraph (iv) of paragraph a of subdivision 1 of section
23 6908 of the education law, as amended by chapter 160 of the laws of
24 2003, is amended and a new subparagraph (v) is added to read as follows:

25 (iv) the furnishing of nursing assistance in case of an emergency; or
26 (v) medication administration services provided by a home health aide
27 when such services are performed under the supervision of a registered
28 professional nurse employed by a home care services agency licensed or

1 certified pursuant to article thirty-six or hospice program certified
2 pursuant to article forty of the public health law, in accordance with a
3 demonstration program developed by the department in consultation with
4 the department of health; provided that: (A) medication administration
5 services must be in accordance with and pursuant to an authorized prac-
6 titioner's ordered care; (B) only an individual who has successfully
7 completed a competency examination satisfactory to the commissioner may
8 provide medication administration services as permitted by this subpara-
9 graph; (C) such home health aide does not hold himself or herself out,
10 or accept employment as, a person licensed to practice nursing under the
11 provisions of this article; (D) a home care services agency or a hospice
12 program may not permit medication administration services by a home
13 health aide under this subparagraph unless such agency or program has
14 demonstrated to the satisfaction of the department that despite reason-
15 able efforts to secure an appropriate level of nursing services for
16 purposes of administering medication, participation in the demonstration
17 program is warranted; (E) only medications which are routine and
18 premeasured or otherwise packaged in a manner that promotes relative
19 ease of administration may be administered under the demonstration
20 program developed pursuant to this subparagraph; (F) such home health
21 aide is not required nor permitted to assess the medication needs of an
22 individual; and (G) such demonstration program shall be for a two year
23 period, at the conclusion of which the department, in consultation with
24 the department of health, shall report on the results of such program
25 and recommend whether it should be continued or expanded to additional
26 health care settings;

27 § 88. Subdivision 1 of section 6908 of the education law is amended by
28 adding a new paragraph i to read as follows:

1 i. As prohibiting the practice of nursing in this state by an advanced
2 home health aide, certified pursuant to subdivision six of section thir-
3 ty-six hundred twelve of the public health law, when such services are
4 provided to a self-directing individual, assigned by and performed under
5 the supervision of a registered professional nurse employed by a home
6 care services agency licensed or certified pursuant to article thirty-
7 six or hospice program certified pursuant to article forty of the public
8 health law, and pursuant to an authorized practitioner's ordered care;
9 provided that such home health aide does not hold himself or herself
10 out, or accept employment as, a person licensed to practice nursing
11 under the provisions of this article.

12 § 89. Subdivisions 6 and 7 of section 3612 of the public health law,
13 subdivision 7 as renumbered by chapter 606 of the laws of 2003, are
14 renumbered subdivisions 7 and 8 and a new subdivision 6 is added to read
15 as follows:

16 6. The commissioner shall, pursuant to regulations establishing mini-
17 imum training and qualification of advanced home health aides, certify
18 advanced home health aides.

19 § 90. Subdivision 1 of section 6605-b of the education law, as added
20 by chapter 437 of the laws of 2001, is amended to read as follows:

21 1. [A] Notwithstanding any provision herein to the contrary, a dental
22 hygienist shall not administer or monitor nitrous oxide analgesia or
23 local infiltration anesthesia in the practice of dental hygiene without
24 a dental hygiene restricted local infiltration anesthesia/nitrous oxide
25 analgesia certificate and except under the personal supervision of a
26 dentist and in conjunction with the performance of dental hygiene proce-
27 dures authorized by law and in accordance with regulations promulgated
28 by the commissioner. Personal supervision, for purposes of this section,

1 means that the supervising dentist remains in the dental office where
2 the local infiltration anesthesia or nitrous oxide analgesia services
3 are being performed, personally authorizes and prescribes the use of
4 local infiltration anesthesia or nitrous oxide analgesia for the patient
5 and, before dismissal of the patient, personally examines the condition
6 of the patient after the use of local infiltration anesthesia or nitrous
7 oxide analgesia is completed. It is professional misconduct for a
8 dentist to fail to provide the supervision required by this section, and
9 any dentist found guilty of such misconduct under the procedures
10 prescribed in section sixty-five hundred ten of this title shall be
11 subject to the penalties prescribed in section sixty-five hundred eleven
12 of this title.

13 § 91. Subdivision 1 of section 6606 of the education law, as amended
14 by chapter 437 of the laws of 2001, is amended to read as follows:

15 1. The practice of the profession of dental hygiene is defined as the
16 performance of dental services which shall include removing calcareous
17 deposits, accretions and stains from the exposed surfaces of the teeth
18 which begin at the epithelial attachment and applying topical agents
19 indicated for a complete dental prophylaxis, removing cement, placing or
20 removing rubber dam, removing sutures, placing matrix band, providing
21 patient education, applying topical medication, placing and exposing
22 diagnostic dental X-ray films, performing topical fluoride applications
23 and topical anesthetic applications, polishing teeth, taking medical
24 history, charting caries, taking impressions for study casts, placing
25 and removing temporary restorations, administering and monitoring
26 nitrous oxide analgesia and administering and monitoring local infil-
27 tration anesthesia, subject to certification in accordance with section
28 sixty-six hundred five-b of this article, and any other function in the

1 definition of the practice of dentistry as may be delegated by a
2 licensed dentist in accordance with regulations promulgated by the
3 commissioner. The practice of dental hygiene may be conducted in the
4 office of any licensed dentist or in any appropriately equipped school
5 or public institution but must be done either under the supervision of a
6 licensed dentist or, in the case of a registered dental hygienist work-
7 ing for a hospital as defined in article twenty-eight of the public
8 health law, pursuant to a collaborative arrangement with a licensed
9 dentist pursuant to regulations promulgated pursuant to article twenty-
10 eight of the public health law.

11 § 92. Section 6608 of the education law, as amended by chapter 300 of
12 the laws of 2006, is amended to read as follows:

13 § 6608. Definition of practice of certified dental assisting. The
14 practice of certified dental assisting is defined as providing support-
15 ive services to a dentist in his/her performance of dental services
16 authorized under this article. Such support shall include providing
17 patient education, taking preliminary medical histories and vital signs
18 to be reviewed by the dentist, placing and removing rubber dams, select-
19 ing and prefitting provisional crowns, selecting and prefitting ortho-
20 dontic bands, removing orthodontic arch wires and ligature ties, placing
21 and removing matrix bands, taking impressions for study casts or diag-
22 nostic casts, removing periodontal dressings, and such other dental
23 supportive services authorized by the dentist consistent with regu-
24 lations promulgated by the commissioner, provided that such functions
25 are performed under the direct personal supervision of a licensed
26 dentist in the course of the performance of dental services. Such
27 services shall not include diagnosing and/or performing surgical proce-
28 dures, irreversible procedures or procedures that would alter the hard

1 or soft tissue of the oral and maxillofacial area or any other proce-
2 dures determined by the department. The practice of certified dental
3 assisting may be conducted in the office of any licensed dentist or in
4 any appropriately equipped school or public institution but must be done
5 under the direct personal supervision of a licensed dentist. Direct
6 personal supervision, for purposes of this section, means supervision of
7 dental procedures based on instructions given by a licensed dentist in
8 the course of a procedure who remains in the dental office where the
9 supportive services are being performed, personally diagnoses the condi-
10 tion to be treated, personally authorizes the procedures, and before
11 dismissal of the patient, who remains the responsibility of the licensed
12 dentist, evaluates the services performed by the dental assistant. Noth-
13 ing herein authorizes a dental assistant to perform any of the services
14 or functions defined as part of the practice of dental hygiene in
15 accordance with the provisions of subdivision one of section sixty-six
16 hundred six of this article, except those functions authorized pursuant
17 to this section. All dental supportive services provided in this section
18 may be performed by currently registered dental hygienists [under a
19 dentist's supervision], as defined in regulations of the commissioner.

20 § 93. Subdivisions 7 and 10 of section 6611 of the education law,
21 subdivision 7 as amended by chapter 649 of the laws of 2006 and subdivi-
22 sion 10 as amended by chapter 65 of the laws of 2011, are amended to
23 read as follows:

24 7. Any dentist or dental hygienist working under the supervision of a
25 dentist, who in the performance of dental services, x-rays the mouth or
26 teeth of a patient shall during the performance of such x-rays shield
27 the torso and thyroid area of such patient including but not limited to
28 the gonads and other reproductive organs with a lead apron thyroid

1 collar, or other similar protective garment or device. Notwithstanding
2 the provisions of this subdivision, if in the dentist's professional
3 judgment the use of a thyroid collar would be inappropriate under the
4 circumstances, because of the nature of the patient, the type of x-ray
5 being taken, or other factors, the dentist or a dental hygienist working
6 under the supervision of the dentist need not shield the thyroid area.

7 10. [Beginning January first, two thousand nine, each] Each dentist
8 and registered dental hygienist working for a hospital as defined in
9 article twenty-eight of the public health law who practices in collab-
10 oration with a licensed dentist shall become certified in cardiopulmo-
11 nary resuscitation (CPR) from an approved provider and thereafter main-
12 tain current certification, which shall be included in the mandatory
13 hours of continuing education acceptable for dentists to the extent
14 provided in the commissioner's regulations. In the event the dentist or
15 registered dental hygienist cannot physically perform CPR, the commis-
16 sioner's regulations shall allow the dentist or registered dental
17 hygienist to make arrangements for another individual in the office to
18 administer CPR. All dental facilities shall have an automatic external
19 defibrillator or other defibrillator at the facility.

20 § 94. Subdivision 2 of section 903 of the education law, as added by
21 chapter 281 of the laws of 2007, is amended to read as follows:

22 2. a. A dental health certificate shall be requested from each
23 student. Each student is requested to furnish a dental health certif-
24 icate at the same time that health certificates are required. An exam-
25 ination and dental health history of any child may be requested by the
26 local school authorities at any time in their discretion to promote the
27 educational interests of such child. Each certificate shall be signed by
28 a duly licensed dentist who is authorized by law to practice in this

1 state, and consistent with any applicable written practice agreement, or
2 by a duly licensed dentist or registered dental hygienist who is author-
3 ized to practice in the jurisdiction in which the examination was given,
4 provided that the commissioner has determined that such jurisdiction has
5 standards of licensure and practice comparable to those of New York.
6 Each such certificate shall describe the dental health condition of the
7 student when the examination was made, which shall not be more than
8 twelve months prior to the commencement of the school year in which the
9 examination is requested, and shall state whether such student is in fit
10 condition of dental health to permit his or her attendance at the public
11 schools.

12 b. A notice of request for dental health certificates shall be
13 distributed at the same time that parents or person in parental
14 relationship to students are notified of health examination requirements
15 and shall state that a list of dental practices, dentists and registered
16 dental hygienists to which children [who need comprehensive dental exam-
17 inations] may be referred for [treatment] dental services on a free or
18 reduced cost basis is available upon request at the child's school. The
19 department shall, in collaboration with the department of health,
20 compile and maintain a list of dental practices, dentists and registered
21 dental hygienists to which children [who need comprehensive dental exam-
22 inations] may be referred for [treatment] dental services on a free or
23 reduced cost basis. Such list shall be made available to all public
24 schools and be made available to parents or person in parental relation-
25 ship upon request. The department shall promulgate regulations to ensure
26 the gathering and dissemination of the proper information to interested
27 parties.

1 § 95. Paragraph (a) of subdivision 3 of section 6902 of the education
2 law, as added by chapter 257 of the laws of 1988, is amended to read as
3 follows:

4 (a) The practice of registered professional nursing by a nurse practi-
5 tioner, certified under section [six thousand nine] sixty-nine hundred
6 ten of this article, may include the diagnosis of illness and physical
7 conditions and the performance of therapeutic and corrective measures
8 within a specialty area of practice, in collaboration with a licensed
9 physician qualified to collaborate in the specialty involved, provided
10 such services are performed in accordance with a written practice agree-
11 ment and written practice protocols. The written practice agreement
12 shall include explicit provisions for the resolution of any disagreement
13 between the collaborating physician and the nurse practitioner regarding
14 a matter of diagnosis or treatment that is within the scope of practice
15 of both. To the extent the practice agreement does not so provide, then
16 the collaborating physician's diagnosis or treatment shall prevail. No
17 written practice agreement or written practice protocols shall be
18 required for nurse practitioners who provide only primary care services
19 as determined by the commissioner of health and who demonstrate to the
20 department of health, in the manner and means required by such depart-
21 ment in consultation with the education department, that it is not
22 reasonable to require such agreement or practice protocols.

23 § 96. Subdivisions 3 and 5 of section 6542 of the education law, as
24 amended by chapter 48 of the laws of 2012, are amended to read as
25 follows:

26 3. No physician shall employ or supervise more than [two] four physi-
27 cian assistants in his or her private practice.

1 5. Notwithstanding any other provision of this article, nothing shall
2 prohibit a physician employed by or rendering services to the department
3 of corrections and community supervision under contract from supervising
4 no more than [four] six physician assistants in his or her practice for
5 the department of corrections and community supervision.

6 § 97. The opening paragraph, and paragraphs (k) and (l) of subdivision
7 1 of section 3510 of the public health law, as added by chapter 175 of
8 the laws of 2006, are amended and four new paragraphs (m), (n), (o) and
9 (p) are added to read as follows:

10 The license, registration or intravenous contrast administration
11 certificate of a [radiological] radiologic technologist may be suspended
12 for a fixed period, revoked or annulled, or such licensee censured,
13 reprimanded, subject to a civil penalty not to exceed two thousand
14 dollars for every such violation, or otherwise disciplined, in accord-
15 ance with the provisions and procedures defined in this article, upon
16 decision after due hearing that the individual is guilty of the follow-
17 ing misconduct:

18 (k) using the prefix "Dr.", the word "doctor" or any suffix or affix
19 to indicate or imply that the licensee is a duly licensed practitioner
20 as defined in this article when not so licensed; [or]

21 (l) incompetence or negligence[.];

22 (m) being convicted of committing an act constituting a crime under
23 (i) New York state law; (ii) federal law; or (iii) the law of another
24 jurisdiction and which, if committed within this state, would have
25 constituted a crime under New York state law;

26 (n) having been found guilty of improper professional practice or
27 professional misconduct by a duly authorized professional disciplinary
28 agency of another state where the conduct upon which the finding was

1 based, if committed in New York state, would constitute professional
2 misconduct under the laws of New York state;

3 (o) having been found guilty in an adjudicatory proceeding of violat-
4 ing a state or federal statute or regulation, pursuant to a final deci-
5 sion or determination, and when no appeal is pending, or after resol-
6 ution of the proceeding by stipulation or agreement, and when the
7 violation would constitute professional misconduct under the laws of New
8 York state; or

9 (p) having his or her license to practice as a radiologic technologist
10 revoked, suspended or having other disciplinary action taken, or having
11 his or her application for a license refused, revoked or suspended or
12 having voluntarily or otherwise surrendered his or her license after a
13 disciplinary action was instituted by a duly authorized professional
14 disciplinary agency of another state, where the conduct resulting in the
15 revocation, suspension or other disciplinary action involving the
16 license or refusal, revocation or suspension of an application for a
17 license or the surrender of the license would, if committed in New York
18 state, constitute professional misconduct under the laws of New York
19 state. A radiologic technologist licensed in New York state who is also
20 licensed or seeking licensure in another state must immediately report
21 to the department any revocation, suspension or other disciplinary
22 action involving the out-of-state license or refusal, revocation or
23 suspension of an application for an out-of-state license or the surren-
24 der of the out-of-state license.

25 § 98. Section 9 of chapter 420 of the laws of 2002 amending the educa-
26 tion law relating to the profession of social work, as amended by chap-
27 ter 132 of the laws of 2010, is amended to read as follows:

1 § 9. [a.] Nothing in this act shall prohibit or limit the activities
2 or services on the part of any person in the employ of a program or
3 service operated, regulated, funded, or approved by the department of
4 mental hygiene, the office of children and family services, the depart-
5 ment of [correctional services] corrections and community supervision,
6 the state office for the aging, the department of health, or a local
7 governmental unit as that term is defined in article 41 of the mental
8 hygiene law or a social services district as defined in section 61 of
9 the social services law, provided, however, this section shall not
10 authorize the use of any title authorized pursuant to article 154 of the
11 education law[, except that this section shall be deemed repealed on
12 July 1, 2013; provided, further, however, that on or before October 1,
13 2010, each state agency identified in this subdivision shall submit to
14 the commissioner of education data, in such form and detail as requested
15 by the commissioner of education, concerning the functions performed by
16 its service provider workforce and the service provider workforce of the
17 local governmental units and social services districts as defined in
18 this subdivision over which the agency has regulatory authority. After
19 receipt of such data, the commissioner shall convene a workgroup of such
20 state agencies for the purpose of reviewing such data and also to make
21 recommendations regarding amendments to law, rule or regulation neces-
22 sary to clarify which tasks and activities must be performed only by
23 licensed or otherwise authorized personnel. No later than January 1,
24 2011, after consultation with such work group, the commissioner shall
25 develop criteria for the report required pursuant to subdivision b of
26 this section and shall work with such state agencies by providing advice
27 and guidance regarding which tasks and activities must be performed only
28 by licensed or otherwise authorized personnel.

1 b. On or before July 1, 2011, each such state agency, after consulta-
2 tion with local governmental units and social services districts as
3 defined in subdivision a of this section over which the agency has regu-
4 latory authority, shall submit to the commissioner of education a report
5 on the utilization of personnel subject to the provisions of this
6 section. Such report shall include but not be limited to: identification
7 of tasks and activities performed by such personnel categorized as tasks
8 and functions restricted to licensed personnel and tasks and functions
9 that do not require a license under article 154 of the education law;
10 analysis of costs associated with employing only appropriately licensed
11 or otherwise authorized personnel to perform tasks and functions that
12 require licensure under such article 154, including salary costs and
13 costs associated with providing support to unlicensed personnel in
14 obtaining appropriate licensure. Such report shall also include an
15 action plan detailing measures through which each such entity shall, no
16 later than July 1, 2013, comply with professional licensure laws appli-
17 cable to services provided and make recommendations on alternative path-
18 ways toward licensure.

19 c. The commissioner of education shall, after receipt of the report
20 required under this section, and after consultation with state agencies,
21 not-for-profit providers, professional associations, consumers, and
22 other key stakeholders, submit a report to the governor, the speaker of
23 the assembly, the temporary president of the senate, and the chairs of
24 the senate and assembly higher education committees by July 1, 2012 to
25 recommend any amendments to law, rule or regulation necessary to fully
26 implement the requirements for licensure by July 1, 2013. Other state
27 agency commissioners shall be provided an opportunity to include state-
28 ments or alternative recommendations in such report].

1 § 99. Section 17-a of chapter 676 of the laws of 2002 amending the
2 education law relating to the practice of psychology, as amended by
3 chapter 130 of the laws of 2010, subdivision b as amended by chapter 132
4 of the laws of 2010, is amended to read as follows:

5 § 17-a. [a.] In relation to activities and services provided under
6 article 153 of the education law, nothing in this act shall prohibit or
7 limit such activities or services on the part of any person in the
8 employ of a program or service operated, regulated, funded, or approved
9 by the department of mental hygiene or the office of children and family
10 services, or a local governmental unit as that term is defined in arti-
11 cle 41 of the mental hygiene law or a social services district as
12 defined in section 61 of the social services law. In relation to activ-
13 ities and services provided under article 163 of the education law,
14 nothing in this act shall prohibit or limit such activities or services
15 on the part of any person in the employ of a program or service oper-
16 ated, regulated, funded, or approved by the department of mental
17 hygiene, the office of children and family services, the department of
18 correctional services, the state office for the aging and the department
19 of health or a local governmental unit as that term is defined in arti-
20 cle 41 of the mental hygiene law or a social services district as
21 defined in section 61 of the social services law, pursuant to authority
22 granted by law. This section shall not authorize the use of any title
23 authorized pursuant to article 153 or 163 of the education law by any
24 such employed person, except as otherwise provided by such articles
25 respectively.

26 [b. This section shall be deemed repealed July 1, 2013 provided,
27 however, that on or before October 1, 2010, each state agency identified
28 in subdivision a of this section shall submit to the commissioner of

1 education data, in such form and detail as requested by the commissioner
2 of education, concerning the functions performed by its service provider
3 workforce and the service provider workforce of the local governmental
4 units and social services districts as defined in subdivision a of this
5 section over which the agency has regulatory authority. After receipt of
6 such data, the commissioner shall convene a workgroup of such state
7 agencies for the purpose of reviewing such data and also to make recom-
8 mendations regarding amendments to law, rule or regulation necessary to
9 clarify which tasks and activities must be performed only by licensed or
10 otherwise authorized personnel. No later than January 1, 2011, after
11 consultation with such workgroup, the commissioner shall develop crite-
12 ria for the report required pursuant to paragraph one of this subdivi-
13 sion and shall work with such state agencies by providing advice and
14 guidance regarding which tasks and activities must be performed only by
15 licensed or otherwise authorized personnel.

16 1. On or before July 1, 2011, each such state agency, after consulta-
17 tion with local governmental units and social services districts as
18 defined in subdivision a of this section over which the agency has regu-
19 latory authority, shall submit to the commissioner of education a report
20 on the utilization of personnel subject to the provisions of this
21 section. Such report shall include but not be limited to: identification
22 of tasks and activities performed by such personnel categorized as tasks
23 and functions restricted to licensed personnel and tasks and functions
24 that do not require a license under article 153 or 163 of the education
25 law; analysis of costs associated with employing only appropriately
26 licensed or otherwise authorized personnel to perform tasks and func-
27 tions that require licensure under such article 153 or 163, including
28 salary costs and costs associated with providing support to unlicensed

1 personnel in obtaining appropriate licensure. Such report shall also
2 include an action plan detailing measures through which each such entity
3 shall, no later than July 1, 2013, comply with professional licensure
4 laws applicable to services provided and make recommendations on alter-
5 native pathways toward licensure.

6 2. The commissioner of education shall, after receipt of the reports
7 required under this section, and after consultation with state agencies,
8 not-for-profit providers, professional associations, consumers, and
9 other key stakeholders, submit a report to the governor, the speaker of
10 the assembly, the temporary president of the senate, and the chairs of
11 the senate and assembly higher education committees by July 1, 2012 to
12 recommend any amendments to law, rule or regulation necessary to fully
13 implement the requirements for licensure by July 1, 2013. Other state
14 agency commissioners shall be provided an opportunity to include state-
15 ments or alternative recommendations in such report.]

16 § 100. Section 16 of chapter 130 of the laws of 2010 amending the
17 education law and other laws relating to the registration of entities
18 providing certain professional services and the licensure of certain
19 professions, as amended by chapter 132 of the laws of 2010, is amended
20 to read as follows:

21 § 16. This act shall take effect immediately; provided that sections
22 thirteen, fourteen and fifteen of this act shall take effect immediately
23 and shall be deemed to have been in full force and effect on and after
24 June 1, 2010 [and such sections shall be deemed repealed July 1, 2013;
25 provided further that the amendments to section 9 of chapter 420 of the
26 laws of 2002 amending the education law relating to the profession of
27 social work made by section thirteen of this act shall repeal on the
28 same date as such section repeals; provided further that the amendments

1 to section 17-a of chapter 676 of the laws of 2002 amending the educa-
2 tion law relating to the practice of psychology made by section fourteen
3 of this act shall repeal on the same date as such section repeals].

4 § 101. Section 2801-a of the public health law is amended by adding a
5 new subdivision 17 to read as follows:

6 17. (a) Diagnostic or treatment centers established to provide health
7 care services within the space of a retail business operation, such as a
8 pharmacy, a store open to the general public or a shopping mall, may be
9 operated by legal entities formed under the laws of New York whose
10 stockholders or members, as applicable, are not natural persons and
11 whose principal stockholders and members, as applicable, and controlling
12 persons comply with all applicable requirements of this section and
13 demonstrate, to the satisfaction of the public health and health plan-
14 ning council, sufficient experience and expertise in delivering high
15 quality health care services. Such diagnostic and treatment centers
16 shall be referred to in this section as "limited services clinics". For
17 purposes of this subdivision, the public health and health planning
18 council shall adopt and amend rules and regulations, notwithstanding any
19 inconsistent provision of this section, to address any matter it deems
20 pertinent to the establishment of limited services clinics; provided
21 that such rules and regulations shall include, but not be limited to,
22 provisions governing or relating to: (i) any direct or indirect changes
23 or transfers of ownership interests or voting rights in such entities or
24 their stockholders or members, as applicable, and provide for public
25 health and health planning council approval of any change in controlling
26 interests, principal stockholders, controlling persons, parent company
27 or sponsors; (ii) oversight of the operator and its shareholders or
28 members, as applicable, including local governance of the limited

1 services clinics; and (iii) relating to the character and competence and
2 qualifications of, and changes relating to, the directors and officers,
3 the operator and its principal stockholders, controlling persons, compa-
4 ny or sponsors.

5 (b) The following provisions of this section shall not apply to limit-
6 ed services clinics operated pursuant to this subdivision: (i) paragraph
7 (b) of subdivision three of this section, relating to stockholders and
8 members; (ii) paragraph (c) of subdivision four of this section, relat-
9 ing to the disposition of stock or voting rights; and (iii) paragraph
10 (e) of subdivision four of this section, relating to the ownership of
11 stock or membership.

12 (c) A limited services clinic shall be deemed to be a "health care
13 provider" for the purposes of title two-D of article two of this chap-
14 ter. A prescriber practicing in a limited services clinic shall not be
15 deemed to be in the employ of a pharmacy or practicing in a hospital for
16 purposes of subdivision two of section sixty-eight hundred seven of the
17 education law.

18 (d) The commissioner shall promulgate regulations setting forth opera-
19 tional and physical plant standards for limited services clinics, which
20 may be different from the regulations otherwise applicable to diagnostic
21 or treatment centers, including, but not limited to: designating or
22 limiting the diagnoses and services that may be provided; prohibiting
23 the provision of services to patients twenty-four months of age or youn-
24 ger; and requirements or guidelines for advertising and signage, disclo-
25 sure of ownership interests, informed consent, record keeping, referral
26 for treatment and continuity of care, case reporting to the patient's
27 primary care or other health care providers, design, construction,
28 fixtures, and equipment. In making regulations under this section, the

1 commissioner may consult with a workgroup including but not limited to
2 representatives of professional societies of appropriate health care
3 professionals, including those in primary care and other specialties and
4 shall promote and strengthen primary care; the integration of services
5 provided by limited services clinics with the services provided by the
6 patient's other health care providers; and the referral of patients to
7 appropriate health care providers, including appropriate transmission of
8 patient health records.

9 § 102. Intentionally omitted.

10 § 103. Intentionally omitted.

11 § 104. Section 2801-a of the public health law is amended by adding a
12 new subdivision 18 to read as follows:

13 18. (a) The commissioner is authorized to establish a pilot program to
14 assist in restructuring health care delivery systems by allowing for
15 increased capital investment in health care facilities. Pursuant to the
16 pilot program, the public health and health planning council shall
17 approve the establishment, in accordance with the provisions of subdivi-
18 sion three of this section, of no more than two business corporations
19 formed under the business corporation law, one of which shall be the
20 operator of a hospital or hospitals in Kings County and one shall be
21 elsewhere in the state. Such business corporations shall affiliate, the
22 extent of the affiliation to be determined by the commissioner, with at
23 least one academic medical institution approved by the commissioner.

24 (b) Notwithstanding any provision of law to the contrary, business
25 corporations established pursuant to this subdivision shall be deemed
26 eligible to participate in debt financing provided by the dormitory
27 authority of the state of New York, local development corporations and
28 economic development corporations.

1 (c) The following provisions of this chapter shall not apply to busi-
2 ness corporations established pursuant to this subdivision: (i) para-
3 graph (b) of subdivision three of this section, relating to stockhold-
4 ers; (ii) paragraph (c) of subdivision four of this section, relating to
5 the disposition of stock or voting rights; (iii) paragraph (e) of subdivi-
6 vision four of this section, relating to the ownership of stock; and
7 (iv) paragraph (a) of subdivision three of section four thousand four of
8 this chapter, relating to the ownership of stock. Notwithstanding the
9 foregoing, the public health and health planning council may require the
10 disclosure of the identity of stockholders, provided that the number of
11 stockholders does not exceed thirty-five.

12 (d) The corporate powers and purposes of a business corporation estab-
13 lished as an operator pursuant to this subdivision shall be limited to
14 the ownership and operation, or operation, of a hospital or hospitals
15 specifically named and the location or locations of which are specif-
16 ically designated by street address, city, town, village or locality and
17 county; provided, however, that the corporate powers and purposes may
18 also include the ownership and operation, or operation, of a certified
19 home health agency or licensed home care services agency or agencies as
20 defined in article thirty-six of this chapter or a hospice or hospices
21 as defined in article forty of this chapter, if the corporation has
22 received all approvals required under such law to own and operate, or
23 operate, such home care services agency or agencies or hospice or
24 hospices. Such corporate powers and purposes shall not be modified,
25 amended or deleted without the prior approval of the commissioner.

26 (e) (1) In discharging the duties of their respective positions, the
27 board of directors, committees of the board and individual directors and

1 officers of a business corporation established pursuant to this subdivi-
2 sion shall consider the effects of any action upon:

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

4 (B) the shareholders of the business corporation;

5 (C) the employees and workforce of the business;

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

7 (E) community and societal considerations, including those of any

8 community in which facilities of the corporation are located;

9 (F) the local and global environment; and

10 (G) the short-term and long-term interests of the corporation, includ-
11 ing benefits that may accrue to the corporation from its long-term
12 plans.

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

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

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

21 (f) A sale, lease, conveyance, exchange, transfer, or other disposi-
22 tion of all or substantially all of the assets of the corporation shall
23 not be effective unless the transaction is approved by the commissioner.

24 (g) No later than two years after the establishment of a business
25 corporation under this subdivision, the commissioner shall provide the
26 governor, the majority leader of the senate and the speaker of the
27 assembly with a written evaluation of the pilot program. Such evaluation
28 shall address the overall effectiveness of the program in allowing for

1 access to capital investment in health care facilities and the impact
2 such access may have on the quality of care provided by hospitals oper-
3 ated by business corporations established under this subdivision.

4 § 105. Intentionally omitted.

5 § 106. Section 18 of chapter 266 of the laws of 1986, amending the
6 civil practice law and rules and other laws relating to medical and
7 dental malpractice, is REPEALED.

8 § 107. Any rules or regulations promulgated by the superintendent of
9 insurance or the commissioner of health pursuant to the provisions of
10 section 18 of chapter 266 of the laws of 1986 shall survive such repeal,
11 and shall be applicable to the excess medical malpractice liability
12 coverage pool and related provisions as created by section one hundred
13 eight of this act.

14 The repeal of section 18 of chapter 266 of the laws of 1986 as effec-
15 tuated by section one hundred six of this act shall not affect the
16 rights or obligations of any physician, dentist, insurer or general
17 hospital related to excess or equivalent excess coverage purchased
18 pursuant to the provisions of section 18 of chapter 266 of the laws of
19 1986 that were in effect prior to the date this act takes effect; nor
20 shall the repeal of section 18 of chapter 266 of the laws of 1986 as
21 effectuated by section one hundred six of this act affect the rights or
22 obligations of any claimant against excess or equivalent excess coverage
23 that was purchased pursuant to the provisions of section 18 of chapter
24 266 of the laws of 1986 that were in effect prior to the date this act
25 takes effect.

26 § 108. The public health law is amended by adding a new section 23 to
27 read as follows:

1 § 23. Excess medical malpractice liability coverage pool. 1. The
2 hospital excess liability pool established by subdivision five of
3 section eighteen of chapter two hundred sixty-six of the laws of nine-
4 teen hundred eighty-six, as amended by chapter two hundred fifty-six of
5 the laws of nineteen hundred ninety-three shall be continued and is
6 hereby renamed the "excess medical malpractice liability coverage pool."
7 The excess medical malpractice liability coverage pool shall be overseen
8 by the superintendent of financial services and the commissioner, and
9 shall consist of funds currently in or owed to the excess liability pool
10 as of the effective date of this section, and funds appropriated for the
11 purposes of the excess medical malpractice liability coverage pool.

12 2. Notwithstanding any inconsistent provision of sections one hundred
13 twelve and one hundred sixty-three of the state finance law, or sections
14 one hundred forty-two and one hundred forty-three of the economic devel-
15 opment law, or any other contrary provision of law, the superintendent
16 of financial services may enter into a contract or contracts under this
17 subdivision without a competitive bid or request for proposal process,
18 provided, however, that:

19 (a) The department of financial services shall post on its website,
20 for a period of no less than thirty days:

21 (i) A description of the proposed services to be provided pursuant to
22 the contract or contracts;

23 (ii) The criteria for selection of a contractor or contractors;

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

27 (iv) The manner by which a prospective contractor may seek such
28 selection, which may include submission by electronic means;

1 (b) All reasonable and responsive submissions that are received from
2 prospective contractors in timely fashion shall be reviewed by the
3 superintendent of financial services; and

4 (c) The superintendent of financial services shall select such
5 contractor or contractors that, in the superintendent of financial
6 services' discretion, are best suited to serve the purposes of this
7 subdivision.

8 3. (a) The superintendent of financial services and the commissioner
9 or their designees shall, from funds available in the excess medical
10 malpractice liability coverage pool created pursuant to subdivision one
11 of this section, purchase a policy or policies for excess insurance
12 coverage, or for equivalent excess coverage, for medical or dental malp-
13 ractice occurrences between the first of July of a given year and ending
14 the thirtieth of June of the next succeeding year, or to reimburse a
15 general hospital where the hospital purchases equivalent excess coverage
16 for medical or dental malpractice occurrences between the first of July
17 in a given year and ending the thirtieth of June in the succeeding year
18 for eligible physicians or dentists as certified by a general hospital
19 licensed pursuant to article twenty-eight of this chapter for each such
20 period or periods, provided the rates and premiums paid for such policy
21 or policies are actuarially sound and not discounted, as determined by
22 the superintendent of financial services or his or her designated actu-
23 ary.

24 (b) Such policies may be purchased pursuant to section five thousand
25 five hundred two of the insurance law, or from an insurer, duly licensed
26 in this state to write personal injury liability insurance and actually
27 writing medical malpractice insurance in this state.

1 (c) No single insurer shall write more than fifty percent of the total
2 excess premium for a given policy year, unless upon request by the
3 insurer, the superintendent of financial services in writing determined
4 that exceeding such limit would not be harmful to the policyholder and
5 the people of the state.

6 (d) Annually following the passage of the state budget, the super-
7 intendent of financial services shall determine the number of physicians
8 or dentists for whom a policy or policies for excess insurance coverage,
9 or for equivalent excess coverage, may be purchased from funds available
10 in the excess medical malpractice liability coverage pool. The super-
11 intendent shall grant priority for purchasing policies in the next poli-
12 cy year to the highest risk class of physicians or dentists practicing
13 in the highest risk territories. The superintendent and commissioner
14 shall not be obligated to purchase any more policies than the number of
15 policies at actuarially sound rates that can be supported within the
16 limits of the appropriation. After the initial enrollment period, should
17 the superintendent determine that additional policies can be purchased
18 for an additional class of physicians or dentists or a different terri-
19 tory of practice, the superintendent shall make policies available on a
20 first come first served basis up to the number of policies that can be
21 supported by the appropriation.

22 4. (a) For the purposes of this section, "eligible physician or
23 dentist" shall mean a physician or dentist who:

24 (i) has professional privileges in the general hospital that is certi-
25 fying the physician's or dentist's eligibility;

26 (ii) from time to time provides emergency medical or dental services,
27 including emergency medical screening examinations, treatment for emer-
28 gency medical conditions, including labor and delivery, or treatment for

1 emergency dental conditions to persons in need of such treatment at the
2 general hospital that is certifying their eligibility;

3 (iii) accept medicaid; and

4 (iv) (1) has in force coverage under an individual policy or group
5 policy written in accordance with the provisions of the insurance law
6 from an insurer licensed in this state to write personal injury liabil-
7 ity insurance, of primary malpractice insurance coverage in amounts of
8 no less than one million three hundred thousand dollars for each claim-
9 ant and three million nine hundred thousand dollars for all claimants
10 under that policy and covering the same time period as the excess insur-
11 ance coverage; or,

12 (2) is endorsed as an additional insured under a voluntary attending
13 physician ("channeling") program previously permitted by the superinten-
14 dent of insurance and covering the same time period as the equivalent
15 excess coverage.

16 (b) The excess coverage or equivalent excess coverage shall, when
17 combined with the physician's or dentist's primary malpractice insurance
18 coverage or coverage provided through a voluntary attending physician
19 ("channeling") program previously permitted by the superintendent of
20 insurance, total an aggregate level of coverage of two million three
21 hundred thousand dollars for each claimant and six million nine hundred
22 thousand dollars for all claimants with respect to occurrences during
23 the policy period.

24 (c) The equivalent excess coverage shall provide for payment only
25 after coverage available through the voluntary attending physician
26 ("channeling") program has been exhausted during the policy period.

27 (d) In the event that an eligible physician or dentist has profes-
28 sional privileges in more than one general hospital, the certification

1 of the physician's or dentist's eligibility shall be provided by the
2 general hospital designated by such physician or dentist as the general
3 hospital with which the physician or dentist is primarily affiliated, as
4 may be defined pursuant to regulations promulgated by the commissioner.

5 5. For the purposes of this section "equivalent excess coverage" shall
6 mean a policy or policies of insurance for a physician or dentist
7 insured under a voluntary attending physician ("channeling") program
8 previously permitted by the superintendent of insurance insuring a
9 physician or dentist against medical or dental malpractice with an
10 aggregate level of coverage providing not less than two million three
11 hundred thousand dollars for each claimant and six million nine hundred
12 thousand dollars for all claimants during the policy period. Such cover-
13 age limits shall be reduced by payments made on behalf of such physician
14 or dentist under a hospital professional liability policy written pursu-
15 ant to a voluntary attending physician ("channeling") program previously
16 permitted by the superintendent of insurance, in an amount not to exceed
17 two million three hundred thousand dollars for each claimant and six
18 million nine hundred thousand dollars for all claimants during such
19 policy period for each such physician or dentist.

20 6. (a) To the extent funds available to the excess medical malpractice
21 liability coverage pool pursuant to subdivision one of this section are
22 insufficient to meet the costs of excess insurance coverage or equiv-
23 alent excess coverage for coverage periods during the period between
24 July first of a given year and June thirtieth of the next succeeding
25 year, beginning July first, two thousand thirteen and ending June thir-
26 tieth, two thousand fifteen each physician or dentist for whom a policy
27 for excess insurance coverage or equivalent excess coverage is purchased
28 for such period shall be responsible for payment to the provider of

1 excess insurance coverage or equivalent excess coverage of an allocable
2 share of such insufficiency, based on the ratio of the total cost of
3 such coverage for such physician or dentist to the sum of the total cost
4 of such coverage for all physicians or dentists applied to such insuffi-
5 ciency.

6 (b) Each provider of excess insurance coverage or equivalent excess
7 coverage covering the period between July first of a given year and June
8 thirtieth of the next succeeding year, beginning July first, two thou-
9 sand thirteen and ending June thirtieth, two thousand fifteen shall
10 notify a covered physician or dentist by mail, mailed to the address
11 shown on the last application for excess insurance coverage or equiv-
12 alent excess coverage, of the amount due to such provider from such
13 physician or dentist for such coverage period determined in accordance
14 with paragraph (a) of this subdivision. Such amount shall be due from
15 such physician or dentist to such provider of excess insurance coverage
16 or equivalent excess coverage in a time and manner determined by the
17 superintendent of financial services.

18 (c) If a physician or dentist liable for payment of a portion of the
19 costs of excess insurance coverage or equivalent excess coverage cover-
20 ing the period between July first of a given year and June thirtieth of
21 the next succeeding year, beginning July first, two thousand thirteen
22 and ending June thirtieth, two thousand fifteen determined in accordance
23 with paragraph (a) of this subdivision fails, refuses or neglects to
24 make payment to the provider of excess insurance coverage or equivalent
25 excess coverage in such time and manner as determined by the superinten-
26 dent of financial services pursuant to paragraph (b) of this subdivi-
27 sion, excess insurance coverage or equivalent excess coverage purchased
28 for such physician or dentist in accordance with this section for such

1 coverage period shall be cancelled and shall be null and void as of the
2 first day on or after the commencement of a policy period where the
3 liability for payment pursuant to this subdivision has not been met.

4 (d) Each provider of excess insurance coverage or equivalent excess
5 coverage shall notify the superintendent of financial services and the
6 commissioner or their designee of each physician and dentist eligible
7 for purchase of a policy for excess insurance coverage or equivalent
8 excess coverage covering the period between July first of a given year
9 and June thirtieth of the next succeeding year, beginning July first,
10 two thousand thirteen and ending June thirtieth, two thousand fifteen
11 that has made payment to such provider of excess insurance coverage or
12 equivalent excess coverage in accordance with paragraph (b) of this
13 subdivision and of each physician and dentist who has failed, refused or
14 neglected to make such payment.

15 (e) A provider of excess insurance coverage or equivalent excess
16 coverage shall refund to the excess medical malpractice liability cover-
17 age pool any amount allocable to the period between July first of a
18 given year and June thirtieth of the next succeeding year, beginning
19 July first, two thousand thirteen and ending June thirtieth, two thou-
20 sand fifteen received from the excess medical malpractice liability
21 coverage pool for purchase of excess insurance coverage or equivalent
22 excess coverage covering the period between July first of a given year
23 and June thirtieth of the next succeeding year, beginning July first,
24 two thousand thirteen and ending June thirtieth, two thousand fifteen
25 for a physician or dentist where such excess insurance coverage or
26 equivalent excess coverage is cancelled in accordance with paragraph (c)
27 of this subdivision.

1 (f) A policy or policies of excess medical malpractice coverage issued
2 to or on behalf of an eligible physician or dentist pursuant to this
3 section shall be written upon and give effect to the choice of an insur-
4 er by the physician or dentist, provided, however, that such choice
5 shall be made among insurers writing excess coverage policies in accord-
6 ance with this section and further provided that no physician or dentist
7 shall be compelled to be insured by an insurer providing primary cover-
8 age nor shall such insurer providing such primary coverage be compelled
9 to write coverage of such eligible physician or dentist for such excess
10 coverage, in which case the eligible physician or dentist may select
11 another insurer writing such excess coverage in accordance with this
12 section.

13 7. Any insurer issuing policies of excess or equivalent excess cover-
14 age in accordance with subdivision one of this section may, notwith-
15 standing any provisions of the insurance law, return to the state, in
16 whole or in part, the moneys reimbursed by the state in accordance with
17 this section for specified policy periods, upon a certification to the
18 insurer by the superintendent of financial services that there is a
19 reasonable likelihood on an actuarial basis that the moneys returned
20 will not be needed to pay for the expected liabilities incurred by the
21 insurer for such policy periods.

22 8. The superintendent of financial services and the commissioner may
23 adopt and may amend such regulations as are necessary to effectuate the
24 provisions of this section.

25 § 109. Intentionally omitted.

26 § 110. Intentionally omitted.

27 § 111. Intentionally omitted.

28 § 112. Intentionally omitted.

1 § 113. Intentionally omitted.

2 § 114. Intentionally omitted.

3 § 115. Intentionally omitted.

4 § 116. Intentionally omitted.

5 § 117. Intentionally omitted.

6 § 118. Intentionally omitted.

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

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

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

1 § 122. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2013; provided,
3 however, that the provisions of this act shall apply only to actions and
4 proceedings commenced on or after such effective date; provided,
5 further, that:

6 (a) the amendments to paragraph (a) of subdivision 2 of section 2544
7 of the public health law made by section four of this act, as such
8 amendments pertain to authorizing a parent to select an evaluator
9 subject to the provisions of section 2545-a of the public health law as
10 added by section seven of this act shall apply on and after January 1,
11 2014;

12 (b) the amendments to subdivision 10 of section 2545 of the public
13 health law made by section six of this act shall take effect on the same
14 date and in the same manner as section 2-a of part A of chapter 56 of
15 the laws of 2012, takes effect;

16 (c) subdivision 2 of section 2545-a of the public health law, as added
17 by section seven of this act, section eleven of this act, paragraph (c)
18 as it pertains to requiring health maintenance organizations to provide
19 municipalities and service coordinators with a list of participating
20 providers who are approved under the early intervention program and
21 paragraph (g) of subdivision 6 of section 4406 of the public health law
22 as added by section twelve of this act, subsection (c) as amended to
23 require insurers to provide municipalities and service coordinators with
24 a list of participating providers who are approved under the early
25 intervention program and subsections (e) and (h) of section 3235-a of
26 the insurance law, as added by section thirteen of this act, shall take
27 effect October 1, 2013; provided however, that the requirements
28 contained in paragraph (g) of subdivision 6 of section 4406 of the

1 public health law as added by section twelve of this act and subsection
2 (h) of section 3235-a of the insurance law as added by section thirteen
3 of this act shall apply only to policies, benefit packages and contracts
4 issued, renewed, modified, altered or amended on or after the effective
5 date of such paragraph and such subsection;

6 (d) paragraph (b) of subdivision 6 of section 4406 of the public
7 health law as added by section twelve of this act and subsection (b) of
8 section 3235-a of the insurance law as amended by section thirteen of
9 this act shall take effect April 1, 2013, provided however that the
10 requirements contained therein, as they apply to prohibiting the
11 reduction of the number of visits available to the covered person or
12 enrollee's parents and family members who are covered under the policy
13 or contract by the number of visits used for early intervention
14 services, shall apply only to policies, benefit packages and contracts
15 issued, renewed, modified, altered or amended on or after the effective
16 date of such paragraph and such subsection;

17 (e) paragraph (f) of subdivision 6 of section 4406 of the public
18 health law, as added by section twelve of this act, shall take effect
19 January 1, 2014;

20 (f) the amendments to subdivision 7 of section 2510 of the public
21 health law made by section ten of this act shall be subject to the expi-
22 ration and revision of such subdivision and shall expire therewith;

23 (g) subsection (f) of section 3235-a of the insurance law, as added by
24 section thirteen of this act, shall take effect January 1, 2014;

25 (h) sections thirty-three, thirty-four, thirty-five, thirty-six, thir-
26 ty-seven, thirty-nine, forty, and forty-one of this act shall take
27 effect immediately;

1 (i) sections five, nine, ten, fourteen, fifteen, sixteen, seventeen,
2 eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twen-
3 ty-four, twenty-six, twenty-seven, twenty-eight, twenty-nine, and thirty
4 of this act shall take effect January 1, 2014;

5 (j) sections eighty-seven, eighty-eight and eighty-nine of this act
6 shall take effect April 1, 2014, provided that effective immediately,
7 the addition, amendment and/or repeal of any rule or regulation neces-
8 sary for the implementation of such sections on the effective date of
9 this act are authorized and directed to be made and completed on or
10 before such effective date;

11 (k) any rules or regulations necessary to implement the provisions of
12 this act may be promulgated and any procedures, forms, or instructions
13 necessary for such implementation may be adopted and issued on or after
14 the date this act shall have become a law;

15 (l) this act shall not be construed to alter, change, affect, impair
16 or defeat any rights, obligations, duties or interests accrued, incurred
17 or conferred prior to the effective date of this act;

18 (m) the commissioner of health and the superintendent of financial
19 services and any appropriate council may take any steps necessary to
20 implement this act prior to its effective date;

21 (n) notwithstanding any inconsistent provision of the state adminis-
22 trative procedure act or any other provision of law, rule or regulation,
23 the commissioner of health and the superintendent of financial services
24 and any appropriate council is authorized to adopt or amend or promul-
25 gate on an emergency basis any regulation he or she or such council
26 determines necessary to implement any provision of this act on its
27 effective date; and

1 (o) the provisions of this act shall become effective notwithstanding
2 the failure of the commissioner of health or the superintendent of
3 financial services or any council to adopt or amend or promulgate regu-
4 lations implementing this act.

5 PART F

6 Section 1. Section 19.16 of the mental hygiene law, as added by chap-
7 ter 223 of the laws of 1992, is amended to read as follows:

8 § 19.16 Methadone Registry.

9 The office shall establish and maintain, either directly or through
10 contract, a central registry for purposes of preventing multiple enroll-
11 ment, ensuring accurate dosage delivery and facilitating disaster
12 management in methadone programs. The office shall require all methadone
13 programs to utilize such registry and shall have the power to assess
14 methadone programs such fees as are necessary and appropriate.

15 § 2. This act shall take effect April 1, 2013.

16 PART G

17 Section 1. Article 26 of the mental hygiene law is REPEALED.

18 § 2. The article heading of article 25 of the mental hygiene law, as
19 added by chapter 471 of the laws of 1980, is amended to read as follows:

20 [FUNDING FOR SUBSTANCE ABUSE SERVICES]

21 FUNDING FOR SERVICES OF THE OFFICE OF ALCOHOLISM AND

22 SUBSTANCE ABUSE SERVICES

23 § 3. Paragraphs 1, 2, 3 and 4 of subdivision (a) of section 25.01 of
24 the mental hygiene law, paragraph 1 as added by chapter 471 of the laws

1 of 1980, and paragraphs 2, 3 and 4 as amended by chapter 223 of the laws
2 of 1992, are amended, and four new paragraphs 5, 6, 7 and 8 are added to
3 read as follows:

4 1. "Local agency" shall mean a county governmental unit for a county
5 not wholly within a city, and a city governmental unit for a city having
6 a population of one million or more, designated by such county or city
7 as responsible for substance [abuse] use disorder services in such coun-
8 ty or city.

9 2. "Operating [costs] expenses" shall mean expenditures[, excluding
10 capital costs and debt service, subject to the approval of the office,]
11 approved by the office and incurred for the maintenance and operation of
12 substance [abuse] use disorder programs, including but not limited to
13 expenditures for treatment, administration, personnel, and contractual
14 services[, rental, depreciation and interest expenses incurred, in
15 connection with the design, construction, acquisition, reconstruction,
16 rehabilitation or improvement of a substance abuse program facility, and
17 payments made to the facilities development corporation for substance
18 abuse program facilities; provided that where the]. Operating expenses
19 do not include capital costs and debt service unless such expenses are
20 related to the rent, financing or refinancing of the design,
21 construction, acquisition, reconstruction, rehabilitation or improvement
22 of a substance [abuse] use disorder program facility [is through the
23 facilities development corporation, operating costs shall include the
24 debt service to be paid to amortize obligations, including principal and
25 interest, issued by the New York State medical care facilities finance
26 agency to finance or refinance the capital costs of such facilities]
27 pursuant to the mental hygiene facilities finance program through the
28 dormitory authority of the state of New York (DASNY; successor to the

1 Facilities Development Corporation), or otherwise approved by the
2 office.

3 3. "Debt service" shall mean amounts, subject to the approval of the
4 office, [as shall be] required to be paid to amortize obligations
5 including principal and interest [issued by the New York state housing
6 finance agency, the New York State medical care facilities finance agen-
7 cy or], assumed by or on behalf of a [substance abuse program] voluntary
8 agency or a local [agency to finance capital costs for substance abuse
9 program facilities] government.

10 4. "Capital costs" shall mean [expenditures, subject to the approval
11 of the office, as shall be obligated to acquire, construct, reconstruct,
12 rehabilitate or improve a substance abuse program facility.] the costs
13 of a local government or a voluntary agency with respect to the acquisi-
14 tion of real property estates, interests, and cooperative interests in
15 realty, their design, construction, reconstruction, rehabilitation and
16 improvement, original furnishings and equipment, site development, and
17 appurtenances of a facility.

18 5. "State aid" shall mean financial support provided through appropri-
19 ations of the office to support the provision of substance use disorder
20 treatment, compulsive gambling, prevention or other authorized services,
21 with the exclusion of appropriations for the purpose of medical assist-
22 ance.

23 6. "Voluntary agency contributions" shall mean revenue sources of
24 voluntary agencies exclusive of state aid and local tax levy.

25 7. "Approved net operating cost" shall mean the remainder of total
26 operating expenses approved by the office, less all sources of revenue,
27 including voluntary agency contributions and local tax levy.

1 8. "Voluntary agency" shall mean a corporation organized or existing
2 pursuant to the not-for-profit corporation law for the purpose of
3 providing substance use disorder, treatment, compulsive gambling,
4 prevention or other authorized services.

5 § 4. Subdivisions (a) and (b) of section 25.03 of the mental hygiene
6 law, subdivision (a) as amended by chapter 558 of the laws of 1999 and
7 subdivision (b) as amended by chapter 223 of the laws of 1992, are
8 amended and a new subdivision (d) is added to read as follows:

9 (a) In accordance with the provisions of this article, and within
10 appropriations made available, the office may provide [financial
11 support] state aid to a [substance abuse program or a] local [agency]
12 government or voluntary agency up to one hundred per centum of the
13 approved net operating costs of such [program] local government or
14 voluntary agency, and [either fifty per centum of the capital cost or
15 fifty per centum of the debt service,] state aid may also be granted to
16 a local government or a voluntary agency for capital costs associated
17 with the provision of services at a rate of up to one hundred percent of
18 approved capital costs. Such state aid shall not be granted unless and
19 until such local government or voluntary agency is in compliance with
20 all regulations promulgated by the commissioner regarding the financing
21 of capital projects. Such state aid for approved [services] net operat-
22 ing costs shall be made available by way of advance or reimbursement,
23 through either contracts entered into between the office and such
24 [program or] voluntary agency[, upon such terms and conditions as the
25 office shall deem appropriate, except as provided in section 25.07 of
26 this article, provided, however, that, upon issuance of an operating
27 certificate in accordance with article thirty-two of this chapter, if
28 required, the office shall provide financial support for approved chemi-

1 cal dependence services in accordance with article twenty-six of this
2 title.] or by distribution of such state aid to local governments
3 through a grant process pursuant to section 25.11 of this article.

4 (b) Financial support by the office shall be subject to the approval
5 of the director of the budget and within available appropriations.

6 (d) Nothing in this section shall be construed to require the state to
7 increase such state aid should a local government choose to remove any
8 portion of its local tax levy support of voluntary agencies, although
9 the state may choose to do so to address an urgent public need, or
10 conversely, may choose to reduce its state aid.

11 § 5. Section 25.05 of the mental hygiene law, as amended by chapter
12 223 of the laws of 1992, is amended to read as follows:

13 § 25.05 Reimbursement from other sources.

14 The office shall not provide a [substance abuse program] voluntary
15 agency or a local agency with financial support for obligations incurred
16 by or on behalf of such program or agency for substance [abuse] use
17 disorder services for which reimbursement is or may be claimed under any
18 provision of law other than this article.

19 § 6. The section heading and subdivisions (a) and (c) of section 25.06
20 of the mental hygiene law, as amended by chapter 223 of the laws of
21 1992, are amended to read as follows:

22 Disclosures by closely allied entities of [substance abuse programs] a
23 voluntary agency.

24 (a) A closely allied entity of a [substance abuse program] voluntary
25 agency that is funded or has applied for funding from the office shall
26 provide the office with the following information:

27 1. A schedule of the dates, nature and amounts of all fiscal trans-
28 actions between the closely allied entity and the [substance abuse

1 program] voluntary agency that is funded or has applied for funding from
2 the office.

3 2. A copy of the closely allied entity's certified annual financial
4 statements.

5 3. With respect to any lease agreement between the closely allied
6 entity, as lessor, and the [substance abuse program] voluntary agency
7 that is funded or has applied for funding from the office, as lessee, of
8 real or personal property:

9 (i) A certified statement by an independent outside entity providing a
10 fair market appraisal of the real property space to be rented, as well
11 as of any rental of personal property.

12 (ii) A statement of projected operating costs of the allied entity
13 relative to any such leased property for the budget period. The closely
14 allied entity must furnish the office with a certified statement of its
15 actual operating costs relative to the leased property.

16 4. A statement of the funds received by the closely allied entity in
17 connection with its fund raising activities conducted on behalf of the
18 substance [abuse] use disorder program that is funded or has applied for
19 funding from the office which clearly identifies how such funds were and
20 will be distributed or applied to such program.

21 5. Any other data or information which the office may deem necessary
22 for purposes of making a funding decision.

23 (c) For purposes of this section, a "closely allied entity" shall
24 mean, but not be limited to, a corporation, partnership or unincorporat-
25 ed association or other body that has been formed or is organized to
26 provide financial assistance and aid for the benefit of a [substance
27 abuse program] voluntary agency that is funded or has applied for fund-
28 ing from the office and which financial assistance and aid shall

1 include, but not be limited to, engaging in fund raising activities,
2 administering funds, holding title to real property, having an interest
3 in personal property of any nature whatsoever, and engaging in any other
4 activities for the benefit of any such program. Moreover, an entity
5 shall be deemed closely allied to a [substance abuse program] voluntary
6 agency that is funded or has applied for funding from the office to the
7 extent that such entity and applicable fiscal transactions are required
8 to be disclosed within the annual financial statements of the [substance
9 abuse program] voluntary agency that is funded or has applied for fund-
10 ing from the office, under the category of related party transactions,
11 as defined by and in accordance with generally accepted accounting prin-
12 ciples (GAAP) and generally accepted auditing standards (GAAS), as
13 promulgated by the American institute of certified public accountants
14 (AICPA).

15 § 7. Section 25.07 of the mental hygiene law, as added by chapter 471
16 of the laws of 1980, is amended to read as follows:

17 § 25.07 Non-substitution.

18 A [substance abuse program] voluntary agency or a local [agency]
19 government shall not substitute state monies for cash contributions,
20 federal aid otherwise committed to or intended for use in such program
21 or by such agency, revenues derived from the operation of such program
22 or agency, or the other resources available for use in the operation of
23 the program or agency.

24 § 8. Section 25.09 of the mental hygiene law, as amended by chapter
25 223 of the laws of 1992, is amended to read as follows:

26 § 25.09 Administrative costs.

27 Subject to the approval of the director of the budget, the office
28 shall establish a limit on the amount of financial support which may be

1 advanced or reimbursed to a [substance abuse program] voluntary agency
2 or a local [agency] government for the administration of a [substance
3 abuse] program.

4 § 9. Section 25.11 of the mental hygiene law, as added by chapter 471
5 of the laws of 1980, subdivision (a) as amended by chapter 223 of the
6 laws of 1992, is amended to read as follows:

7 § 25.11 [Comprehensive plan] Distribution of state aid to local govern-
8 ments.

9 [(a) A local agency intending to seek financial support from the
10 office shall no later than July first of each year submit to the office
11 a comprehensive substance abuse services plan, which shall describe the
12 programs and activities planned for its ensuing fiscal year. Such plan
13 shall indicate to the extent possible, the nature of the services to be
14 provided, whether such services are to be provided directly, through
15 subcontract, or through the utilization of existing public resources,
16 the area or areas to be served, and an estimate of the cost of such
17 services, including amounts to be provided other than by office finan-
18 cial support, specifically identifying the amount of local governmental
19 funds committed to substance abuse programs during its current fiscal
20 year, and a commitment that no less than such an amount will be used
21 from such funds for the operation of such programs during the next
22 fiscal year. Such plan shall make provisions for all needed substance
23 abuse services and for the evaluation of the effectiveness of such
24 services.

25 (b) When a comprehensive plan includes a local school district based
26 substance abuse program such plan shall include the details of an
27 adequate distribution of in-school and community-wide preventive educa-
28 tion services, including, but not limited to, services to be provided by

1 local drug abuse prevention councils, and shall emphasize the use of
2 other volunteer agency services as may be available. The description of
3 the program and activities thereunder shall be separately stated, and
4 the data and information required to be provided shall conform to the
5 provisions of subdivision (a) of this section except that the period to
6 be covered may, notwithstanding the fiscal year of the local agency,
7 conform to the school year.] Notwithstanding section one hundred twelve
8 of the state finance law, the office is authorized to grant state aid
9 annually to local governments in the following manner:

10 (a) Local governments shall be granted state aid by a state aid fund-
11 ing authorization letter issued by the office for approved net operating
12 costs for voluntary agencies to support the base amount of state aid
13 provided to such voluntary agencies for the prior year provided that the
14 local government has approved and submitted budgets for the voluntary
15 agencies to the office. The voluntary agency budgets shall identify the
16 nature of the services to be provided which must be consistent with the
17 local services plan submitted by the local government pursuant to arti-
18 cle forty-one of this chapter, the areas to be served and include a
19 description of the voluntary agency contributions and local government
20 funding provided. The local government shall enter into contracts with
21 the voluntary agencies receiving such state aid. Such contracts shall
22 include funding requirements set by the office including but not limited
23 to responsibilities of voluntary agencies relating to work scopes,
24 program performance and operations, application of program income,
25 prohibited use of funds, recordkeeping and audit obligations. Upon
26 designation by the office, local governments shall notify voluntary
27 agencies as to the source of funding received by such voluntary agen-
28 cies.

1 (b) State aid made available to a local government for approved net
2 operating costs for a voluntary agency may be reduced where a review of
3 such voluntary agency's prior year's budget and/or performance indi-
4 cates:

5 (1) that the local government or voluntary agency has failed to meet
6 minimum performance standards and requirements of the office including,
7 but not limited to, maintaining service utilization rates and productiv-
8 ity standards as set by the office;

9 (2) that the voluntary agency has had an increase in voluntary agency
10 contributions that reduces the approved net operating costs necessary;

11 (3) that the office, upon consultation with the local government,
12 otherwise determines there is a need to reduce the amount of state aid
13 available.

14 § 10. Section 25.13 of the mental hygiene law, as amended by chapter
15 223 of the laws of 1992, is amended to read as follows:

16 § 25.13 Office is authorized state agency.

17 (a) The office when designated by the governor is the agency of the
18 state to administer and/or supervise the state plan or plans concerning
19 substance [abuse] use disorder services specified in the federal drug
20 abuse office and treatment act of nineteen hundred seventy-two and to
21 cooperate with the duly designated federal authorities charged with the
22 administration thereof.

23 (b) The office and all entities to which it provides financial support
24 shall do all that is required and shall render necessary cooperation to
25 ensure optimum use of federal aid for substance [abuse] use disorder
26 services.

27 (c) The commissioner is authorized and empowered to take such steps,
28 not inconsistent with law, as may be necessary for the purpose of

1 procuring for the people of this state all of the benefits and assist-
2 ance, financial and otherwise, provided, or to be provided for, by or
3 pursuant to any act of congress relating to substance [abuse] use disor-
4 der services.

5 § 11. Section 25.15 of the mental hygiene law, as amended by chapter
6 223 of the laws of 1992, is amended to read as follows:

7 § 25.15 Optimizing federal aid.

8 (a) A local [agency] government or [substance abuse program] voluntary
9 agency shall, unless a specific written waiver of this requirement is
10 made by the office, cause applications to be completed on such forms and
11 in such manner as directed by the office and submit the same to the
12 office for the purpose of causing a determination to be made whether the
13 cost of the services provided individuals and groups qualify for federal
14 aid which may be available for services provided pursuant to titles IV,
15 XVI, XIX and XX of the federal social security act, or any other federal
16 law. A local [agency] government or a [substance abuse program] volun-
17 tary agency shall furnish to the office such other data as may be
18 required and shall render such cooperation as may be necessary to maxi-
19 mize such potential federal aid. All information concerning the identity
20 of individuals obtained and provided pursuant to this subdivision shall
21 be kept confidential.

22 (b) To the extent that federal aid may be available for any substance
23 [abuse] use disorder services, the office, notwithstanding any other
24 inconsistent provision of law, and with the approval of the director of
25 the budget, is hereby authorized to seek such federal aid on behalf of
26 [substance abuse programs] voluntary agencies and local [agencies]
27 governments either directly or through the submission of claims to
28 another state agency authorized to submit the same to an appropriate

1 federal agency. The office is further authorized to certify for payment
2 to [substance abuse programs] voluntary agencies and local [agencies]
3 governments any federal aid received by the state which is attributable
4 to the activities financed by such programs and [agencies] governments.

5 § 12. Section 25.17 of the mental hygiene law, as amended by chapter
6 223 of the laws of 1992, is amended to read as follows:

7 § 25.17 Fees for services.

8 Local [agencies] governments and substance [abuse] use disorder treat-
9 ment programs funded in whole or in part by the office shall establish,
10 subject to the approval of the office, fee schedules for substance
11 [abuse] use disorder services, not specifically covered by the rates
12 established pursuant to article twenty-eight of the public health law or
13 title two of article five of the social services law. Such fees shall be
14 charged for substance [abuse] use disorder services furnished to persons
15 who are financially able to pay the same, provided, that such services
16 shall not be refused to any person because of his inability to pay
17 therefor.

18 § 13. Subdivision (d) of section 41.18 of the mental hygiene law, as
19 amended by chapter 558 of the laws of 1999, is amended to read as
20 follows:

21 (d) The liability of the state in any state fiscal year for state aid
22 pursuant to this section shall exclude chemical dependence services,
23 which are subject to article [twenty-six] twenty-five of this chapter,
24 and shall be limited to the amounts appropriated for such state aid by
25 the legislature for such state fiscal year.

26 § 14. This act shall take effect April 1, 2013; provided, however,
27 that effective immediately, any rule or regulation necessary for the

1 implementation of this act on its effective date is authorized and
2 directed to be made and completed on or before such effective date.

3 PART H

4 Section 1. Subdivision (b) of section 7.17 of the mental hygiene law,
5 as amended by section 1 of part 0 of chapter 56 of the laws of 2012, is
6 amended to read as follows:

7 (b) There shall be in the office the hospitals named below for the
8 care, treatment and rehabilitation of persons with mental illness and
9 for research and teaching in the science and skills required for the
10 care, treatment and rehabilitation of such persons with mental illness.

11 Greater Binghamton Health Center

12 Bronx Psychiatric Center

13 Buffalo Psychiatric Center

14 Capital District Psychiatric Center

15 Central New York Psychiatric Center

16 Creedmoor Psychiatric Center

17 Elmira Psychiatric Center

18 Kingsboro Psychiatric Center

19 Kirby Forensic Psychiatric Center

20 Manhattan Psychiatric Center

21 Mid-Hudson Forensic Psychiatric Center

22 Mohawk Valley Psychiatric Center

23 Nathan S. Kline Institute for Psychiatric Research

24 New York State Psychiatric Institute

25 Pilgrim Psychiatric Center

26 Richard H. Hutchings Psychiatric Center

1 Rochester Psychiatric Center
2 Rockland Psychiatric Center
3 St. Lawrence Psychiatric Center
4 South Beach Psychiatric Center
5 New York City Children's Center
6 Rockland Children's Psychiatric Center
7 Sagamore Children's Psychiatric Center
8 Western New York Children's Psychiatric Center
9 The New York State Psychiatric Institute and The Nathan S. Kline
10 Institute for Psychiatric Research are designated as institutes for the
11 conduct of medical research and other scientific investigation directed
12 towards furthering knowledge of the etiology, diagnosis, treatment and
13 prevention of mental illness. [Whenever the term Bronx Children's
14 Psychiatric Center, Brooklyn Children's Psychiatric Center and Queens
15 Children's Psychiatric Center is referred to or designated in any regu-
16 lation, contract or document pertaining to the functions, powers, obli-
17 gations and duties hereby transferred and assigned, such reference or
18 designation shall be deemed to refer to the New York City Children's
19 Center.]

20 § 2. Section 4 of part 0 of chapter 56 of the laws of 2012, amending
21 the mental hygiene law relating to the closure and the reduction in size
22 of certain facilities serving persons with mental illness, is amended
23 and a new section 1-a is added to read as follows:

24 § 1-a. Whenever the term Bronx Children's Psychiatric Center, Brooklyn
25 Children's Psychiatric Center or Queens Children's Psychiatric Center is
26 referred to or designated in any regulation, contract or document
27 pertaining to the functions, powers, obligations and duties hereby

1 transferred and assigned pursuant to this act, such reference or desig-
2 nation shall be deemed to refer to the New York City Children's Center.

3 § 4. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2012; provided
5 that the date for any closure or consolidation pursuant to this act
6 shall be on a date certified by the commissioner of mental health; and
7 provided further, however, that section two of this act shall expire and
8 be deemed repealed March 31, 2013.

9 § 3. Notwithstanding the provisions of subdivisions (b) and (e) of
10 section 7.17 of the mental hygiene law or any other law to the contrary,
11 the office of mental health is authorized to close, consolidate, reduce,
12 transfer or otherwise redesign services of hospitals, other facilities
13 and programs operated by the office of mental health, and to implement
14 significant service reductions and reconfigurations according to this
15 section as shall be determined by the commissioner of mental health to
16 be necessary for the cost-effective and efficient operation of such
17 hospitals, other facilities and programs. One of the intents of actions
18 taken that result in closure, consolidation, reduction, transfer or
19 other redesign of services of hospitals is to reinvest savings such
20 that, to the extent practicable, comparable or greater levels of commu-
21 nity based mental health services will be provided to persons with
22 mental illness in need of services within the catchment areas of such
23 hospitals, as determined by the commissioner of mental health with
24 approval from the director of the division of the budget.

25 (a) In addition to the closure, consolidation or merger of one or more
26 facilities, the commissioner of mental health is authorized to perform
27 any significant service reductions that would reduce inpatient bed
28 capacity, which shall include but not be limited to, closures of wards

1 at a state-operated psychiatric center or the conversion of beds to
2 transitional placement programs, provided that the commissioner provide
3 at least 45 days notice of such reductions to the temporary president of
4 the senate and the speaker of the assembly and simultaneously post such
5 notice upon its public website. In assessing which significant services
6 reductions to undertake, the commissioner shall consider data related to
7 inpatient census, indicating nonutilization or under utilization of
8 beds, and the efficient operation of facilities.

9 (b) At least 75 days prior to the anticipated closure, consolidation
10 or merger of any hospitals named in subdivision (b) of section 7.17 of
11 the mental hygiene law, the commissioner of mental health shall provide
12 notice of such closure, consolidation or merger to the temporary presi-
13 dent of the senate, and speaker of the assembly, the chief executive
14 officer of the county in which the facility is located, and shall post
15 such notice upon its public website. The commissioner shall be author-
16 ized to conduct any and all preparatory actions which may be required to
17 effectuate such closures during such 75 day period. In assessing which
18 of such hospitals to close, the commissioner shall consider the follow-
19 ing factors: (1) the size, scope and type of services provided by the
20 hospital; (2) the relative quality of the care and treatment provided by
21 the hospital, as may be informed by internal or external quality or
22 accreditation reviews; (3) the current and anticipated long term need
23 for the types of services provided by the facility within its catchment
24 area, which may include, but not limited to, services for adults or
25 children, or other specialized services, such as forensic services; (4)
26 the availability of staff sufficient to address the current and antic-
27 ipated long term service needs; (5) the long term capital investment
28 required to ensure that the facility meets relevant state and federal

1 regulatory and capital construction requirements, and national accredi-
2 tation standards; (6) the proximity of the facility to other facilities
3 with space that could accommodate anticipated need, the relative cost of
4 any necessary renovations of such space, the relative potential operat-
5 ing efficiency of such facilities, and the size, scope and types of
6 services provided by the other facilities; (7) anticipated savings based
7 upon economies of scale or other factors; (8) community mental health
8 services available in the facility catchment area and the ability of
9 such community mental health services to meet the behavioral health
10 needs of the impacted consumers; (9) the obligations of the state to
11 place persons with mental disabilities in community settings rather than
12 in institutions, when appropriate; and (10) the anticipated impact of
13 the closure on access to mental health services.

14 (c) Any transfers of inpatient capacity or any resulting transfer of
15 functions shall be authorized to be made by the commissioner of mental
16 health and any transfer of personnel upon such transfer of capacity or
17 transfer of functions shall be accomplished in accordance with the
18 provisions of section 70 of the civil service law.

19 § 4. Section 7 of part R2 of chapter 62 of the laws of 2003, amending
20 the mental hygiene law and the state finance law relating to the commu-
21 nity mental health support and workforce reinvestment program, the
22 membership of subcommittees for mental health of community services
23 boards and the duties of such subcommittees and creating the community
24 mental health and workforce reinvestment account, as amended by section
25 2 of part C of chapter 111 of the laws of 2010, is amended to read as
26 follows:

1 § 7. This act shall take effect immediately and shall expire March 31,
2 [2013] 2014 when upon such date the provisions of this act shall be
3 deemed repealed.

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

13 § 6. This act shall take effect April 1, 2013; provided, however that
14 if this act shall become a law after April 1, 2013, this act shall take
15 effect immediately and shall be deemed to have been in full force and
16 effect on and after April 1, 2013; provided that the date for any
17 closure or consolidations pursuant to this act shall be on or after a
18 date certified by the commissioner of mental health.

19 PART I

20 Section 1. Subdivisions (d), (e), (f) and (g) of section 41.44 of the
21 mental hygiene law are relettered subdivisions (e), (f), (g), and (h)
22 and a new subdivision (d) is added to read as follows:

23 (d) The commissioner is authorized to recover funding from providers
24 of community residences licensed by the office of mental health,
25 consistent with contractual obligations of such providers, and notwith-
26 standing any other inconsistent provision of law to the contrary, such

1 recovery amount shall equal fifty percent of the Medicaid revenue
2 received by such providers which exceeds the fixed amount of annual
3 Medicaid revenue limitations, as established by the commissioner.

4 § 2. This act shall take effect immediately, and shall be deemed to
5 have been in full force and effect on and after April 1, 2013.

6 PART J

7 Section 1. Subdivision (a) of section 7.19 of the mental hygiene law,
8 as amended by chapter 307 of the laws of 1979, is amended to read as
9 follows:

10 (a) The commissioner or his or her designee may, within the amounts
11 appropriated therefor, appoint and remove in accordance with law and
12 applicable rules of the state civil service commission, such officers
13 and employees of the office of mental health [and facility officers and
14 employees who are designated managerial or confidential pursuant to
15 article fourteen of the civil service law] as are necessary for effi-
16 cient administration and shall administer the office's personnel system
17 in accordance with such law and rules. In exercising the appointing
18 authority, the commissioner shall take all reasonable and necessary
19 steps, consistent with article twenty-three-A of the correction law, to
20 ensure that any such person so appointed has not previously engaged in
21 any act in violation of any law which could compromise the health and
22 safety of patients.

23 § 2. Subdivision (a) of section 7.21 of the mental hygiene law, as
24 amended by chapter 434 of the laws of 1980, is amended to read as
25 follows:

1 (a) The director of a facility under the jurisdiction of the office of
2 mental health shall be its chief executive officer. Each such director
3 shall be in the noncompetitive class and designated as confidential as
4 defined by subdivision two-a of section forty-two of the civil service
5 law and shall be appointed by and serve at the pleasure of the commis-
6 sioner. [Except for facility officers and employees for which subdivi-
7 sion (a) of section 7.19 of this article makes the commissioner the
8 appointing and removing authority, the director of a facility shall have
9 the power, within amounts appropriated therefor, to appoint and remove
10 in accordance with law and applicable rules of the state civil service
11 commission such officers and employees of the facility of which he is
12 director as are necessary for its efficient administration. He shall in
13 exercising this appointing authority take, consistent with article twen-
14 ty-three-A of the correction law, all reasonable and necessary steps to
15 insure that any such person so appointed has not previously engaged in
16 any act in violation of any law which could compromise the health and
17 safety of patients in the facility of which he is director.] He or she
18 shall manage the facility [and administer its personnel system] subject
19 to applicable law and the regulations of the commissioner of mental
20 health [and the rules of the state civil service commission]. Before
21 the commissioner shall issue any such regulation or any amendment or
22 revision thereof, he or she shall consult with the facility directors
23 [of the office's hospitals] regarding its suitability. The director
24 shall maintain effective supervision of all parts of the facility and
25 over all persons employed therein or coming thereon and shall generally
26 direct the care and treatment of patients. Directors presently serving
27 at office of mental health facilities shall continue to serve under the
28 terms of their original appointment.

1 § 3. This act shall take effect April 1, 2013.

2 PART K

3 Section 1. Subdivisions (a), (b) and (c) of section 10.09 of the
4 mental hygiene law, subdivisions (a) and (c) as added by chapter 7 of
5 the laws of 2007 and subdivision (b) as amended by section 3 of part P
6 of chapter 56 of the laws of 2012, are amended to read as follows:

7 (a) The commissioner shall provide the respondent and counsel for
8 respondent with [an annual] a written notice of the right to petition
9 the court for discharge, which shall be provided no later than eleven
10 months after the date on which the supreme or county court judge last
11 ordered or confirmed the need for continued confinement pursuant to this
12 article. The notice shall contain a form for the waiver of the right to
13 petition for discharge.

14 (b) The commissioner shall also assure that each respondent committed
15 under this article shall have an examination for evaluation of his or
16 her mental condition made [at least once every] no later than one year
17 [(calculated from) after the date on which the supreme or county court
18 judge last ordered or confirmed the need for continued confinement
19 pursuant to this article [or the date on which the respondent waived the
20 right to petition for discharge pursuant to this section, whichever is
21 later, as applicable)]. Such examination shall be conducted by a psychi-
22 atric examiner who shall report to the commissioner his or her written
23 findings as to whether the respondent is currently a dangerous sex
24 offender requiring confinement. At such time, the respondent also shall
25 have the right to be evaluated by an independent psychiatric examiner.
26 If the respondent is financially unable to obtain an examiner, the court

1 shall appoint an examiner of the respondent's choice to be paid within
2 the limits prescribed by law. Following such evaluation, each psychiat-
3 ric examiner shall report his or her findings in writing to the commis-
4 sioner and to counsel for respondent. The commissioner shall review
5 relevant records and reports, along with the findings of the psychiatric
6 examiners, and shall make a determination in writing as to whether the
7 respondent is currently a dangerous sex offender requiring confinement.

8 (c) The commissioner shall [annually] forward the notice and waiver
9 form, along with a report including the commissioner's written determi-
10 nation and the findings of the psychiatric examination, to the supreme
11 or county court where the respondent is located, which shall be provided
12 no later than one year after the date on which the supreme or county
13 court judge last ordered or confirmed the need for continued confinement
14 pursuant to this article.

15 § 2. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after April 1, 2013.

17 PART L

18 Section 1. The mental hygiene law is amended by adding a new section
19 31.37 to read as follows:

20 § 31.37 Mental health incident review panels.

21 (a) The commissioner is authorized to establish a mental health inci-
22 dent review panel for the purposes of reviewing in conjunction with
23 local representation, the circumstances and events related to a serious
24 incident involving a person with mental illness. For purposes of this
25 section, a "serious incident involving a person with mental illness"
26 means an incident occurring in the community in which a person with a

1 serious mental illness is physically injured or causes physical injury
2 to another person, or suffers a serious and preventable medical compli-
3 cation or becomes involved in a criminal incident involving violence. A
4 panel shall conduct a review of such serious incident in an attempt to
5 identify problems or gaps in mental health delivery systems and to make
6 recommendations for corrective actions to improve the provision of
7 mental health or related services, to improve the coordination, inte-
8 gration and accountability of care in the mental health service system,
9 and to enhance individual and public safety.

10 (b) A mental health incident review panel shall include, but need not
11 be limited to, representatives from the office of mental health and the
12 local governmental unit where the serious incident involving a person
13 with a mental illness occurred. A mental health incident review panel
14 may also include, if deemed appropriate by the commissioner based on the
15 nature of the serious incident being reviewed, one or more represen-
16 tatives from mental health providers, local departments of social
17 services, human services programs, hospitals, local schools, emergency
18 medical or mental health services, the office of the county attorney, a
19 county prosecutor's office, state or local law enforcement agencies, the
20 office of the medical examiner or the office of the coroner, the judici-
21 ary, or other appropriate state or local officials.

22 (c) Notwithstanding any other provision of law to the contrary and to
23 the extent consistent with federal law, a mental health incident review
24 panel shall have access to those client-identifiable mental health
25 records, as well as all records, documentation and reports relating to
26 the investigation of an incident by a facility in accordance with regu-
27 lations of the commissioner, which are necessary for the investigation
28 of the incident and the preparation of a report of the incident, as

1 provided in subdivision (e) of this section. A mental health incident
2 review panel established pursuant to this section shall be provided with
3 access to all other records in the possession of state or local offi-
4 cial or agencies, within twenty-one days of receipt of a request,
5 except: (1) those records protected by section 190.25 of the criminal
6 procedure law; and (2) where provision of law enforcement records would
7 interfere with an ongoing law enforcement investigation or judicial
8 proceeding, identify a confidential source or disclose confidential
9 information relating to an ongoing criminal investigation, highly sensi-
10 tive criminal investigative techniques or procedures, or endanger the
11 safety or welfare of an individual.

12 (d) Mental health incident review panels, members of the review panels
13 and persons who present information to a review panel shall have immuni-
14 ty from civil and criminal liability for all reasonable and good faith
15 actions taken pursuant to this section, and shall not be questioned in
16 any civil or criminal proceeding regarding any opinions formed as a
17 result of a meeting of such review panel. Nothing in this section shall
18 be construed to prevent a person from testifying as to information
19 obtained independently of a mental health incident review panel, or
20 information which is public.

21 (e) Notwithstanding any other provision of law to the contrary, all
22 meetings conducted, all reports and records made and maintained and all
23 books and papers obtained by a mental health incident review panel shall
24 be confidential, and shall not be open or made available, except by
25 court order or as set forth in subdivision (g) of this section. Each
26 mental health incident review panel shall develop a report of the inci-
27 dent investigated. Such report shall not contain any individually iden-
28 tifiable information and shall be provided to the office of mental

1 health upon completion. Such reports must be approved by the office of
2 mental health prior to becoming final.

3 (f) If quality problems of particular mental health programs are iden-
4 tified based on such reviews, the commissioner is authorized, pursuant
5 to the relevant provisions of this chapter, to take appropriate actions
6 regarding the licensure of particular providers, to refer the issue to
7 other responsible parties for investigation, or to take other appropri-
8 ate action.

9 (g) In his or her discretion, the commissioner shall be authorized to
10 provide the final report of a review panel or portions thereof to any
11 individual or entity for whom the report makes recommendations for
12 corrective or other appropriate actions that should be taken. Any final
13 report or portion thereof shall not be further disseminated by the indi-
14 vidual or entity receiving such report.

15 (h) The commissioner shall submit an annual cumulative report to the
16 governor and the legislature incorporating the data in the mental health
17 incident review panel reports and including a summary of the findings
18 and recommendations made by such review panels. The annual cumulative
19 reports may thereafter be made available to the public.

20 § 2. Subdivision (c) of section 33.13 of the mental hygiene law is
21 amended by adding a new paragraph 16 to read as follows:

22 16. to a mental health incident review panel, or members thereof,
23 established by the commissioner pursuant to section 31.37 of this title,
24 in connection with incident reviews conducted by such panel.

25 § 3. Subdivision 3 of section 6527 of the education law, as amended by
26 chapter 257 of the laws of 1987, is amended to read as follows:

27 3. No individual who serves as a member of (a) a committee established
28 to administer a utilization review plan of a hospital, including a

1 hospital as defined in article twenty-eight of the public health law or
2 a hospital as defined in subdivision ten of section 1.03 of the mental
3 hygiene law, or (b) a committee having the responsibility of the inves-
4 tigation of an incident reported pursuant to section 29.29 of the mental
5 hygiene law or the evaluation and improvement of the quality of care
6 rendered in a hospital as defined in article twenty-eight of the public
7 health law or a hospital as defined in subdivision ten of section 1.03
8 of the mental hygiene law, or (c) any medical review committee or
9 subcommittee thereof of a local, county or state medical, dental, podia-
10 try or optometrical society, any such society itself, a professional
11 standards review organization or an individual when such committee,
12 subcommittee, society, organization or individual is performing any
13 medical or quality assurance review function including the investigation
14 of an incident reported pursuant to section 29.29 of the mental hygiene
15 law, either described in clauses (a) and (b) of this subdivision,
16 required by law, or involving any controversy or dispute between (i) a
17 physician, dentist, podiatrist or optometrist or hospital administrator
18 and a patient concerning the diagnosis, treatment or care of such
19 patient or the fees or charges therefor or (ii) a physician, dentist,
20 podiatrist or optometrist or hospital administrator and a provider of
21 medical, dental, podiatric or optometrical services concerning any
22 medical or health charges or fees of such physician, dentist, podiatrist
23 or optometrist, or (d) a committee appointed pursuant to section twen-
24 ty-eight hundred five-j of the public health law to participate in the
25 medical and dental malpractice prevention program, or (e) any individual
26 who participated in the preparation of incident reports required by the
27 department of health pursuant to section twenty-eight hundred five-1 of
28 the public health law, or (f) a committee established to administer a

1 utilization review plan, or a committee having the responsibility of
2 evaluation and improvement of the quality of care rendered, in a health
3 maintenance organization organized under article forty-four of the
4 public health law or article forty-three of the insurance law, including
5 a committee of an individual practice association or medical group
6 acting pursuant to a contract with such a health maintenance organiza-
7 tion, or (g) a mental health incident review panel convened pursuant to
8 section 31.37 of the mental hygiene law, shall be liable in damages to
9 any person for any action taken or recommendations made, by him or her
10 within the scope of his or her function in such capacity provided that
11 (a) such individual has taken action or made recommendations within the
12 scope of his or her function and without malice, and (b) in the reason-
13 able belief after reasonable investigation that the act or recommenda-
14 tion was warranted, based upon the facts disclosed.

15 Neither the proceedings nor the records relating to performance of a
16 medical or a quality assurance review function or participation in a
17 medical and dental malpractice prevention program nor any report
18 required by the department of health pursuant to section twenty-eight
19 hundred five-1 of the public health law described herein, including the
20 investigation of an incident reported pursuant to section 29.29 of the
21 mental hygiene law or reviewed pursuant to section 31.37 of the mental
22 hygiene law, shall be subject to disclosure under article thirty-one of
23 the civil practice law and rules except as hereinafter provided or as
24 provided by any other provision of law. No person in attendance at a
25 meeting when a medical or a quality assurance review or a medical and
26 dental malpractice prevention program or an incident reporting function
27 described herein was performed, including the investigation of an inci-
28 dent reported pursuant to section 29.29 of the mental hygiene law or an

1 incident reviewed pursuant to section 31.37 of the mental hygiene law,
2 shall be required to testify as to what transpired thereat. The prohibi-
3 tion relating to discovery of testimony shall not apply to the state-
4 ments made by any person in attendance at such a meeting who is a party
5 to an action or proceeding the subject matter of which was reviewed at
6 such meeting.

7 § 4. This act shall take effect on the sixtieth day after it shall
8 have become a law.

9 PART M

10 Section 1. Section 20 of chapter 723 of the laws of 1989, amending the
11 metal hygiene law and other laws relating to the establishment of
12 comprehensive psychiatric emergency programs, is REPEALED.

13 § 2. Subdivision (c) of section 7.15 of the metal hygiene law is
14 REPEALED.

15 § 3. Subdivision (c) of section 13.15 of the mental hygiene law is
16 REPEALED.

17 § 4. Paragraph 3 of subdivision (d) of section 16.19 of the mental
18 hygiene law is REPEALED.

19 § 5. This act shall take effect April 1, 2013.

20 PART N

21 Section 1. Subdivisions 3-b and 3-c of section 1 and section 4 of
22 part C of chapter 57 of the laws of 2006, relating to establishing a
23 cost of living adjustment for designated human services programs, as

1 amended by section 1 of part H of chapter 56 of the laws of 2012, is
2 amended to read as follows:

3 3-b. Notwithstanding any inconsistent provision of law, beginning
4 April 1, 2009 and ending March 31, [2013] 2014, the commissioners shall
5 not include a COLA for the purpose of establishing rates of payments,
6 contracts or any other form of reimbursement.

7 3-c. Notwithstanding any inconsistent provision of law, beginning
8 April 1, [2013] 2014 and ending March 31, [2016] 2017, the commissioners
9 shall develop the COLA under this section using the actual U.S. consumer
10 price index for all urban consumers (CPI-U) published by the United
11 States department of labor, bureau of labor statistics for the twelve
12 month period ending in July of the budget year prior to such state
13 fiscal year, for the purpose of establishing rates of payments,
14 contracts or any other form of reimbursement.

15 § 4. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after April 1, 2006; provided
17 section one of this act shall expire and be deemed repealed April 1,
18 [2016] 2017; provided, further, that sections two and three of this act
19 shall expire and be deemed repealed December 31, 2009.

20 § 2. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2013; provided,
22 however, that the amendments to section 1 of part C of chapter 57 of the
23 laws of 2006 made by section one of this act shall not affect the repeal
24 of such section and shall be deemed repealed therewith.

25 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
26 sion, section or part of this act shall be adjudged by any court of
27 competent jurisdiction to be invalid, such judgment shall not affect,
28 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or part thereof directly involved in the controversy in which such judg-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

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