

2015-16 NEW YORK STATE EXECUTIVE BUDGET

**HEALTH AND MENTAL HYGIENE
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission
12571-01-5

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

PUBHEALA

(Enacts into law major components of
legislation necessary to implement
the state health and mental hygiene
budget for the 2015-2016 state
fiscal year)

Pub Heal. misconduct proceedings

AN ACT

to amend the public health law, in
relation to program pamphlets devel-
oped and distributed by the depart-
ment of health and the disposition
of results of professional miscon-
duct proceedings; to repeal section
2995-a of the public health law
relating to the physician profile
website; to repeal subdivision 11 of
section 6524 of the education law,
relating to physician license quali-

IN SENATE

Senate introducer's signature

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

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

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

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).

fication requirements; to repeal subdivision 9 of section 2803 of the public health law relating to reports to the commissioner of health by general hospitals regarding working conditions and limits on working hours for certain members of the hospital's staff; and to repeal section 461-s of the social services law, relating to enhancing the quality of adult living program for adult care facilities (Part A); to amend the social services law, in relation to statewide supplemental rebates; to amend the social services law, in relation to pharmacy dispensing fees; to amend the public health law, in relation to the clinical drug review program; to amend the public health law, in relation to the prescriber prevails provision; to amend the social services law, in relation to outpatient prescription drugs; to amend the social services law, in relation to the codification of the global cap; to amend the public health law, in relation to hospital quality contributions; to amend the public health law, in relation to hospital payments; to amend parts A and B of chapter 1 of the laws of 2002, relating to the health care reform act of 2000, in relation to upper payment limits; to amend the public health law, in relation to noticing of hospitals; to amend the social services law, in relation to health homes; to amend the public health law, in relation to family planning; to amend part B of chapter 59 of the laws of 2011, amending the public health law relating to rates of payment and medical assistance, in relation to managed care supplemental payments; to amend part H of chapter 59 of the laws of 2011, amending the public health law relating to general hospital inpatient reimbursement for annual rates, in relation to supplemental Medicaid managed care payments; to amend the social services law, in relation to spousal support; to amend the social services law, in relation to payments for Medicare

beneficiaries; to amend the social services law, in relation to personal care; to authorize a mobility management contractor; to amend the public health law, in relation to energy efficiency; to amend the public health law, in relation to recruitment and retention; to amend the civil service law, in relation to term appointments in health insurance program-related positions; to amend the social services law, in relation to working disabled eligibility; to amend the social services law, in relation to family planning benefits; to amend the social services law, in relation to foster care; to amend the public health law, in relation to certified home health agencies; to amend the public health law, in relation to value based payments; to amend the social services law, in relation to the basic health plan program; to repeal certain provisions of the public health law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend part A of chapter 56 of the laws of 2013 amending chapter 59 of the laws of 2011 amending the public health law and other laws to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures, in relation to rates of payment paid to certain providers by the Child Health Plus Program; and to amend chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to rates of payment paid to certain providers by the Child Health Plus Program (Part C); to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 81 of the laws of 1995, amending the public health

law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend the public health law, in relation to hospital assessments; to amend chapter 659 of the laws of 1997, constituting the long term care integration and finance act of 1997, in relation to the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend 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 delay of certain administrative costs; 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 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 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 the effectiveness thereof; to amend the public health law, in relation to rates of payment for long term home health care programs and making such provisions permanent; to amend chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act relating to financing health facilities, in relation to the effectiveness thereof; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to the

effectiveness thereof; to amend the public authorities law, in relation to the transfer of certain funds; to repeal subdivision (i) of section III of part H of chapter 59 of the laws of 2011, relating to enacting into law major components of legislation necessary to implement the health and mental hygiene budget for the 2011-2012 state fiscal plan, relating to the effectiveness of program oversight and administration of managed long term care plans; to amend chapter 659 of the laws of 1997, amending the public health law and other laws relating to creation of continuing care retirement communities, in relation to the effectiveness thereof; to amend the public health law, in relation to residential health care facility, and certified home health agency services payments; to amend part B of chapter 109 of the laws of 2010, amending the social services law relating to transportation costs; to amend the social services law, in relation to contracting for transportation services; to amend chapter 21 of the laws of 2011 amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to extending the provisions of such chapter; to amend chapter 459 of the laws of 1996 amending the public health law relating to recertification of persons providing emergency medical care, in relation to making such provisions permanent; to amend chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to making such provisions permanent; and to repeal subdivision (o) of section 111 of part H of chapter 59 of the laws of 2011, amending the public health law relating to state wide planning and research cooperative system and general powers and duties, in relation to the effectiveness of certain provisions (Part D); to amend the public health law, in

relation to the payment of certain funds for uncompensated care (Part E); to amend the public health law, in relation to the establishment of value based payments within the delivery system reform incentive payment program (Part F); to amend the financial services law, in relation to the financial assessment that offsets the operational costs of the health insurance exchange; and to amend the public health law, in relation to health care reform act pool administration (Part G); to amend the public health law, in relation to the establishment and operation of limited services clinics, standardizing urgent care centers and enhanced oversight of office-based surgery; and to repeal subdivision 4 of section 2951 and section 2956 of such law relating to the statutory authority of upgraded diagnostic and treatment centers (Part H); to amend the criminal procedure law, in relation to the admissibility of condoms as trial evidence of prosecution; to amend the penal law, in relation to criminal possession of a controlled substance; to amend the general business law, in relation to the definition of drug related paraphernalia; to amend the public health law, in relation to the sale and furnishing of hypodermic needles and syringes; to amend the public health law in relation to simplifying consent for HIV testing; and to repeal subdivision 2-a of section 2781 of the public health law, relating to certain informed consent for HIV related testing (Part I); to amend the education law and the public health law, in relation to establishing a program for home health aides authorizing them to perform advanced tasks (Part J); to amend the public health law, in relation to streamlining the certificate of need process for hospitals and diagnostic and treatment clinics providing primary care; and to amend the public health law, in relation to public health and health planning council reviews (Part K); to amend

the public health law, in relation to the enhanced oversight of office-based surgery (Part L); to amend the public health law, in relation to requiring notice and submission of a plan prior to discontinuing fluoridation of a public water supply (Part M); relating to conducting a study to develop a report addressing the feasibility of creating an office of community living for older adults and individuals of all ages with disabilities (Part N); to amend chapter 111 of the laws of 2010 relating to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs, in relation to the effectiveness thereof (Part O); to amend the education law, in relation to authorizing contracts for the provision of special education and related services for certain patients hospitalized in hospitals operated by the office of mental health; and to amend part M of chapter 56 of the laws of 2012 amending the education law, relating to authorizing contracts for the provision of special education and related services for certain patients hospitalized in hospitals operated by the office of mental health, in relation to the effectiveness thereof (Part P); to amend the public health law and the public authorities law, in relation to establishing a private equity pilot program (Part Q); to amend part A of chapter 111 of the laws of 2010 amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part R); and to amend the social services law, the executive law and the mental hygiene law, in relation to providing professional services to individuals with developmental disabilities in non-certified settings; in relation to the exemption of the nurse practice act for direct care

staff in non-certified settings funded, authorized or approved by the office for people with developmental disabilities; and to repeal certain provisions of the mental hygiene law relating thereto (Part S)

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 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through S. 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. Section 2995-a of the public health law is REPEALED.

14 § 2. Section 2997-b of the public health law, as added by chapter 477
15 of the laws of 2008, is amended to read as follows:

16 § 2997-b. Pamphlet of department programs. The commissioner shall
17 develop and transmit to physicians in the state a pamphlet describing a
18 variety of department programs and initiatives, including but not limit-
19 ed to smoking cessation programs, public health insurance programs,
20 health and quality improvement information, and the patient safety
21 center [and physician profiles]. Each physician practicing in the state
22 shall make the pamphlet available in his or her practice reception area
23 so that it is accessible to patients.

24 § 3. Subparagraph (i) of paragraph (h) of subdivision 10 of section
25 230 of the public health law, as amended by chapter 477 of the laws of
26 2008, is amended to read as follows:

1 (i) The findings, conclusions, determination and the reasons for the
2 determination of the committee shall be served upon the licensee, the
3 department, [and any hospitals, primary practice settings or health care
4 plans required to be identified in publicly disseminated physician data
5 pursuant to paragraph (j), (n), or (q) of subdivision one of section
6 twenty-nine hundred ninety-five-a of this chapter] any hospitals where
7 the licensee has practice privileges, the primary practice setting of
8 the licensee, the licensed physicians with whom the licensee shares a
9 group practice, and any health care plans with which the licensee has
10 contracts, employment or other affiliations, within sixty days of the
11 last day of hearing. Service shall be either by certified mail upon the
12 licensee at the licensee's last known address and such service shall be
13 effective upon receipt or seven days after mailing by certified mail
14 whichever is earlier or by personal service and such service shall be
15 effective upon receipt. The licensee shall deliver to the board the
16 license which has been revoked, annulled, suspended or surrendered,
17 together with the registration certificate, within five days after
18 receipt of the order. If the license or registration certificate is
19 lost, misplaced or its whereabouts is otherwise unknown, the licensee
20 shall submit an affidavit to that effect and shall deliver such license
21 or certificate to the board when located. The director of the office
22 shall promptly transmit a copy of the order to the division of profes-
23 sional licensing services of the state education department and to each
24 hospital at which the licensee has privileges.

25 § 4. Subdivision 11 of section 6524 of the education law is REPEALED.

26 § 5. Subdivision 9 of section 2803 of the public health law is
27 REPEALED.

28 § 6. Section 461-s of the social services law is REPEALED.

1 § 7. This act shall take effect immediately.

2 PART B

3 Section 1. Subdivision 7 of section 367-a of the social services law
4 is amended by adding a new paragraph (e) to read as follows:

5 (e) Notwithstanding section two hundred seventy-two of the public
6 health law or any other inconsistent provision of law, the commissioner
7 may negotiate directly with a pharmaceutical manufacturer for the
8 provision of supplemental rebates, including supplemental rebates relat-
9 ing to pharmaceutical utilization by enrollees of managed care providers
10 pursuant to section three hundred sixty-four-j of this title, relating
11 to any of the drugs it manufactures for the purpose of funding medical
12 assistance program benefits; provided, however, that this paragraph
13 shall apply only to covered outpatient drugs for which the manufacturer
14 has in effect a rebate agreement with the federal secretary of health
15 and human services pursuant to 42 U.S.C. §1396r-8.

16 § 2. Subparagraph (ii) of paragraph (b) of subdivision 9 of section
17 367-a of the social services law, as amended by section 2 of part C of
18 chapter 60 of the laws of 2014, is amended to read as follows:

19 (ii) if the drug dispensed is a multiple source prescription drug or a
20 brand-name prescription drug for which no specific upper limit has been
21 set by such federal agency, the lower of the estimated acquisition cost
22 of such drug to pharmacies or the dispensing pharmacy's usual and
23 customary price charged to the general public. For sole and multiple
24 source brand name drugs, estimated acquisition cost means the average
25 wholesale price of a prescription drug based upon the package size
26 dispensed from, as reported by the prescription drug pricing service

1 used by the department, less [seventeen] twenty-four percent thereof or
2 the wholesale acquisition cost of a prescription drug based upon package
3 size dispensed from, as reported by the prescription drug pricing
4 service used by the department, minus [zero and forty-one hundredths]
5 nine percent thereof, and updated monthly by the department. For multi-
6 ple source generic drugs, estimated acquisition cost means the lower of
7 the average wholesale price of a prescription drug based on the package
8 size dispensed from, as reported by the prescription drug pricing
9 service used by the department, less twenty-five percent thereof, or the
10 maximum acquisition cost, if any, established pursuant to paragraph (e)
11 of this subdivision, provided that the methodology used by the depart-
12 ment to establish a maximum acquisition cost shall not include average
13 acquisition cost as determined by department surveys.

14 § 3. Subparagraph (ii) of paragraph (d) of subdivision 9 of section
15 367-a of the social services law, as amended by section 48 of part C of
16 chapter 58 of the laws of 2009, is amended to read as follows:

17 (ii) for prescription drugs categorized as brand-name prescription
18 drugs by the prescription drug pricing service used by the department,
19 [three] eight dollars [and fifty cents] per prescription[, provided,
20 however, that for brand name prescription drugs reimbursed pursuant to
21 subparagraph (ii) of paragraph (a-1) of subdivision four of section
22 three hundred sixty-five-a of this title, the dispensing fee shall be
23 four dollars and fifty cents per prescription].

24 § 4. Section 274 of the public health law is amended by adding a new
25 subdivision 15 to read as follows:

26 15. Notwithstanding any inconsistent provision of this section, the
27 commissioner may require prior authorization for any drug after evaluat-
28 ing the factors set forth in subdivision three of this section and prior

1 to obtaining the board's evaluation and recommendation required by
2 subdivision four of this section. The board may recommend to the commis-
3 sioner, pursuant to subdivision six of this section, that any such prior
4 authorization requirement be modified, continued or removed.

5 § 5. Subdivision 11 of section 272 of the public health law is amended
6 by adding a new paragraph (a-1) to read as follows:

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

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

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

1 warranted. Nothing herein shall be construed as limiting the right of a
2 Medicaid recipient to appeal the denial of a request for prior authori-
3 zation of a prescription drug that is not on the preferred drug list.

4 § 7. Section 364-j of the social services law is amended by adding a
5 new subdivision 24-a to read as follows:

6 24-a. Claims for payment of outpatient prescription drugs submitted to
7 a managed care provider by a covered entity pursuant to section 340B of
8 the federal public health service act (42 USCA § 256b) or by such
9 covered entity's authorized contract pharmacy shall be at such covered
10 entity's or contract pharmacy's actual acquisition cost for the drug.
11 For purposes of this subdivision, "actual acquisition cost" means the
12 invoice price for the drug to the covered entity or the covered entity's
13 authorized contract pharmacy minus the amount of all discounts and other
14 cost-reductions attributable to the drug.

15 § 8. The social services law is amended by adding a new section 368-g
16 to read as follows:

17 § 368-g. Limitation on growth of medical assistance expenditures. 1.
18 Cap established. (a) Notwithstanding section ninety-one of part H of
19 chapter fifty-nine of the laws of two thousand eleven, as amended, or
20 any other contrary provision of law and subject to federal approvals,
21 the year to year rate of growth of department state funds medical
22 assistance spending shall not exceed the ten year rolling average of the
23 medical component of the consumer price index as published by the United
24 States department of labor, bureau of labor statistics, for the preced-
25 ing ten years; provided, however, that for state fiscal year two thou-
26 sand thirteen-two thousand fourteen or any fiscal year thereafter, the
27 maximum allowable annual increase in the amount of the department state
28 funds medical assistance spending shall be calculated by multiplying the

1 department state funds medical assistance spending for the previous
2 year, less the amount of any department state operations spending
3 included therein, by such ten year rolling average.

4 (b) Except as provided in paragraph (c) of this subdivision, for state
5 fiscal year two thousand thirteen-two thousand fourteen or any fiscal
6 year thereafter, the spending limit calculated pursuant to paragraph (a)
7 of this subdivision shall be increased by an amount equal to the differ-
8 ence between the total social services district medical assistance
9 expenditure amounts calculated for such period in conformance with
10 subdivisions (b), (c), (c-1), and (d) of section one of part C of chap-
11 ter fifty-eight of the laws of two thousand five and the total social
12 services district medical expenditure amounts that would have resulted
13 if the provisions of subdivision (c-1) of such section had not been
14 applied.

15 (c) With respect to a social services district that rescinds the exer-
16 cise of the option provided in paragraph (i) of subdivision (b) of
17 section two of part C of chapter fifty-eight of the laws of two thousand
18 five, for state fiscal year two thousand thirteen-two thousand fourteen
19 or any fiscal year thereafter, the spending limit calculated pursuant to
20 subdivision one of this section shall be reduced by the amount of the
21 medical assistance expenditure amount calculated for such district for
22 such period.

23 2. Savings Allocation Plan. Notwithstanding section ninety-two of part
24 H of chapter fifty-nine of the laws of two thousand eleven, as amended,
25 and any other contrary provision of law and subject to the availability
26 of federal financial participation, for state fiscal years on and after
27 two thousand eleven-two thousand twelve, the director of the budget, in
28 consultation with the commissioner, shall assess on a monthly basis, as

1 reflected in monthly reports issued pursuant to subdivision five of this
2 section, known and projected department state funds medical assistance
3 expenditures by category of service and by geographic regions, as
4 defined by the commissioner, and if the director of the budget deter-
5 mines that such expenditures are expected to cause medical assistance
6 disbursements for such period to exceed the projected department medical
7 assistance state funds disbursements in the enacted budget financial
8 plan pursuant to subdivision three of section twenty-three of the state
9 finance law, the commissioner, in consultation with the director of the
10 budget, shall develop a medical assistance savings allocation plan to
11 limit such spending to the aggregate limit level specified in the
12 enacted budget financial plan, provided, however, such projections may
13 be adjusted by the director of the budget to account for any changes in
14 the New York state federal medical assistance percentage amount estab-
15 lished pursuant to the federal social security act, changes in provider
16 revenues, reductions to local social services district medical assist-
17 ance administration, and beginning April first, two thousand twelve, the
18 operational costs of the New York state medical indemnity fund, and
19 state costs or savings from the basic health plan. Such projections may
20 be adjusted by the director of the budget to account for increased or
21 expedited department of health state funds medical assistance expendi-
22 tures as a result of a natural or other type of disaster, including a
23 governmental declaration of emergency. Such medical assistance savings
24 allocation plan shall be designed to reduce the department state funds
25 medical assistance disbursements authorized by appropriations in compli-
26 ance with the following guidelines:

27 (a) reductions shall be made in compliance with applicable federal
28 law, including the provisions of the Patient Protection and Affordable

1 Care Act (P.L. 111-148), as amended by the Health Care and Education
2 Reconciliation Act of 2010 (P.L. 111-152) (collectively "Affordable Care
3 Act") and any subsequent amendments thereto or regulations promulgated
4 thereunder;

5 (b) reductions shall be made in a manner that complies with the state
6 medical assistance plan approved by the federal centers for medicare and
7 medicaid services, provided, however, that the commissioner is author-
8 ized to submit any state plan amendment or seek other federal approval,
9 including waiver authority, to implement the provisions of the medical
10 assistance savings allocation plan that meets the other criteria set
11 forth herein;

12 (c) reductions shall be made in a manner that maximizes federal finan-
13 cial participation, to the extent practicable, including any federal
14 financial participation that is available or is reasonably expected to
15 become available, in the discretion of the commissioner, under the
16 Affordable Care Act;

17 (d) reductions shall be made uniformly among categories of services
18 and geographic regions of the state, to the extent practicable, and
19 shall be made uniformly within a category of service, to the extent
20 practicable, except where the commissioner determines that there are
21 sufficient grounds for non-uniformity, including, but not limited to:
22 (i) the extent to which specific categories of services contributed to
23 department medical assistance state funds spending in excess of the
24 limits specified herein; (ii) the need to maintain safety net services
25 in underserved communities; or (iii) the potential benefits of pursuing
26 innovative payment models contemplated by the Affordable Care Act, in
27 which case such grounds shall be set forth in the medical assistance
28 savings allocation plan;

1 (e) reductions shall be made in a manner that does not unnecessarily
2 create administrative burdens for medical assistance applicants and
3 recipients or for providers;

4 (f) the commissioner shall seek the input of the legislature, as well
5 as input from organizations representing health care providers, consum-
6 ers, businesses, workers, health insurers, and others with relevant
7 expertise, in developing such medical assistance savings allocation plan
8 to the extent that all or part of such plan is likely, as determined by
9 the commissioner, to have a material impact on the overall medical
10 assistance program, or on particular categories of service, or on
11 particular geographic regions of the state;

12 (g)(i) the commissioner shall post the medical assistance savings
13 allocation plan on the department's website and shall provide written
14 copies of such plan to the chairs of the senate finance and the assembly
15 ways and means committees at least thirty days before the date on which
16 implementation is expected to begin;

17 (ii) the commissioner may revise the medical assistance savings allo-
18 cation plan subsequent to the provision of notice and prior to implemen-
19 tation but is required to provide a new notice pursuant to subparagraph
20 (i) of this paragraph only if the commissioner determines, in his or her
21 discretion, that such revisions materially alter the plan;

22 (h) notwithstanding the provisions of paragraphs (f) and (g) of this
23 subdivision, the commissioner need not seek the input described in para-
24 graph (f) of this subdivision or provide notice pursuant to paragraph
25 (g) of this subdivision if, in the discretion of the commissioner, expe-
26 ditioned development and implementation of a medical assistance savings
27 allocation plan is necessary due to a public health emergency; for
28 purposes of this section, a public health emergency is defined as:

1 (i) a disaster, natural or otherwise, that significantly increases the
2 immediate need for health care personnel in an area of the state;

3 (ii) an event or condition that creates a widespread risk of exposure
4 to a serious communicable disease, or the potential for such widespread
5 risk of exposure; or

6 (iii) any other event or condition determined by the commissioner to
7 constitute an imminent threat to public health; and

8 (i) nothing in this section shall be deemed to prevent all or part of
9 such medical savings allocation plan from taking effect retroactively,
10 to the extent permitted by the federal centers for Medicare and Medicaid
11 services.

12 3. Powers of the commissioner to enact savings allocation plan. In
13 accordance with the medical assistance savings allocation plan, the
14 commissioner shall reduce department state funds medical assistance
15 disbursements by the amount of the projected overspending through,
16 actions including, but not limited to modifying or suspending reimburse-
17 ment methods, including but not limited to all fees, premium levels and
18 rates of payment, notwithstanding any provision of law that sets a
19 specific amount or methodology for any such payments or rates of
20 payment; modifying medical assistance program benefits; seeking all
21 necessary federal approvals, including, but not limited to waivers,
22 waiver amendments; and suspending time frames for notice, approval or
23 certification of rate requirements, notwithstanding any provision of
24 law, rule or regulation to the contrary, including, but not limited to,
25 sections twenty-eight hundred seven and thirty-six hundred fourteen of
26 the public health law, section eighteen of chapter two of the laws of
27 nineteen hundred eighty-eight, and section 505.14(h) of title 18 of the

1 official compilation of codes, rules and regulations of the state of New
2 York.

3 4. Cap dividend. Notwithstanding any contrary provision of law and
4 subject to the availability of federal financial participation, for
5 state fiscal years beginning on and after April first, two thousand
6 fourteen, the commissioner of health, in consultation with the director
7 of the budget, shall, prior to January first of each year, determine the
8 extent of savings that have been achieved as a result of the application
9 of the provisions of subdivisions one and two of this section, and shall
10 further determine the availability of such savings for distribution
11 during the last quarter of such state fiscal year. In determining such
12 savings the commissioner of health, in consultation with the director of
13 the budget, may exempt the medical assistance administration program
14 from distributions under this section. The commissioner of health, in
15 consultation with the director of the budget, may distribute funds up to
16 an amount equal to such available savings in accordance with an allo-
17 cation plan that utilizes a methodology that distributes such funds
18 proportionately among providers and plans in New York's medical assist-
19 ance program. In developing such allocation plan the commissioner of
20 health shall seek the input of the legislature, as well as organizations
21 representing health care providers, consumers, businesses, workers,
22 health care insurers and others with relevant expertise. Such allocation
23 plan shall utilize three years of the most recently available system-
24 wide expenditure data reflecting both MMIS and managed care encounters.
25 Distributions to managed care plans shall be based on the administrative
26 outlays stemming from participation in the medical assistance program.
27 The commissioner of health may impose minimum threshold amounts in
28 determining provider eligibility for distributions pursuant to this

1 section. No less than fifty percent of the amount available for distrib-
2 ution shall be made available for the purpose of assisting eligible
3 providers utilizing the methodology outlined above. The remainder of the
4 distributions pursuant to this section shall be made available for the
5 purposes of ensuring a minimum level of assistance to financially
6 distressed and critically needed providers as identified by the commis-
7 sioner. The commissioner of health shall post the medical assistance
8 savings allocation plan on the department of health's website and shall
9 provide written copies of such plan to the chairs of the senate finance
10 and the assembly ways and means committees at least thirty days before
11 the date on which implementation is expected to begin. The commissioner
12 of health is authorized to seek such federal approvals as may be
13 required to effectuate the provisions of this section, including, but
14 not limited to, to permit payment of such distributions as lumps sums
15 and to secure waivers from otherwise applicable federal upper payment
16 limit restrictions on such payments. The provisions of this section are
17 subject to the reporting requirements set forth in subdivision seven of
18 this section.

19 5. Monthly reports. The commissioner, in consultation with the direc-
20 tor of the budget, shall prepare a monthly report that sets forth:

21 (a) known and projected department medical assistance expenditures as
22 described in subdivision one of this section, and factors that could
23 result in medical assistance disbursements for the relevant state fiscal
24 year to exceed the projected department state funds disbursements in the
25 enacted budget financial plan pursuant to subdivision three of section
26 twenty-three of the state finance law, including spending increases or
27 decreases due to enrollment fluctuations, rate changes, utilization
28 changes, medical assistance redesign team (MRT) investments, a shift of

1 beneficiaries to managed care and variations in offline medical assist-
2 ance payments;

3 (b) the actions taken to implement any medical assistance savings
4 allocation plan implemented pursuant to subdivision four of this
5 section, including information concerning the impact of such actions on
6 each category of service and each geographic region of the state;

7 (c) as applicable; the price, including, the base rate plus any upcom-
8 ing rate adjustment; utilization, including current enrollment, project-
9 ed enrollment changes and acuity; medical assistance redesign team
10 initiatives; one-time initiatives and other initiatives describing the
11 proposed budget action impact; and any prior year initiative with
12 current and future year impacts for the following categories:

13 (i) inpatient;

14 (ii) outpatient;

15 (iii) emergency room;

16 (iv) clinic;

17 (v) nursing homes;

18 (vi) other long term care;

19 (vii) medicaid managed care;

20 (viii) family health plus;

21 (ix) pharmacy;

22 (x) transportation;

23 (xi) dental;

24 (xii) non-institutional and other categories;

25 (xiii) affordable housing;

26 (xiv) vital access provider services;

27 (xv) behavioral health vital access provider services;

28 (xvi) Finger Lakes health services agency;

1 (xvii) audit recoveries and settlements;
2 (d) information and disbursements of grants to providers, including
3 but not limited to:
4 (i) demographic information of targeted recipients;
5 (ii) number of recipients;
6 (iii) award amounts and timing of awards; and
7 (e) any projected medical assistance savings determined by the commis-
8 sioner pursuant to subdivision six of this section and the proposed
9 allocation plan with regard to such savings.
10 (f) The monthly reports required by this subdivision shall be provided
11 to the governor, the temporary president of the senate, the speaker of
12 the assembly, the chair of the senate finance committee, the chair of
13 the assembly ways and means committee, and the chairs of the senate and
14 assembly health committees. Such reports and related documents provided
15 to the legislature shall also be posted on the website as maintained by
16 the department.
17 6. Executive budget summary. The commissioner, in consultation with
18 the director of the budget shall, upon submission of the executive budg-
19 et to the legislature, provide to the legislature a detailed accounting
20 of:
21 (a) the state medical assistance state funds expenditures on the close
22 out of the prior year;
23 (b) a current year re-estimate;
24 (c) the prospective two-year estimate; and
25 (d) any other information deemed necessary and appropriate.
26 7. Staff availability and training. (a) The commissioner and the
27 director of the budget shall make appropriate staff available to meet
28 with the chairs of the health committees of the senate and the assembly,

1 or their designees, upon their request and with reasonable notice, to
2 review each monthly report, as described in subdivision five of this
3 section.

4 (b) The commissioner shall make training available to designated
5 legislative staff with regard to the skills and techniques needed to
6 effectively access and review relevant medical assistance data bases
7 under the control of the department, upon their request and with reason-
8 able notice.

9 § 9. Section 280 of the public health law is REPEALED.

10 § 10. Subdivision 2 of section 2807-d-1 of the public health law, as
11 added by section 52-c of part H of chapter 59 of the laws of 2011, is
12 amended to read as follows:

13 2. The annual quality contribution amount referenced in subdivision
14 one of this section shall be thirty million dollars for the state fiscal
15 year beginning April first, two thousand eleven, and for each subsequent
16 state fiscal year thereafter it shall be the amount of the preceding
17 year as increased by the ten year rolling average of the medical compo-
18 nent of the consumer price index as published by the United States
19 department of labor, bureau of labor statistics, for the preceding ten
20 years. For periods on and after April first, two thousand fifteen, and
21 for each state fiscal year, the contribution described herein shall be
22 reduced by fifteen million dollars.

23 § 11. Section 2807 of the public health law is amended by adding a new
24 subdivision 14 to read as follows:

25 14. Notwithstanding any provision of law to the contrary, and subject
26 to federal financial participation, the commissioner is authorized to
27 establish, pursuant to regulations, a general hospital quality pool for
28 the purpose of incentivizing and facilitating quality improvements in

1 general hospitals. Awards from such pool shall be subject to approval by
2 the director of budget. If federal financial participation is unavail-
3 able, then the non-federal share of awards made pursuant to this subdi-
4 vision may be made as state grants.

5 § 12. Section 2807 of the public health law is amended by adding a new
6 subdivision 22 to read as follows:

7 22. Notwithstanding any provision of law to the contrary, and subject
8 to federal financial participation, general hospitals designated as sole
9 community hospitals in accordance with title XVIII of the federal social
10 security act shall be eligible for enhanced payments or reimbursement
11 for inpatient and/or outpatient services of up to twelve million dollars
12 under a supplemental or revised rate methodology, established by the
13 commissioner in regulation, for the purpose of promoting access and
14 improving the quality of care. If federal financial participation is
15 unavailable, then the non-federal share of such payments pursuant to
16 this subdivision may be made as state grants.

17 § 13. Subdivision (e) of section 2826 of the public health law, as
18 added by section 27 of part C of chapter 60 of the laws of 2014, is
19 amended to read as follows:

20 (e) Notwithstanding any law to the contrary, general hospitals defined
21 as critical access hospitals pursuant to title XVIII of the federal
22 social security act shall be allocated no less than [five] seven million
23 five hundred thousand dollars annually pursuant to this section. The
24 department of health shall provide a report to the governor and legisla-
25 ture no later than [December] June first, two thousand [fourteen]
26 fifteen providing recommendations on how to ensure the financial stabil-
27 ity of, and preserve patient access to, critical access hospitals,
28 including an examination of permanent Medicaid rate methodology changes.

1 § 14. Section 2826 of the public health law is amended by adding a new
2 subdivision (f) to read as follows:

3 (f) Notwithstanding any provision of law to the contrary, and subject
4 to federal financial participation, no less than ten million dollars
5 shall be allocated to providers described in this subdivision; provided,
6 however that if federal financial participation is unavailable for any
7 eligible provider, or for any potential investment under this subdivi-
8 sion then the non-federal share of payments pursuant to this subdivision
9 may be made as state grants.

10 (i) Providers serving rural areas as such term is defined in section
11 two thousand nine hundred fifty-one of this chapter, including but not
12 limited to hospitals, residential health care facilities, diagnostic and
13 treatment centers, ambulatory surgery centers and clinics shall be
14 eligible for enhanced payments or reimbursement under a supplemental
15 rate methodology for the purpose of promoting access and improving the
16 quality of care.

17 (ii) Notwithstanding any provision of law to the contrary, and subject
18 to federal financial participation, essential community providers,
19 which, for the purposes of this section, shall mean a provider that
20 offers health services within a defined and isolated geographic region
21 where such services would otherwise be unavailable to the population of
22 such region, shall be eligible for enhanced payments or reimbursement
23 under a supplemental rate methodology for the purpose of promoting
24 access and improving quality of care. Eligible providers under this
25 paragraph may include, but are not limited to, hospitals, residential
26 health care facilities, diagnostic and treatment centers, ambulatory
27 surgery centers and clinics.

1 (iii) In making such payments the commissioner may contemplate the
2 extent to which any such provider receives assistance under subdivision
3 (a) of this section and may require such provider to submit a written
4 proposal demonstrating that the need for monies under this subdivision
5 exceeds monies otherwise distributed pursuant to this section.

6 (iv) Payments under this subdivision may include, but not be limited
7 to, temporary rate adjustments, lump sum Medicaid payments, supplemental
8 rate methodologies and any other payments as determined by the commis-
9 sioner.

10 (v) Payments under this subdivision shall be subject to approval by
11 the director of the budget.

12 (vi) The commissioner may promulgate regulations to effectuate the
13 provisions of this subdivision.

14 § 15. Intentionally omitted.

15 § 16. Section 12 of part A of chapter 1 of the laws of 2002, relating
16 to the health care reform act of 2000, is amended to read as follows:

17 § 12. Notwithstanding any inconsistent provision of law or regulation
18 to the contrary, and subject to the availability of federal financial
19 participation pursuant to title XIX of the federal social security act,
20 effective for the period September 1, 2001 through March 31, 2002, and
21 state fiscal years thereafter, until March 31, 2012, the department of
22 health is authorized to pay a specialty hospital adjustment to public
23 general hospitals, as defined in subdivision 10 of section 2801 of the
24 public health law, other than those operated by the state of New York or
25 the state university of New York, receiving reimbursement for all inpa-
26 tient services under title XIX of the federal social security act pursu-
27 ant to paragraph (e) of subdivision 4 of section 2807-c of the public
28 health law, and located in a city with a population of over 1 million,

1 of up to four hundred sixty-three million dollars for the period Septem-
2 ber 1, 2001 through March 31, 2002 and up to seven hundred ninety-four
3 million dollars annually for state fiscal years thereafter as medical
4 assistance payments for inpatient services pursuant to title 11 of arti-
5 cle 5 of the social services law for patients eligible for federal
6 financial participation under title XIX of the federal social security
7 act based on each such hospital's proportionate share of the sum of all
8 inpatient discharges for all facilities eligible for an adjustment
9 pursuant to this section for the base year two years prior to the rate
10 year. Such proportionate share payment may be added to rates of payment
11 or made as aggregate payments to eligible public general hospitals.

12 § 17. Section 13 of part B of chapter 1 of the laws of 2002, relating
13 to the health care reform act of 2000, is amended to read as follows:

14 § 13. Notwithstanding any inconsistent provision of law or regulation
15 to the contrary, and subject to the availability of federal financial
16 participation pursuant to title XIX of the federal social security act,
17 effective for the period April 1, 2002 through March 31, 2003, and state
18 fiscal years thereafter until March 31, 2012, the department of health
19 is authorized to pay a specialty hospital adjustment to public general
20 hospitals, as defined in subdivision 10 of section 2801 of the public
21 health law, other than those operated by the state of New York or the
22 state university of New York, receiving reimbursement for all inpatient
23 services under title XIX of the federal social security act pursuant to
24 paragraph (e) of subdivision 4 of section 2807-c of the public health
25 law, and located in a city with a population of over one million, of up
26 to two hundred eighty-six million dollars as medical assistance payments
27 for inpatient services pursuant to title 11 of article 5 of the social
28 services law for patients eligible for federal financial participation

1 under title XIX of the federal social security act based on each such
2 hospital's proportionate share of the sum of all inpatient discharges
3 for all facilities eligible for an adjustment pursuant to this section
4 for the base year two years prior to the rate year. Such proportionate
5 share payment may be added to rates of payment or made as aggregate
6 payments to eligible hospitals.

7 § 18. Notwithstanding any inconsistent provision of law or regulation
8 to the contrary, and subject to the availability of federal financial
9 participation pursuant to title XIX of the federal social security act,
10 effective for the period April 1, 2012, through March 31, 2013, and
11 state fiscal years thereafter, the department of health is authorized to
12 pay a public hospital adjustment to public general hospitals, as defined
13 in subdivision 10 of section 2801 of the public health law, other than
14 those operated by the state of New York or the state university of New
15 York, and located in a city with a population of over 1 million, of up
16 to one billion eighty million dollars annually as medical assistance
17 payments for inpatient services pursuant to title 11 of article 5 of the
18 social services law for patients eligible for federal financial partic-
19 ipation under title XIX of the federal social security act based on such
20 criteria and methodologies as the commissioner may from time to time set
21 through a memorandum of understanding with the New York city health and
22 hospitals corporation, and such adjustments shall be paid by means of
23 one or more estimated payments, with such estimated payments to be
24 reconciled to the commissioner of health's final adjustment determi-
25 nations after the disproportionate share hospital payment adjustment
26 caps have been calculated for such period under sections 1923(f) and (g)
27 of the federal social security act. Such adjustment payment may be added

1 to rates of payment or made as aggregate payments to eligible public
2 general hospitals.

3 § 19. Section 14 of part A of chapter 1 of the laws of 2002, relating
4 to the health care reform act of 2000, is amended to read as follows:

5 § 14. Notwithstanding any inconsistent provision of law, rule or regu-
6 lation to the contrary, and subject to the availability of federal
7 financial participation pursuant to title XIX of the federal social
8 security act, effective for the period January 1, 2002 through March 31,
9 2002, and state fiscal years thereafter until March 31, 2011, the
10 department of health is authorized to increase the operating cost compo-
11 nent of rates of payment for general hospital outpatient services and
12 general hospital emergency room services issued pursuant to paragraph
13 (g) of subdivision 2 of section 2807 of the public health law for public
14 general hospitals, as defined in subdivision 10 of section 2801 of the
15 public health law, other than those operated by the state of New York or
16 the state university of New York, and located in a city with a popu-
17 lation of over one million, which experienced free patient visits in
18 excess of twenty percent of their total self-pay and free patient visits
19 based on data reported on exhibit 33 of their 1999 institutional cost
20 report and which experienced uninsured outpatient losses in excess of
21 seventy-five percent of their total inpatient and outpatient uninsured
22 losses based on data reported on exhibit 47 of their 1999 institutional
23 cost report, of up to thirty-four million dollars for the period January
24 1, 2002 through March 31, 2002 and up to one hundred thirty-six million
25 dollars annually for state fiscal years thereafter as medical assistance
26 payments for outpatient services pursuant to title 11 of article 5 of
27 the social services law for patients eligible for federal financial
28 participation under title XIX of the federal social security act based

1 on each such hospital's proportionate share of the sum of all outpatient
2 visits for all facilities eligible for an adjustment pursuant to this
3 section for the base year two years prior to the rate year. Such propor-
4 tionate share payment may be added to rates of payment or made as aggre-
5 gate payments to eligible public general hospitals.

6 § 20. Section 14 of part B of chapter 1 of the laws of 2002, relating
7 to the health care reform act of 2000, is amended to read as follows:

8 § 14. Notwithstanding any inconsistent provision of law or regulation
9 to the contrary, and subject to the availability of federal financial
10 participation pursuant to title XIX of the federal social security act,
11 effective for the period January 1, 2002 through March 31, 2002, and
12 state fiscal years thereafter until March 31, 2011, the department of
13 health is authorized to increase the operating cost component of rates
14 of payment for general hospital outpatient services and general hospital
15 emergency room services issued pursuant to paragraph (g) of subdivision
16 2 of section 2807 of the public health law for public general hospitals,
17 as defined in subdivision 10 of section 2801 of the public health law,
18 other than those operated by the state of New York or the state univer-
19 sity of New York, and located in a city with a population of over one
20 million, which experienced free patient visits in excess of twenty
21 percent of their total self-pay and free patient visits based on data
22 reported on exhibit 33 of their 1999 institutional cost report and which
23 experienced uninsured outpatient losses in excess of seventy-five
24 percent of their total inpatient and outpatient uninsured losses based
25 on data reported on exhibit 47 of their 1999 institutional cost report,
26 of up to thirty-seven million dollars for the period January 1, 2002
27 through March 31, 2002 and one hundred fifty-one million dollars annual-
28 ly for state fiscal years thereafter as medical assistance payments for

1 outpatient services pursuant to title 11 of article 5 of the social
2 services law for patients eligible for federal financial participation
3 under title XIX of the federal social security act based on each such
4 hospital's proportionate share of the sum of all outpatient visits for
5 all facilities eligible for an adjustment pursuant to this section for
6 the base year two years prior to the rate year. Such proportionate share
7 payment may be added to rates of payment or made as aggregate payments
8 to eligible public general hospitals.

9 § 21. Notwithstanding any inconsistent provision of law, rule or regu-
10 lation to the contrary, and subject to the availability of federal
11 financial participation pursuant to title XIX of the federal social
12 security act, effective for the period April 1, 2011 through March 31,
13 2012, and state fiscal years thereafter, the department of health is
14 authorized to increase the operating cost component of rates of payment
15 for general hospital outpatient services and general hospital emergency
16 room services issued pursuant to paragraph (g) of subdivision 2 of
17 section 2807 of the public health law for public general hospitals, as
18 defined in subdivision 10 of section 2801 of the public health law,
19 other than those operated by the state of New York or the state univer-
20 sity of New York, and located in a city with a population over one
21 million, up to two hundred eighty-seven million dollars annually as
22 medical assistance payments for outpatient services pursuant to title 11
23 of article 5 of the social services law for patients eligible for feder-
24 al financial participation under title XIX of the federal social securi-
25 ty act based on such criteria and methodologies as the commissioner may
26 from time to time set through a memorandum of understanding with the New
27 York city health and hospitals corporation, and such adjustments shall
28 be paid by means of one or more estimated payments, with such estimated

1 payments to be reconciled to the commissioner of health's final adjust-
2 ment determinations after the disproportionate share hospital payment
3 adjustment caps have been calculated for such period under sections
4 1923(f) and (g) of the federal social security act. Such adjustment
5 payment may be added to rates of payment or made as aggregate payments
6 to eligible public general hospitals.

7 § 22. Section 16 of part A of chapter 1 of the laws of 2002, relating
8 to the health care reform act of 2000, is amended to read as follows:

9 § 16. Any amounts provided pursuant to sections eleven, twelve, thir-
10 teen and fourteen of this act shall be effective for purposes of deter-
11 mining payments for public general hospitals contingent on receipt of
12 all approvals required by federal law or regulations for federal finan-
13 cial participation in payments made pursuant to title XIX of the federal
14 social security act. If federal approvals are not granted for payments
15 based on such amounts or components thereof, payments to public general
16 hospitals shall be determined without consideration of such amounts or
17 such components. Public general hospitals shall refund to the state, or
18 the state may recoup from prospective payments, any overpayment
19 received, including those based on a retroactive reduction in the
20 payments. Any reduction in federal financial participation pursuant to
21 title XIX of the federal social security act related to federal upper
22 payment limits applicable to public general hospitals other than those
23 operated by the state university of New York shall be deemed to apply
24 first to amounts provided pursuant to sections eleven, twelve, thirteen
25 and fourteen of this act and sections sixteen and nineteen of a chapter
26 of the laws of two thousand fifteen.

27 § 23. Section 20 of part B of chapter 1 of the laws of 2002, relating
28 to the health care reform act of 2000, is amended to read as follows:

1 § 20. Any amounts provided pursuant to sections thirteen and fourteen
2 of this act shall be effective for purposes of determining payments for
3 public general hospitals contingent on receipt of all approvals required
4 by federal law or regulations for federal financial participation in
5 payments made pursuant to title XIX of the federal social security act.
6 If federal approvals are not granted for payments based on such amounts
7 or components thereof, payments to public general hospitals shall be
8 determined without consideration of such amounts or such components.
9 Public general hospitals shall refund to the state, or the state may
10 recoup from prospective payments, any overpayment received, including
11 those based on a retroactive reduction in the payments. Any reduction in
12 federal financial participation pursuant to title XIX of the federal
13 social security act related to federal upper payment limits applicable
14 to public general hospitals other than those operated by the state of
15 New York or the state university of New York shall be deemed to apply
16 first to amounts provided pursuant to sections thirteen and fourteen of
17 this act and sections sixteen and nineteen of a chapter of the laws of
18 two thousand fifteen.

19 § 24. Subdivisions 7, 7-a and 7-b of section 2807 of the public
20 health law, subdivision 7 as amended by section 195 of part A of chapter
21 389 of the laws of 1997, subdivision 7-a as amended by chapter 938 of
22 the laws of 1990, subdivision 7-b as added by chapter 731 of the laws of
23 1993, paragraph (b) of subdivision 7-b as amended by chapter 175 of the
24 laws of 1997, are amended to read as follows:

25 7. Reimbursement rate promulgation. The commissioner shall notify each
26 [hospital] residential health care facility and health-related service
27 of its approved rates of payment which shall be used in reimbursing for
28 services provided to persons eligible for payments made by state govern-

1 mental agencies at least sixty days prior to the beginning of an estab-
2 lished rate period for which the rate is to become effective. Notifica-
3 tion shall be made only after approval of rate schedules by the state
4 director of the budget. The [sixty and thirty day] notice provisions,
5 herein, shall not apply to rates issued following judicial annulment or
6 invalidation of any previously issued rates, or rates issued pursuant to
7 changes in the methodology used to compute rates which changes are
8 promulgated following the judicial annulment or invalidation of previ-
9 ously issued rates. Notwithstanding any provision of law to the contra-
10 ry, nothing in this subdivision shall prohibit the recalculation and
11 payment of rates, including both positive and negative adjustments,
12 based on a reconciliation of amounts paid by residential health care
13 facilities beginning April first, nineteen hundred ninety-seven for
14 additional assessments or further additional assessments pursuant to
15 section twenty-eight hundred seven-d of this article with the amounts
16 originally recognized for reimbursement purposes.

17 [7-a. Notwithstanding any inconsistent provision of law, with regard
18 to a general hospital the provisions of subdivisions four and seven of
19 this section and the provisions of section eighteen of chapter two of
20 the laws of nineteen hundred eighty-eight relating to the requirement of
21 prior notice and the time frames for notice, approval or certification
22 of rates of payment, maximum rates of payment or maximum charges where
23 not otherwise waived pursuant to law shall be applicable only to such
24 rates of payment or maximum charges prospectively established for an
25 annual rate period and such provisions shall not be applicable to a
26 general hospital with regard to prospective adjustments or retrospective
27 adjustments of established rates of payment or maximum charges for or
28 during an annual rate period based on correction of errors or omissions

1 of data or in computation, rate appeals, audits or other rate adjust-
2 ments authorized by law or regulations adopted pursuant to section twen-
3 ty-eight hundred three of this article.

4 7-b. Notification of diagnostic and treatment center approved rates.

5 (a) For rate periods or portions of rate periods beginning on or after
6 October first, nineteen hundred ninety-four, the commissioner shall
7 notify each diagnostic and treatment center of its approved rates of
8 payment, which shall be used in the reimbursement for services provided
9 to persons eligible for payments made by state governmental agencies at
10 least thirty days prior to the beginning of the period for which such
11 rates are to become effective.

12 (b)] (a) Notwithstanding any contrary provision of law, all diagnostic
13 and treatment centers certified on or before September second, nineteen
14 hundred ninety-seven shall, not later than September second, nineteen
15 hundred ninety-seven, notify the commissioner whether they intend to
16 maintain all books and records utilized by the diagnostic and treatment
17 center for cost reporting and reimbursement purposes on a calendar year
18 basis or, commencing on July first, nineteen hundred ninety-six, on a
19 July first through June thirtieth basis, and shall thereafter maintain
20 all books and records on such basis. All diagnostic and treatment
21 centers certified after September second, nineteen hundred ninety-seven
22 shall notify the commissioner at the time of certification whether they
23 intend to maintain all books and records on a calendar year basis or on
24 [or] a July first through June thirtieth basis, and shall thereafter
25 maintain all books and records on such a basis.

26 [(c)] (b) The books and records maintained pursuant to paragraph [(b)]
27 (a) of this subdivision shall be utilized and made available to the

1 commissioner in promulgating rates of payment for annual rate periods
2 beginning on or after October first, nineteen hundred ninety-seven.

3 [(d)] (c) Notwithstanding any provision of the law to the contrary,
4 rates of payment established in accordance with paragraph [(b)] (a) as
5 amended, and paragraph (f) of subdivision two of this section for the
6 rate period beginning April first, nineteen hundred ninety-three shall
7 continue in effect through September thirtieth, nineteen hundred nine-
8 ty-four, and applicable trend factors shall be applied to that portion
9 of such rates of payment for the rate period which begins April first,
10 nineteen hundred ninety-four.

11 § 25. Section 365-1 of the social services law is amended by adding a
12 new subdivision 2-b to read as follows:

13 2-b. The commissioner is authorized to make grants up to a gross
14 amount of five million dollars, to establish coordination between health
15 homes and the criminal justice system and for the integration of infor-
16 mation of health homes with state and local correctional facilities, to
17 the extent permitted by law. Health homes receiving such funds shall be
18 required to document and demonstrate the effective use of funds distrib-
19 uted herein.

20 § 26. Paragraph (e) of subdivision 2-a of section 2807 of the public
21 health law is amended by adding a new subparagraph (iv) to read as
22 follows:

23 (iv) Notwithstanding any law to the contrary and subject to federal
24 financial participation, family planning or family planning related
25 services that are eligible for enhanced federal medical assistance
26 percentages, shall not be reimbursed pursuant to the methodology estab-
27 lished in this subdivision.

1 § 27. Subdivision 35 of section 2807-c of the public health law is
2 amended by adding a new paragraph (k) to read as follows:

3 (k) Notwithstanding any law to the contrary and subject to federal
4 financial participation, family planning or family planning related
5 services that are eligible for enhanced federal medical assistance
6 percentages shall be excluded from reimbursement under this subdivision.

7 § 28. Subdivisions 6 and 7 of section 369-gg of the social services
8 law are renumbered 7 and 8 and a new subdivision 6 is added to read as
9 follows:

10 6. Rates of payment. (a) The commissioner shall select the contract
11 with an independent actuary to study and recommend appropriate
12 reimbursement methodologies for the cost of health care service coverage
13 pursuant to this title. Such independent actuary shall review and make
14 recommendations concerning appropriate actuarial assumptions relevant to
15 the establishment of reimbursement methodologies, including but not
16 limited to; the adequacy of rates of payment in relation to the popu-
17 lation to be served adjusted for case mix, the scope of health care
18 services approved organizations must provide, the utilization of such
19 services and the network of providers required to meet state standards.

20 (b) Upon consultation with the independent actuary and entities
21 representing approved organizations, the commissioner shall develop
22 reimbursement methodologies and fee schedules for determining rates of
23 payment, which rate shall be approved by the director of the division of
24 the budget, to be made by the department to approved organizations for
25 the cost of health care services coverage pursuant to this title. Such
26 reimbursement methodologies and fee schedules may include provisions for
27 capitation arrangements.

1 (c) The commissioner shall have the authority to promulgate regu-
2 lations, including emergency regulations, necessary to effectuate the
3 provisions of this subdivision.

4 § 29. Section 1 of part B of chapter 59 of the laws of 2011, amending
5 the public health law relating to rates of payment and medical assist-
6 ance, is amended to read as follows:

7 Section 1. (a) Notwithstanding any inconsistent provision of law,
8 rule or regulation to the contrary, and subject to the availability of
9 federal financial participation, effective for the period April 1, 2011
10 through March 31, 2012, and each state fiscal year thereafter, the
11 department of health is authorized to make supplemental Medicaid
12 payments or supplemental Medicaid managed care payments for professional
13 services provided by physicians, nurse practitioners and physician
14 assistants who are participating in a plan for the management of clin-
15 ical practice at the State University of New York, in accordance with
16 title 11 of article 5 of the social services law for patients eligible
17 for federal financial participation under title XIX of the federal
18 social security act, in amounts that will increase fees for such profes-
19 sional services to an amount equal to the average commercial or Medicare
20 rate that would otherwise be received for such services rendered by such
21 physicians, nurse practitioners and physician assistants. The calcu-
22 lation of such supplemental fee payments shall be made in accordance
23 with applicable federal law and regulation and subject to the approval
24 of the division of the budget. Such supplemental Medicaid fee payments
25 may be added to the professional fees paid under the fee schedule [or],
26 made as aggregate lump sum payments to eligible clinical practice plans
27 authorized to receive professional fees or made as supplemental payments
28 made for such purpose as described herein to Medicaid managed care

1 organizations. Supplemental Medicaid managed care payments under this
2 section shall be distributed to providers as determined by the managed
3 care model contract and may utilize managed care organization reported
4 encounter data and other such metrics as determined by the department of
5 health in order to ensure rates of payment equivalent to the average
6 commercial or Medicare rate that would otherwise be received for such
7 services rendered by such physicians, nurse practitioners and physician
8 assistants.

9 (b) The affiliated State University of New York health science centers
10 shall be responsible for payment of one hundred percent of the non-fed-
11 eral share of such supplemental Medicaid payments or supplemental Medi-
12 caid managed care payments for all services provided by physicians,
13 nurse practitioners and physician assistants who are participating in a
14 plan for the management of clinical practice, in accordance with section
15 365-a of the social services law, regardless of whether another social
16 services district or the department of health may otherwise be responsi-
17 ble for furnishing medical assistance to the eligible persons receiving
18 such services.

19 § 30. Section 93 of part H of chapter 59 of the laws of 2011, amending
20 the public health law relating to general hospital inpatient reimburse-
21 ment for annual rates, is amended to read as follows:

22 § 93. 1. Notwithstanding any inconsistent provision of law, rule or
23 regulation to the contrary, and subject to the availability of federal
24 financial participation, effective for the period April 1, 2011 through
25 March 31, 2012, and each state fiscal year thereafter, the department of
26 health is authorized to make supplemental Medicaid payments or supple-
27 mental Medicaid managed care payments for professional services provided
28 by physicians, nurse practitioners and physician assistants who are

1 employed by a public benefit corporation or a non-state operated public
2 general hospital operated by a public benefit corporation or who are
3 providing professional services at a facility of such public benefit
4 corporation as either a member of a practice plan or an employee of a
5 professional corporation or limited liability corporation under contract
6 to provide services to patients of such a public benefit corporation, in
7 accordance with title 11 of article 5 of the social services law for
8 patients eligible for federal financial participation under title XIX of
9 the federal social security act, in amounts that will increase fees for
10 such professional services to an amount equal to either the Medicare
11 rate or the average commercial rate that would otherwise be received for
12 such services rendered by such physicians, nurse practitioners and
13 physician assistants, provided, however, that such supplemental fee
14 payments shall not be available with regard to services provided at
15 facilities participating in the Medicare Teaching Election Amendment.
16 The calculation of such supplemental fee payments shall be made in
17 accordance with applicable federal law and regulation and subject to the
18 approval of the division of the budget. Such supplemental Medicaid fee
19 payments may be added to the professional fees paid under the fee sched-
20 ule [or], made as aggregate lump sum payments to entities authorized to
21 receive professional fees or made as supplemental payments made for such
22 purpose as described herein to Medicaid managed care organizations.
23 Supplemental Medicaid managed care payments under this section shall be
24 distributed to providers as determined by the managed care model
25 contract and may utilize managed care organization reported encounter
26 data and other such metrics as determined by the department of health in
27 order to ensure rates of payment equivalent to the average commercial or
28 Medicare rate that would otherwise be received for such services

1 rendered by such physicians, nurse practitioners and physician assist-
2 ants.

3 2. The supplemental Medicaid payments or supplemental Medicaid managed
4 care payments for professional services authorized by subdivision one of
5 this section may be made only at the election of the public benefit
6 corporation or the local social services district in which the non-state
7 operated public general hospital is located. The electing public benefit
8 corporation or local social services district shall, notwithstanding the
9 social services district Medicaid cap provisions of Part C of chapter 58
10 of the laws of 2005, be responsible for payment of one hundred percent
11 of the non-federal share of such supplemental Medicaid payments, in
12 accordance with section 365-a of the social services law, regardless of
13 whether another social services district or the department of health may
14 otherwise be responsible for furnishing medical assistance to the eligi-
15 ble persons receiving such services. Social services district or public
16 benefit corporation funding of the non-federal share of any such
17 payments shall be deemed to be voluntary for purposes of the increased
18 federal medical assistance percentage provisions of the American Recov-
19 ery and Reinvestment Act of 2009, provided, however, that in the event
20 the federal Centers for Medicare and Medicaid Services determines that
21 such non-federal share payments are not voluntary payments for purposes
22 of such act, the provisions of this section shall be null and void.

23 § 31. Subparagraph (iii) of paragraph (d) of subdivision 1 of section
24 367-a of the social services law, as amended by section 65 of part H of
25 chapter 59 of the laws 2011, is amended to read as follows:

26 (iii) [When payment under part B of title XVIII of the federal social
27 security act for] With respect to items and services provided to eligi-
28 ble persons who are also beneficiaries under part B of title XVIII of

1 the federal social security act and [for] items and services provided to
2 qualified medicare beneficiaries under part B of title XVIII of the
3 federal social security act [would exceed the amount that otherwise
4 would be made under this title if provided to an eligible person other
5 than a person who is also a beneficiary under part B or is a qualified
6 medicare beneficiary, the amount payable for services covered under this
7 title shall be twenty percent of], the amount payable for services
8 covered under this title shall be the amount of any co-insurance liabil-
9 ity of such eligible persons pursuant to federal law were they not
10 eligible for medical assistance or were they not qualified medicare
11 beneficiaries with respect to such benefits under such part B, but shall
12 not exceed the amount that otherwise would be made under this title if
13 provided to an eligible person other than a person who is also a benefi-
14 ciary under part B or is a qualified medicare beneficiary minus the
15 amount payable under part B; provided, however, amounts payable under
16 this title for items and services provided to eligible persons who are
17 also beneficiaries under part B or to qualified medicare beneficiaries
18 by an ambulance service under the authority of an operating certificate
19 issued pursuant to article thirty of the public health law, a psychol-
20 ogist licensed under article one hundred fifty-three of the education
21 law, or a facility under the authority of an operating certificate
22 issued pursuant to article sixteen, thirty-one or thirty-two of the
23 mental hygiene law and with respect to outpatient hospital and clinic
24 items and services provided by a facility under the authority of an
25 operating certificate issued pursuant to article twenty-eight of the
26 public health law, shall not be less than the amount of any co-insurance
27 liability of such eligible persons or such qualified medicare benefi-
28 aries, or for which such eligible persons or such qualified medicare

1 beneficiaries would be liable under federal law were they not eligible
2 for medical assistance or were they not qualified medicare beneficiaries
3 with respect to such benefits under part B.

4 § 32. Paragraph (d) of subdivision 1 of section 367-a of the social
5 services law is amended by adding a new subparagraph (iv) to read as
6 follows:

7 (iv) If a health plan participating in part C of title XVIII of the
8 federal social security act pays for items and services provided to
9 eligible persons who are also beneficiaries under part B of title XVIII
10 of the federal social security act or to qualified medicare benefi-
11 aries, the amount payable for services under this title shall be the
12 amount of any co-insurance liability of such eligible persons pursuant
13 to federal law if they were not eligible for medical assistance or were
14 not qualified medicare beneficiaries with respect to such benefits under
15 part B, but shall not exceed the amount that otherwise would be made
16 under this title if provided to an eligible person who is not a benefi-
17 ciary under part B or a qualified medicare beneficiary, less the amount
18 payable by the part C health plan.

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

22 (a) Medical assistance shall be furnished to applicants in cases
23 where, although such applicant has a responsible relative with suffi-
24 cient income and resources to provide medical assistance as determined
25 by the regulations of the department, the income and resources of the
26 responsible relative are not available to such applicant because of the
27 absence of such relative [or] and the refusal or failure of such absent
28 relative to provide the necessary care and assistance. In such cases,

1 however, the furnishing of such assistance shall create an implied
2 contract with such relative, and the cost thereof may be recovered from
3 such relative in accordance with title six of article three of this
4 chapter and other applicable provisions of law.

5 § 34. The commissioner of health is authorized to contract with one
6 or more entities to conduct an assessment of the mobility and transpor-
7 tation needs of persons with disabilities and other special needs popu-
8 lations. The assessment shall include identification of any legal,
9 statutory or regulatory, and funding barriers. After consultation with
10 the department of transportation, office for people with developmental
11 disabilities, office for the aging, office of mental health, and office
12 of alcoholism and substance abuse services, the contractor shall make
13 recommendations for the development of a pilot demonstration project to
14 coordinate medical and non-medical transportation services, maximize
15 funding sources, enhance community integration and any other related
16 tasks.

17 § 35. Section 133 of the social services law, as amended by chapter
18 455 of the laws of 2010, is amended to read as follows:

19 § 133. Temporary preinvestigation emergency needs assistance or care.
20 Upon application for public assistance or care under this chapter, the
21 local social services district shall notify the applicant in writing of
22 the availability of a monetary grant adequate to meet emergency needs
23 assistance or care and shall, at such time, determine whether such
24 person is in immediate need. If it shall appear that a person is in
25 immediate need, emergency needs assistance or care shall be granted
26 pending completion of an investigation. The written notification
27 required by this section shall inform such person of a right to an expe-
28 dited hearing when emergency needs assistance or care is denied. A

1 public assistance applicant who has been denied emergency needs assist-
2 ance or care must be given reason for such denial in a written determi-
3 nation which sets forth the basis for such denial. Nothing in this
4 section shall be construed to require the social services district or
5 any state agency to provide a monetary or other grant pursuant to this
6 section for the purpose of obtaining medical care, home care, or related
7 services.

8 § 36. Subdivision 7 of section 364-i of the social services law, as
9 added by section 34 of part A of chapter 56 of the laws of 2013, is
10 amended to read as follows:

11 7. Notwithstanding [section one hundred thirty-three of this chapter]
12 any other section of law, where care [or], services, or supplies are
13 received prior to the date [the] an individual is determined eligible
14 for assistance under this title, medical assistance reimbursement shall
15 be available for such care [or], services, or supplies only (a) if the
16 care [or], services, or supplies are received during the three month
17 period preceding the month of application for medical assistance and the
18 recipient is determined to have been eligible in the month in which the
19 care [or], service, or supply was received, or (b) [as] if provided [for
20 in] during a period of presumptive eligibility pursuant to this section
21 [or regulations of the department]. No medical assistance under this
22 title, regardless of funding source, shall be available to meet the
23 immediate needs of individuals prior to a determination that they meet
24 the eligibility requirements of this title, except during a period of
25 presumptive eligibility as provided in this subdivision.

26 § 37. Notwithstanding any provision of law to the contrary, enhanced
27 federal medical assistance percentage monies available as a result of
28 the state's participation in the community first choice state plan

1 option under section 1915 of title XIX of the federal social security
2 act shall be used to implement the state's comprehensive plan for serv-
3 ing New Yorkers with disabilities in the most integrated setting, also
4 known as the state's Olmstead plan. Such monies shall be expended for
5 the purposes consistent with the Olmstead plan. The Department of Health
6 shall consult with stakeholders, relevant state agencies, the Division
7 of Budget and the Olmstead cabinet in determining the level of invest-
8 ment for each of the programs under the Olmstead plan.

9 § 38. Section 2808 of the public health law is amended by adding a new
10 subdivision 27 to read as follows:

11 27. For periods on or after April first, two thousand fifteen, the
12 commissioner shall authorize an energy efficiency and/or disaster
13 preparedness demonstration program for residential health care facili-
14 ties. Such program shall be limited to real property capital costs. The
15 commissioner may promulgate regulations in order to implement the
16 provisions of this subdivision.

17 § 39. The opening paragraph of subdivision 9 of section 3614 of the
18 public health law, as amended by section 56 of part A of chapter 56 of
19 the laws of 2013, is amended to read as follows:

20 Notwithstanding any law to the contrary, the commissioner shall,
21 subject to the availability of federal financial participation, adjust
22 medical assistance rates of payment for certified home health agencies
23 for such services provided to children under eighteen years of age and
24 for services provided to a special needs population of medically complex
25 and fragile children, adolescents and young disabled adults by a CHHA
26 operating under a pilot program approved by the department, long term
27 home health care programs, AIDS home care programs established pursuant
28 to this article, and hospice programs established under article forty of

1 this chapter [and for managed long term care plans and approved managed
2 long term care operating demonstrations as defined in section forty-four
3 hundred three-f of this chapter]. Such adjustments shall be for purposes
4 of improving recruitment, training and retention of home health aides or
5 other personnel with direct patient care responsibility in the following
6 aggregate amounts for the following periods:

7 § 40. Paragraph (a) of subdivision 10 of section 3614 of the public
8 health law, as amended by section 57 of part A of chapter 56 of the laws
9 of 2013, is amended to read as follows:

10 (a) Such adjustments to rates of payments shall be allocated propor-
11 tionally based on each certified home health agency, long term home
12 health care program, AIDS home care and hospice program's home health
13 aide or other direct care services total annual hours of service
14 provided to medicaid patients, as reported in each such agency's most
15 recently available cost report as submitted to the department [or for
16 the purpose of the managed long term care program a suitable proxy
17 developed by the department in consultation with the interested
18 parties]. Payments made pursuant to this section shall not be subject to
19 subsequent adjustment or reconciliation; provided that such adjustments
20 to rates of payments to certified home health agencies shall only be for
21 that portion of services provided to children under eighteen years of
22 age and for services provided to a special needs population of medically
23 complex and fragile children, adolescents and young disabled adults by a
24 CHHA operating under a pilot program approved by the department.

25 § 41. The civil service law is amended by adding a new section 66 to
26 read as follows:

27 § 66. Term appointments in health insurance program-related positions.
28 1. The department of health's office of health insurance programs is

1 tasked with implementing significant health insurance program reforms,
2 initiatives and mandates. As the state continues to implement these
3 changes, the office of health insurance programs may need to rely upon
4 the expertise of individuals from either inside or outside the existing
5 state workforce that possess highly specialized expertise in assessing
6 and leveraging emerging health insurance programs and related issues.

7 To this end, notwithstanding any other provision in this chapter, the
8 department may authorize term appointments without examination to tempo-
9 rary positions requiring special expertise or qualifications in health
10 insurance programs. Such appointments may be authorized only in such
11 cases where the office of health insurance programs certifies to the
12 department that because of the type of services to be rendered or the
13 temporary or occasional character of such services, it would not be
14 practicable to hold an examination of any kind. Such certification shall
15 be a public document pursuant to the public officers law and shall iden-
16 tify the special expertise or qualifications that are required and why
17 they cannot be obtained through an appointment from an eligible list.
18 The maximum period for a term appointment established pursuant to this
19 subdivision shall not exceed sixty months and shall not be extended, and
20 the maximum number of such appointments shall not exceed three hundred.
21 At least fifteen days prior to making a term appointment pursuant to
22 this section the appointing authority shall publicly and conspicuously
23 post in its offices information about the temporary position and the
24 required qualifications and shall allow any qualified employee to apply
25 for said position. An employee appointed pursuant to this provision who
26 has completed two years of continuous service under this provision shall
27 be able to compete in one promotional examination that is also open to

1 employees who have permanent civil service appointments and appropriate
2 qualifications.

3 2. A temporary position established pursuant to subdivision one of
4 this section may be abolished for reasons of economy, consolidation or
5 abolition of functions, curtailment of activities or otherwise. Upon
6 such abolition or at the end of the term of the appointment, the
7 provisions of sections seventy-eight, seventy-nine, eighty and eighty-
8 one of this chapter shall not apply. In the event of a reduction of
9 workforce pursuant to section eighty of this chapter affecting health
10 insurance program-related positions, the term appointments pursuant to
11 this section at the department of health's office of health insurance
12 programs shall be abolished prior to the abolition of permanent compet-
13 itive class health insurance program-related positions at the office of
14 health insurance programs involving comparable skills and responsibil-
15 ities.

16 § 42. Subdivision 12 of section 367-a of the social services law, as
17 amended by section 63-a of part C of chapter 58 of the laws of 2007, is
18 amended to read as follows:

19 12. Prior to receiving medical assistance under subparagraphs [twelve]
20 five and [thirteen] six of paragraph [(a)] (c) of subdivision one of
21 section three hundred sixty-six of this title, a person whose net avail-
22 able income is at least one hundred fifty percent of the applicable
23 federal income official poverty line, as defined and updated by the
24 United States department of health and human services, must pay a month-
25 ly premium, in accordance with a procedure to be established by the
26 commissioner. The amount of such premium shall be twenty-five dollars
27 for an individual who is otherwise eligible for medical assistance under
28 such subparagraphs, and fifty dollars for a couple, both of whom are

1 otherwise eligible for medical assistance under such subparagraphs. No
2 premium shall be required from a person whose net available income is
3 less than one hundred fifty percent of the applicable federal income
4 official poverty line, as defined and updated by the United States
5 department of health and human services.

6 § 43. Subparagraph 6 of paragraph (b) of subdivision 1 of section 366
7 of the social services law, as added by section 1 of part D of chapter
8 56 of the laws of 2013, is amended to read as follows:

9 (6) An individual who is not otherwise eligible for medical assistance
10 under this section is eligible for coverage of family planning services
11 reimbursed by the federal government at a rate of ninety percent, and
12 for coverage of those services identified by the commissioner of health
13 as services generally performed as part of or as a follow-up to a
14 service eligible for such ninety percent reimbursement, including treat-
15 ment for sexually transmitted diseases, if his or her income does not
16 exceed the MAGI-equivalent of two hundred percent of the federal poverty
17 line for the applicable family size, which shall be calculated in
18 accordance with guidance issued by the secretary of the United States
19 department of health and human services[.]; provided further that the
20 commissioner of health is authorized to establish criteria for presump-
21 tive eligibility for services provided pursuant to this subparagraph in
22 accordance with all applicable requirements of federal law or regulation
23 pertaining to such eligibility.

24 § 44. Subdivision 1 of section 398-b of the social services law, as
25 added by section 44 of part C of chapter 60 of the laws of 2014, is
26 amended to read as follows:

27 1. Notwithstanding any inconsistent provision of law to the contrary
28 and subject to the availability of federal financial participation, the

1 commissioner is authorized to make grants [from] up to a gross amount of
2 five million dollars for state fiscal year two thousand fourteen--fif-
3 teen and up to a gross amount of fifteen million dollars for state
4 fiscal year two thousand fifteen--sixteen to facilitate the transition
5 of foster care children placed with voluntary foster care agencies to
6 managed care. The use of such funds may include providing training and
7 consulting services to voluntary agencies to [access] assess readiness
8 and make necessary infrastructure and organizational modifications,
9 collecting service utilization and other data from voluntary agencies
10 and other entities, and making investments in health information tech-
11 nology, including the infrastructure necessary to establish and maintain
12 electronic health records. Such funds shall be distributed pursuant to a
13 formula to be developed by the commissioner of health, in consultation
14 with the commissioner of the office of children and family [and child]
15 services. In developing such formula the commissioners may take into
16 account size and scope of provider operations as a factor relevant to
17 eligibility for such funds. Each recipient of such funds shall be
18 required to document and demonstrate the effective use of funds distrib-
19 uted herein. If federal financial participation is unavailable, then
20 the nonfederal share of payments pursuant to this subdivision may be
21 made as state grants.

22 § 45. Paragraph (g) of subdivision 1 of section 366 of the social
23 services law, as added by section 50 of part C of chapter 60 of the laws
24 of 2014, is amended to read as follows:

25 (g) Coverage of certain noncitizens. (1) Applicants and recipients who
26 are lawfully admitted for permanent residence, or who are permanently
27 residing in the United States under color of law, or who are non-citiz-
28 ens in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15);

1 who are MAGI eligible pursuant to paragraph (b) of this subdivision; and
2 who would be ineligible for medical assistance coverage under subdivi-
3 sions one and two of section three hundred sixty-five-a of this title
4 solely due to their immigration status if the provisions of section one
5 hundred twenty-two of this chapter were applied, shall only be eligible
6 for assistance under this title if enrolled in a standard health plan
7 offered by a basic health program established pursuant to section three
8 hundred sixty-nine-gg of this article if such program is established and
9 operating.

10 (2) With respect to a person described in subparagraph one of this
11 paragraph who is enrolled in a standard health plan, medical assistance
12 coverage shall mean:

13 (i) payment of required premiums and other cost-sharing obligations
14 under the standard health plan that exceed the person's co-payment obli-
15 gation under subdivision six of section three hundred sixty-seven-a of
16 this title; and

17 (ii) payment for services and supplies described in subdivision one or
18 two of section three hundred sixty-five-a of this title, as applicable,
19 but only to the extent that such services and supplies are not covered
20 by the standard health plan.

21 (3) Nothing in this subdivision shall prevent a person described in
22 subparagraph one of this paragraph from qualifying for or receiving
23 medical assistance while his or her enrollment in a standard health plan
24 is pending, in accordance with applicable provisions of this title.

25 § 46. Subdivision 8 of section 369-gg of the social service law, as
26 added by section 51 of part C of chapter 60 of the laws of 2014 and as
27 renumbered by section thirty of this act, is amended to read as follows:

1 8. An individual who is lawfully admitted for permanent residence
2 [or], permanently residing in the United States under color of law, or
3 who is a non-citizen in a valid nonimmigrant status, as defined in 8
4 U.S.C. 1101(a)(15), and who would be ineligible for medical assistance
5 under title eleven of this article due to his or her immigration status
6 if the provisions of section one hundred twenty-two of this chapter were
7 applied, shall be considered to be ineligible for medical assistance for
8 purposes of paragraphs (b) and (c) of subdivision three of this section.

9 § 47. Notwithstanding any inconsistent provision of law, rule or regu-
10 lation to the contrary, for purposes of implementing the provisions of
11 the public health law and the social services law, references to titles
12 XIX and XXI of the federal social security act in the public health law
13 and the social services law shall be deemed to include and also to mean
14 any successor titles thereto under the federal social security act.

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

21 § 49. Severability clause. If any clause, sentence, paragraph, subdi-
22 vision, section or part of this act shall be adjudged by any court of
23 competent jurisdiction to be invalid, such judgment shall not affect,
24 impair or invalidate the remainder thereof, but shall be confined in its
25 operation to the clause, sentence, paragraph, subdivision, section or
26 part thereof directly involved in the controversy in which such judgment
27 shall have been rendered. It is hereby declared to be the intent of the

1 legislature that this act would have been enacted even if such invalid
2 provisions had not been included herein.

3 § 50. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2015, section
5 eight of this act shall expire and be deemed repealed March 31, 2017 and
6 section thirty-eight of this act shall expire and be deemed repealed
7 March 31, 2018 provided that:

8 1. sections two and three of this act shall take effect May 1, 2015;

9 2. sections six, nine and thirteen of this act shall take effect June
10 1, 2015;

11 3. sections thirty-one and thirty-two of this act shall take effect
12 July 1, 2015;

13 4. the amendments to subdivision 9 of section 367-a of the social
14 services law made by sections two and three of this act shall not affect
15 the expiration and reversion of such subdivision and shall be deemed
16 expired therewith;

17 5. sections twenty-eight and forty-six of this act shall take effect
18 on the same date and in the same manner as section 51 of part C of chap-
19 ter 60 of the laws of 2014 takes effect;

20 6. section forty-five of this act shall take effect on the same date
21 and in the same manner as section 50 of part C of chapter 60 of the laws
22 of 2014 takes effect;

23 7. the amendments to section 364-j of the social services law made by
24 section seven of this act shall not affect the repeal of such section
25 and shall be deemed to be repealed therewith;

26 8. any rules or regulations necessary to implement the provisions of
27 this act may be promulgated and any procedures, forms, or instructions

1 necessary for such implementation may be adopted and issued on or after
2 the date this act shall have become a law;

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

6 10. the commissioner of health and the superintendent of the depart-
7 ment of financial services and any appropriate council may take steps
8 necessary to implement this act prior to its effective date;

9 11. notwithstanding any inconsistent provision of the state adminis-
10 trative procedure act or any other provision of law, rule or regulation,
11 the commissioner of health and the superintendent of the department of
12 financial services and any appropriate council is authorized to adopt or
13 amend or promulgate on an emergency basis any regulation he or she or
14 such council determines necessary to implement any provision of this act
15 on its effective date; and

16 12. the provisions of this act shall become effective notwithstanding
17 the failure of the commissioner of health or the superintendent of the
18 department of financial services or any council to adopt or amend or
19 promulgate regulations implementing this act.

20 PART C

21 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013
22 amending chapter 59 of the laws of 2011 amending the public health law
23 and other laws relating to general hospital reimbursement for annual
24 rates relating to the cap on local Medicaid expenditures, as amended by
25 section 13 of part C of chapter 60 of the laws of 2014, is amended to
26 read as follows:

1 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-
2 sioners of the office of alcoholism and substance abuse services and the
3 office of mental health are authorized, subject to the approval of the
4 director of the budget, to transfer to the commissioner of health state
5 funds to be utilized as the state share for the purpose of increasing
6 payments under the medicaid program to managed care organizations
7 licensed under article 44 of the public health law or under article 43
8 of the insurance law. Such managed care organizations shall utilize such
9 funds for the purpose of reimbursing providers licensed pursuant to
10 article 28 of the public health law or article 31 or 32 of the mental
11 hygiene law for ambulatory behavioral health services, as determined by
12 the commissioner of health, in consultation with the commissioner of
13 alcoholism and substance abuse services and the commissioner of the
14 office of mental health, provided to medicaid eligible outpatients. Such
15 reimbursement shall be in the form of fees for such services which are
16 equivalent to the payments established for such services under the ambu-
17 latory patient group (APG) rate-setting methodology as utilized by the
18 department of health, the office of alcoholism and substance abuse
19 services, or the office of mental health for rate-setting purposes;
20 provided, however, that the increase to such fees that shall result from
21 the provisions of this section shall not, in the aggregate and as deter-
22 mined by the commissioner of health, in consultation with the commis-
23 sioner of alcoholism and substance abuse services and the commissioner
24 of the office of mental health, be greater than the increased funds made
25 available pursuant to this section. The increase of such ambulatory
26 behavioral health fees to providers available under this section shall
27 be for all rate periods on and after the effective date of [the] section
28 13 of part C of chapter 60 of the laws of 2014 [which amended this

1 section] through December 31, 2016 for patients in the city of New York,
2 for all rate periods on and after the effective date of [the] section 13
3 of part C of chapter 60 of the laws of 2014 [which amended this section]
4 through June 30, 2017 for patients outside the city of New York, and for
5 all rate periods on and after the effective date of such chapter [of the
6 laws of 2014 which amended this section] through December 31, 2017 for
7 all services provided to persons under the age of twenty-one; provided,
8 however, that managed care organizations and providers may negotiate
9 different rates and methods of payment during such periods described
10 above, subject to the approval of the department of health. The depart-
11 ment of health shall consult with the office of alcoholism and substance
12 abuse services and the office of mental health in determining whether
13 such alternative rates shall be approved. The commissioner of health
14 may, in consultation with the commissioner of alcoholism and substance
15 abuse services and the commissioner of the office of mental health,
16 promulgate regulations, including emergency regulations promulgated
17 prior to October 1, 2015 to establish rates for ambulatory behavioral
18 health services, as are necessary to implement the provisions of this
19 section. Rates promulgated under this section shall be included in the
20 report required under section 45-c of part A of this chapter.

21 2. Notwithstanding any contrary provision of law, the fees paid by
22 managed care organizations licensed under article 44 of the public
23 health law or under article 43 of the insurance law, to providers
24 licensed pursuant to article 28 of the public health law or article 31
25 or 32 of the mental hygiene law, for ambulatory behavioral health
26 services provided to patients enrolled in the child health insurance
27 program pursuant to title one-A of article 25 of the public health law,
28 shall be in the form of fees for such services which are equivalent to

1 the payments established for such services under the ambulatory patient
2 group (APG) rate-setting methodology. The commissioner of health shall
3 consult with the commissioner of alcoholism and substance abuse services
4 and the commissioner of the office of mental health in determining such
5 services and establishing such fees. Such ambulatory behavioral health
6 fees to providers available under this section shall be for all rate
7 periods on and after the effective date of this chapter through December
8 31, 2016 for patients in the city of New York, and for all rate periods
9 on and after the effective date of this chapter through June 30, 2017
10 for patients outside the city of New York, provided, however, that
11 managed care organizations and providers may negotiate different rates
12 and methods of payment during such periods described above, subject to
13 the approval of the department of health. The department of health
14 shall consult with the office of alcoholism and substance abuse services
15 and the office of mental health in determining whether such alternative
16 rates shall be approved.

17 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating
18 to increasing Medicaid payments to providers through managed care organ-
19 izations and providing equivalent fees through an ambulatory patient
20 group methodology, as amended by section 15 of part C of chapter 60 of
21 the laws of 2014, is amended to read as follows:

22 Section 1. a. Notwithstanding any contrary provision of law, the
23 commissioners of mental health and alcoholism and substance abuse
24 services are authorized, subject to the approval of the director of the
25 budget, to transfer to the commissioner of health state funds to be
26 utilized as the state share for the purpose of increasing payments under
27 the medicaid program to managed care organizations licensed under arti-
28 cle 44 of the public health law or under article 43 of the insurance

1 law. Such managed care organizations shall utilize such funds for the
2 purpose of reimbursing providers licensed pursuant to article 28 of the
3 public health law, or pursuant to article 31 or article 32 of the mental
4 hygiene law for ambulatory behavioral health services, as determined by
5 the commissioner of health in consultation with the commissioner of
6 mental health and commissioner of alcoholism and substance abuse
7 services, provided to medicaid eligible outpatients. Such reimbursement
8 shall be in the form of fees for such services which are equivalent to
9 the payments established for such services under the ambulatory patient
10 group (APG) rate-setting methodology as utilized by the department of
11 health or by the office of mental health or office of alcoholism and
12 substance abuse services for rate-setting purposes; provided, however,
13 that the increase to such fees that shall result from the provisions of
14 this section shall not, in the aggregate and as determined by the
15 commissioner of health in consultation with the commissioners of mental
16 health and alcoholism and substance abuse services, be greater than the
17 increased funds made available pursuant to this section. The increase of
18 such behavioral health fees to providers available under this section
19 shall be for all rate periods on and after the effective date of [the]
20 section 15 of part C of chapter 60 of the laws of 2014 [which amended
21 this section] through December 31, 2016 for patients in the city of New
22 York, for all rate periods on and after the effective date of [the]
23 section 15 of part C of chapter 60 of the laws of 2014 [which amended
24 this section] through June 30, 2017 for patients outside the city of New
25 York, and for all rate periods on and after the effective date of [the]
26 section 15 of part C of chapter 60 of the laws of 2014 [which amended
27 this section] through December 31, 2017 for all services provided to
28 persons under the age of twenty-one; provided, however, that managed

1 care organizations and providers may negotiate different rates and meth-
2 ods of payment during such periods described, subject to the approval of
3 the department of health. The department of health shall consult with
4 the office of alcoholism and substance abuse services and the office of
5 mental health in determining whether such alternative rates shall be
6 approved. The commissioner of health may, in consultation with the
7 commissioners of mental health and alcoholism and substance abuse
8 services, promulgate regulations, including emergency regulations
9 promulgated prior to October 1, 2013 that establish rates for behavioral
10 health services, as are necessary to implement the provisions of this
11 section. Rates promulgated under this section shall be included in the
12 report required under section 45-c of part A of chapter 56 of the laws
13 of 2013.

14 b. Notwithstanding any contrary provision of law, the fees paid by
15 managed care organizations licensed under article 44 of the public
16 health law or under article 43 of the insurance law, to providers
17 licensed pursuant to article 28 of the public health law or article 31
18 or 32 of the mental hygiene law, for ambulatory behavioral health
19 services provided to patients enrolled in the child health insurance
20 program pursuant to title one-A of article 25 of the public health law,
21 shall be in the form of fees for such services which are equivalent to
22 the payments established for such services under the ambulatory patient
23 group (APG) rate-setting methodology. The commissioner of health shall
24 consult with the commissioner of alcoholism and substance abuse services
25 and the commissioner of the office of mental health in determining such
26 services and establishing such fees. Such ambulatory behavioral health
27 fees to providers available under this section shall be for all rate
28 periods on and after the effective date of this chapter through December

1 31, 2016 for patients in the city of New York, and for all rate periods
2 on and after the effective date of this chapter through June 30, 2017
3 for patients outside the city of New York, provided, however, that
4 managed care organizations and providers may negotiate different rates
5 and methods of payment during such periods described above, subject to
6 the approval of the department of health. The department of health shall
7 consult with the office of alcoholism and substance abuse services and
8 the office of mental health in determining whether such alternative
9 rates shall be approved.

10 § 3. Notwithstanding any inconsistent provision of law, rule or regu-
11 lation, for purposes of implementing the provisions of the public health
12 law and the social services law, references to titles XIX and XXI of the
13 federal social security act in the public health law and the social
14 services law shall be deemed to include and also to mean any successor
15 titles thereto under the federal social security act.

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

22 § 5. Severability clause. If any clause, sentence, paragraph, subdivi-
23 sion, section or part of this act shall be adjudged by any court of
24 competent jurisdiction to be invalid, such judgment shall not affect,
25 impair or invalidate the remainder thereof, but shall be confined in its
26 operation to the clause, sentence, paragraph, subdivision, section or
27 part thereof directly involved in the controversy in which such judgment
28 shall have been rendered. It is hereby declared to be the intent of the

1 legislature that this act would have been enacted even if such invalid
2 provisions had not been included herein.

3 § 6. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2015. Provided,
5 however that:

6 1. any rules or regulations necessary to implement the provisions of
7 this act may be promulgated and any procedures, forms, or instructions
8 necessary for such implementation may be adopted and issued on or after
9 the date this act shall have become a law;

10 2. this act shall not be construed to alter, change, affect, impair or
11 defeat any rights, obligations, duties or interests accrued, incurred or
12 conferred prior to the effective date of this act;

13 3. the commissioner of health and the superintendent of the department
14 of financial services and any appropriate council may take any steps
15 necessary to implement this act prior to its effective date;

16 4. notwithstanding any inconsistent provision of the state administra-
17 tive procedure act or any other provision of law, rule or regulation,
18 the commissioner of health and the superintendent of the department of
19 financial services and any appropriate council is authorized to adopt or
20 amend or promulgate on an emergency basis any regulation he or she or
21 such council determines necessary to implement any provision of this act
22 on its effective date;

23 5. the provisions of this act shall become effective notwithstanding
24 the failure of the commissioner of health or the superintendent of the
25 department of financial services or any council to adopt or amend or
26 promulgate regulations implementing this act; and

27 6. the amendments to section 48-a of part A of chapter 56 of the laws
28 of 2013 made by section one of this act and the amendments to section 1

1 of part H of chapter 111 of the laws of 2010 made by section two of this
2 act shall not affect the expiration of such sections and shall be deemed
3 to expire therewith.

4 PART D

5 Section 1. Section 11 of chapter 884 of the laws of 1990, amending the
6 public health law relating to authorizing bad debt and charity care
7 allowances for certified home health agencies, as amended by section 3
8 of part B of chapter 56 of the laws of 2013, is amended to read as
9 follows:

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

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

12 (b) [sections four through ten shall expire on June 30, 2015, and

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

17 § 2. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
18 amending the public health law and other laws relating to medical
19 reimbursement and welfare reform, as amended by section 4 of part B of
20 chapter 56 of the laws of 2013, is amended to read as follows:

21 2. Sections five, seven through nine, twelve through fourteen, and
22 eighteen of this act shall be deemed to have been in full force and
23 effect on and after April 1, 1995 through March 31, 1999 and on and
24 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000
25 through March 31, 2003 and on and after April 1, 2003 through March 31,
26 2006 and on and after April 1, 2006 through March 31, 2007 and on and

1 after April 1, 2007 through March 31, 2009 and on and after April 1,
2 2009 through March 31, 2011 and sections twelve, thirteen and fourteen
3 of this act shall be deemed to be in full force and effect on and after
4 April 1, 2011 [through March 31, 2015];

5 § 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
6 2807-d of the public health law, as amended by section 5 of part B of
7 chapter 56 of the laws of 2013, is amended to read as follows:

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

1 thousand thirteen through March thirty-first, two thousand fifteen such
2 assessment shall be six percent, and further provided that for all such
3 gross receipts received on or after April first, two thousand fifteen
4 such assessment shall be six percent.

5 § 4. Section 88 of chapter 659 of the laws of 1997, constituting the
6 long term care integration and finance act of 1997, as amended by
7 section 6 of part B of chapter 56 of the laws of 2013, is amended to
8 read as follows:

9 § 88. Notwithstanding any provision of law to the contrary, all oper-
10 ating demonstrations, as such term is defined in paragraph (c) of subdi-
11 vision 1 of section 4403-f of the public health law as added by section
12 eighty-two of this act, due to expire prior to January 1, 2001 shall be
13 deemed to [expire on December 31, 2015] remain in full force and effect
14 subsequent to such date.

15 § 5. Subdivision 1 of section 194 of chapter 474 of the laws of 1996,
16 amending the education law and other laws relating to rates for residen-
17 tial health care facilities, as amended by section 9 of part B of chap-
18 ter 56 of the laws of 2013, is amended to read as follows:

19 1. Notwithstanding any inconsistent provision of law or regulation,
20 the trend factors used to project reimbursable operating costs to the
21 rate period for purposes of determining rates of payment pursuant to
22 article 28 of the public health law for residential health care facili-
23 ties for reimbursement of inpatient services provided to patients eligi-
24 ble for payments made by state governmental agencies on and after April
25 1, 1996 through March 31, 1999 and for payments made on and after July
26 1, 1999 through March 31, 2000 and on and after April 1, 2000 through
27 March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and
28 on and after April 1, 2007 through March 31, 2009 and on and after April

1 1, 2009 through March 31, 2011 and on and after April 1, 2011 through
2 March 31, 2013 and on and after April 1, 2013 through March 31, 2015
3 and for each state fiscal year thereafter shall reflect no trend factor
4 projections or adjustments for the period April 1, 1996, through March
5 31, 1997.

6 § 6. Subdivision 1 of section 89-a of part C of chapter 58 of the laws
7 of 2007, amending the social services law and other laws relating to
8 enacting the major components of legislation necessary to implement the
9 health and mental hygiene budget for the 2007-2008 state fiscal year, as
10 amended by section 10 of part B of chapter 56 of the laws of 2013, is
11 amended to read as follows:

12 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
13 of the public health law and section 21 of chapter 1 of the laws of
14 1999, as amended, and any other inconsistent provision of law or regu-
15 lation to the contrary, in determining rates of payments by state
16 governmental agencies effective for services provided beginning April 1,
17 2006, [through March 31, 2009, and on and after April 1, 2009 through
18 March 31, 2011, and on and after April 1, 2011 through March 31, 2013,
19 and on and after April 1, 2013 through March 31, 2015] for inpatient and
20 outpatient services provided by general hospitals and for inpatient
21 services and outpatient adult day health care services provided by resi-
22 dential health care facilities pursuant to article 28 of the public
23 health law, the commissioner of health shall apply a trend factor
24 projection of two and twenty-five hundredths percent attributable to the
25 period January 1, 2006 through December 31, 2006, and on and after Janu-
26 ary 1, 2007, provided, however, that on reconciliation of such trend
27 factor for the period January 1, 2006 through December 31, 2006 pursuant
28 to paragraph (c) of subdivision 10 of section 2807-c of the public

1 health law, such trend factor shall be the final US Consumer Price Index
2 (CPI) for all urban consumers, as published by the US Department of
3 Labor, Bureau of Labor Statistics less twenty-five hundredths of a
4 percentage point.

5 § 7. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of the
6 laws of 1995, amending the public health law and other laws relating to
7 medical reimbursement and welfare reform, as amended by section 11 of
8 part B of chapter 56 of the laws of 2013, is amended to read as follows:

9 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,
10 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,
11 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,
12 February 1, 2012, February 1, 2013 [and], February 1, 2014 [and], Febru-
13 ary 1, 2015 and prior to each February first thereafter the commissioner
14 of health shall calculate the result of the statewide total of residen-
15 tial health care facility days of care provided to beneficiaries of
16 title XVIII of the federal social security act (medicare), divided by
17 the sum of such days of care plus days of care provided to residents
18 eligible for payments pursuant to title 11 of article 5 of the social
19 services law minus the number of days provided to residents receiving
20 hospice care, expressed as a percentage, for the period commencing Janu-
21 ary 1, through November 30, of the prior year respectively, based on
22 such data for such period. This value shall be called the 2000, 2001,
23 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,
24 2014 [and], 2015 and for each subsequent year such percentage shall be
25 called the statewide target percentage [respectively] of the respective
26 year.

27 § 8. Subparagraph (ii) of paragraph (b) of subdivision 3 of section 64
28 of chapter 81 of the laws of 1995, amending the public health law and

1 other laws relating to medical reimbursement and welfare reform, as
2 amended by section 12 of part B of chapter 56 of the laws of 2013, is
3 amended to read as follows:

4 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
5 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015 or subsequent
6 years' statewide target percentages are not for each year at least three
7 percentage points higher than the statewide base percentage, the commis-
8 sioner of health shall determine the percentage by which the statewide
9 target percentage for each year is not at least three percentage points
10 higher than the statewide base percentage. The percentage calculated
11 pursuant to this paragraph shall be called the 1997, 1998, 2000, 2001,
12 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013,
13 2014 [and], 2015 and for each subsequent year such percentage shall be
14 called the statewide reduction percentage [respectively] of the respec-
15 tive year. If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
16 2007, 2008, 2009, 2010, 2011, 2012, 2013[;], 2014 [and], 2015 or subse-
17 quent years' statewide target percentage for the respective year is at
18 least three percentage points higher than the statewide base percentage,
19 the statewide reduction percentage for the respective year shall be
20 zero.

21 § 9. 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 B of chapter 56 of the laws of 2013, 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, 2013, 2014 [and], 2015 or subsequent years'
28 statewide reduction percentage shall be multiplied by one hundred two

1 million dollars respectively to determine the 1998, 2000, 2001, 2002,
2 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014
3 [and], 2015 or respective subsequent years' statewide aggregate
4 reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004,
5 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015
6 or respective subsequent years' statewide reduction percentage shall be
7 zero respectively, there shall be no 1998, 2000, 2001, 2002, 2003, 2004,
8 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015
9 or respective subsequent years' reduction amount.

10 § 10. Section 228 of chapter 474 of the laws of 1996, amending the
11 education law and other laws relating to rates for residential health
12 care facilities, as amended by section 14-a of part B of chapter 56 of
13 the laws of 2013, is amended to read as follows:

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

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

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

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

27 (e) Medicaid revenue percentage, for purposes of this section, shall
28 mean CHHA and LTHHCP revenues attributable to services provided to

1 persons eligible for payments pursuant to title 11 of article 5 of the
2 social services law divided by such revenues plus CHHA and LTHHCP reven-
3 ues attributable to services provided to beneficiaries of Title XVIII of
4 the federal social security act (medicare).

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

7 (g) Target period. For purposes of this section, the 1996 target peri-
8 od shall mean August 1, 1996 through March 31, 1997, the 1997 target
9 period shall mean January 1, 1997 through November 30, 1997, the 1998
10 target period shall mean January 1, 1998 through November 30, 1998, the
11 1999 target period shall mean January 1, 1999 through November 30, 1999,
12 the 2000 target period shall mean January 1, 2000 through November 30,
13 2000, the 2001 target period shall mean January 1, 2001 through November
14 30, 2001, the 2002 target period shall mean January 1, 2002 through
15 November 30, 2002, the 2003 target period shall mean January 1, 2003
16 through November 30, 2003, the 2004 target period shall mean January 1,
17 2004 through November 30, 2004, and the 2005 target period shall mean
18 January 1, 2005 through November 30, 2005, the 2006 target period shall
19 mean January 1, 2006 through November 30, 2006, and the 2007 target
20 period shall mean January 1, 2007 through November 30, 2007 and the 2008
21 target period shall mean January 1, 2008 through November 30, 2008, and
22 the 2009 target period shall mean January 1, 2009 through November 30,
23 2009 and the 2010 target period shall mean January 1, 2010 through
24 November 30, 2010 and the 2011 target period shall mean January 1, 2011
25 through November 30, 2011 and the 2012 target period shall mean January
26 1, 2012 through November 30, 2012 and the 2013 target period shall mean
27 January 1, 2013 through November 30, 2013, and the 2014 target period
28 shall mean January 1, 2014 through November 30, 2014 and the 2015 target

1 period shall mean January 1, 2015 through November 30, 2015 and each
2 January 1 through each November 30 of a calendar year thereafter shall
3 mean such years' respective target period.

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

8 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to
9 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
10 prior to February 1, 2003, prior to February 1, 2004, prior to February
11 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
12 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,
13 prior to February 1, 2011, prior to February 1, 2012, prior to February
14 1, 2013, prior to February 1, 2014 and prior to February 1, 2015, and
15 prior to February first each year thereafter, for each regional group
16 the commissioner of health shall calculate the prior year's medicaid
17 revenue percentages for the period commencing January 1 through November
18 30 of such prior year.

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

21 4. (a) For each regional group, the 1996 target medicaid revenue
22 percentage shall be calculated by subtracting the 1996 medicaid revenue
23 reduction percentages from the base period medicaid revenue percentages.
24 The 1996 medicaid revenue reduction percentage, 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) one and one-tenth percentage points for CHHAs located within the
28 downstate region;

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

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

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

7 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
8 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and each year
9 thereafter, for each regional group, the target medicaid revenue
10 percentage for the respective year shall be calculated by subtracting
11 the respective year's medicaid revenue reduction percentage from the
12 base period medicaid revenue percentage. The medicaid revenue reduction
13 percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
14 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and each
15 year thereafter, taking into account regional and program differences in
16 utilization of medicaid and medicare services, for the following
17 regional groups shall be equal to for each such year:

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

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

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

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

26 (c) For each regional group, the 1999 target medicaid revenue percent-
27 age shall be calculated by subtracting the 1999 medicaid revenue
28 reduction percentage from the base period medicaid revenue percentage.

1 The 1999 medicaid revenue reduction percentages, taking into account
2 regional and program differences in utilization of medicaid and medicare
3 services, for the following regional groups shall be equal to:

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

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

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

10 (iv) one and two hundred seventy-five thousandths percentage points
11 (1.275) for LTHHCPS located within the upstate region.

12 5. (a) For each regional group, if the 1996 medicaid revenue percent-
13 age is not equal to or less than the 1996 target medicaid revenue
14 percentage, the commissioner of health shall compare the 1996 medicaid
15 revenue percentage to the 1996 target medicaid revenue percentage to
16 determine the amount of the shortfall which, when divided by the 1996
17 medicaid revenue reduction percentage, shall be called the 1996
18 reduction factor. These amounts, expressed as a percentage, shall not
19 exceed one hundred percent. If the 1996 medicaid revenue percentage is
20 equal to or less than the 1996 target medicaid revenue percentage, the
21 1996 reduction factor shall be zero.

22 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
23 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and for each
24 year thereafter, for each regional group, if the medicaid revenue
25 percentage for the respective year is not equal to or less than the
26 target medicaid revenue percentage for such respective year, the commis-
27 sioner of health shall compare such respective year's medicaid revenue
28 percentage to such respective year's target medicaid revenue percentage

1 to determine the amount of the shortfall which, when divided by the
2 respective year's medicaid revenue reduction percentage, shall be called
3 the reduction factor for such respective year. These amounts, expressed
4 as a percentage, shall not exceed one hundred percent. If the medicaid
5 revenue percentage for a particular year is equal to or less than the
6 target medicaid revenue percentage for that year, the reduction factor
7 for that year shall be zero.

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

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

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

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

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

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

21 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
22 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and for each year
23 thereafter, for each regional group, the reduction factor for the
24 respective year shall be multiplied by the following amounts to deter-
25 mine each regional group's applicable state share reduction amount for
26 such respective year:

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

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

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

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

7 For each regional group reduction, if the reduction factor for a
8 particular year shall be zero, there shall be no state share reduction
9 amount for such year.

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

13 (i) one million seven hundred ninety-two thousand five hundred dollars
14 (\$1,792,500) for CHHAs located within the downstate region;

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

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

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

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

23 7. (a) For each regional group, the 1996 state share reduction amount
24 shall be allocated by the commissioner of health among CHHAs and LTHHCPS
25 on the basis of the extent of each CHHA's and LTHHCP's failure to
26 achieve the 1996 target medicaid revenue percentage, calculated on a
27 provider specific basis utilizing revenues for this purpose, expressed
28 as a proportion of the total of each CHHA's and LTHHCP's failure to

1 achieve the 1996 target medicaid revenue percentage within the applica-
2 ble regional group. This proportion shall be multiplied by the applica-
3 ble 1996 state share reduction amount calculation pursuant to paragraph
4 (a) of subdivision 6 of this section. This amount shall be called the
5 1996 provider specific state share reduction amount.

6 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
7 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014 [and], 2015, and for each
8 year thereafter, for each regional group, the state share reduction
9 amount for the respective year shall be allocated by the commissioner of
10 health among CHHAs and LTHHCPS on the basis of the extent of each CHHA's
11 and LTHHCP's failure to achieve the target medicaid revenue percentage
12 for the applicable year, calculated on a provider specific basis utiliz-
13 ing revenues for this purpose, expressed as a proportion of the total of
14 each CHHA's and LTHHCP's failure to achieve the target medicaid revenue
15 percentage for the applicable year within the applicable regional group.
16 This proportion shall be multiplied by the applicable year's state share
17 reduction amount calculation pursuant to paragraph (b) or (c) of subdivi-
18 sion 6 of this section. This amount shall be called the provider
19 specific state share reduction amount for the applicable year.

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

25 (b) The provider specific state share reduction amount for 1997, 1998,
26 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,
27 2011, 2012, 2013, 2014 [and], 2015, and for each year thereafter,
28 respectively, shall be due to the state from each CHHA and LTHHCP and

1 each year the amount due for such year may be recouped by the state by
2 March 31 of the following year in a lump sum amount or amounts from
3 payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of
4 the social services law.

5 9. CHHAs and LTHHCPS shall submit such data and information at such
6 times as the commissioner of health may require for purposes of this
7 section. The commissioner of health may use data available from third-
8 party payors.

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

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

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

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

14 12. The commissioner of health shall inform in writing the director of
15 the budget and the chair of the senate finance committee and the chair
16 of the assembly ways and means committee of the results of the calcu-
17 lations pursuant to this section.

18 § 11. Subdivision 5-a of section 246 of chapter 81 of the laws of
19 1995, amending the public health law and other laws relating to medical
20 reimbursement and welfare reform, as amended by section 15 of part B of
21 chapter 56 of the laws of 2013, is amended to read as follows:

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

1 after April 1, 2011 through March 31, 2013, and on and after April 1,
2 2013 through March 31, 2015];

3 § 12. Section 64-b of chapter 81 of the laws of 1995, amending the
4 public health law and other laws relating to medical reimbursement and
5 welfare reform, as amended by section 16 of part B of chapter 56 of the
6 laws of 2013, is amended to read as follows:

7 § 64-b. Notwithstanding any inconsistent provision of law, the
8 provisions of subdivision 7 of section 3614 of the public health law, as
9 amended, shall remain and be in full force and effect on April 1, 1995
10 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
11 and after April 1, 2000 through March 31, 2003 and on and after April 1,
12 2003 through March 31, 2007, and on and after April 1, 2007 through
13 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
14 and on and after April 1, 2011 through March 31, 2013, and on and after
15 April 1, 2013 through March 31, 2015, and for each year thereafter.

16 § 13. Subdivision 1 of section 20 of chapter 451 of the laws of 2007,
17 amending the public health law, the social services law and the insur-
18 ance law, relating to providing enhanced consumer and provider
19 protections, as amended by section 17 of part B of chapter 56 of the
20 laws of 2013, is amended to read as follows:

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

23 § 14. The opening paragraph of subdivision 7-a of section 3614 of the
24 public health law, as amended by section 18 of part B of chapter 56 of
25 the laws of 2013, is amended to read as follows:

26 Notwithstanding any inconsistent provision of law or regulation, for
27 the purposes of establishing rates of payment by governmental agencies
28 for long term home health care programs for the period April first, two

1 thousand five, through December thirty-first, two thousand five, and for
2 the period January first, two thousand six through March thirty-first,
3 two thousand seven, and on and after April first, two thousand seven
4 through March thirty-first, two thousand nine, and on and after April
5 first, two thousand nine through March thirty-first, two thousand elev-
6 en, and on and after April first, two thousand eleven through March
7 thirty-first, two thousand thirteen and on and after April first, two
8 thousand thirteen through March thirty-first, two thousand fifteen, and
9 for each year thereafter, the reimbursable base year administrative and
10 general costs of a provider of services shall not exceed the statewide
11 average of total reimbursable base year administrative and general costs
12 of such providers of services.

13 § 15. Subdivision 12 of section 246 of chapter 81 of the laws of 1995,
14 amending the public health law and other laws relating to medical
15 reimbursement and welfare reform, as amended by section 21 of part B of
16 chapter 56 of the laws of 2013, is amended to read as follows:

17 12. Sections one hundred five-b through one hundred five-f of this act
18 shall expire March 31, [2015] 2017.

19 § 16. Section 3 of chapter 303 of the laws of 1999, amending the New
20 York state medical care facilities finance agency act relating to
21 financing health facilities, as amended by section 30 of part A of chap-
22 ter 59 of the laws of 2011, is amended to read as follows:

23 § 3. This act shall take effect immediately[, provided, however, that
24 subdivision 15-a of section 5 of section 1 of chapter 392 of the laws of
25 1973, as added by section one of this act, shall expire and be deemed
26 repealed June 30, 2015; and provided further, however, that the expira-
27 tion and repeal of such subdivision 15-a shall not affect or impair in
28 any manner any health facilities bonds issued, or any lease or purchase

1 of a health facility executed, pursuant to such subdivision 15-a prior
2 to its expiration and repeal and that, with respect to any such bonds
3 issued and outstanding as of June 30, 2015, the provisions of such
4 subdivision 15-a as they existed immediately prior to such expiration
5 and repeal shall continue to apply through the latest maturity date of
6 any such bonds, or their earlier retirement or redemption, for the sole
7 purpose of authorizing the issuance of refunding bonds to refund bonds
8 previously issued pursuant thereto].

9 § 17. Subdivision (c) of section 62 of chapter 165 of the laws of
10 1991, amending the public health law and other laws relating to estab-
11 lishing payments for medical assistance, as amended by section 26 of
12 part D of chapter 59 of the laws of 2011, is amended to read as follows:

13 (c) [section 364-j of the social services law, as amended by section
14 eight of this act and subdivision 6 of section 367-a of the social
15 services law as added by section twelve of this act shall expire and be
16 deemed repealed on March 31, 2015 and] provided [further], that the
17 amendments to the provisions of section 364-j of the social services law
18 made by section eight of this act shall only apply to managed care
19 programs approved on or after the effective date of this act;

20 § 18. Subdivision 3 of section 1680-j of the public authorities law,
21 as amended by section 9 of part C of chapter 59 of the laws of 2011, is
22 amended to read as follows:

23 3. Notwithstanding any law to the contrary, and in accordance with
24 section four of the state finance law, the comptroller is hereby author-
25 ized and directed to transfer from the health care reform act (HCRA)
26 resources fund (061) to the general fund, upon the request of the direc-
27 tor of the budget, up to \$6,500,000 on or before March 31, 2006, and the
28 comptroller is further hereby authorized and directed to transfer from

1 the healthcare reform act (HCRA); Resources fund (061) to the Capital
2 Projects Fund, upon the request of the director of budget, up to
3 \$139,000,000 for the period April 1, 2006 through March 31, 2007, up to
4 \$171,100,000 for the period April 1, 2007 through March 31, 2008, up to
5 \$208,100,000 for the period April 1, 2008 through March 31, 2009, up to
6 \$151,600,000 for the period April 1, 2009 through March 31, 2010, up to
7 \$215,743,000 for the period April 1, 2010 through March 31, 2011, up to
8 \$433,366,000 for the period April 1, 2011 through March 31, 2012, up to
9 \$150,806,000 for the period April 1, 2012 through March 31, 2013, up to
10 \$78,071,000 for the period April 1, 2013 through March 31, 2014, and up
11 to \$86,005,000 for the period April 1, 2014 through March 31, 2015, and
12 up to \$86,005,000 for the period April 1, 2015 through December 31,
13 2017.

14 § 19. Subdivision (i) of section 111 of part H of chapter 59 of the
15 laws of 2011, relating to enacting into law major components of legis-
16 lation necessary to implement the health and mental hygiene budget for
17 the 2011-2012 state fiscal plan, is REPEALED.

18 § 20. Section 97 of chapter 659 of the laws of 1997, amending the
19 public health law and other laws relating to creation of continuing care
20 retirement communities, as amended by section 65-b of part A of chapter
21 57 of the laws of 2006, is amended to read as follows:

22 § 97. This act shall take effect immediately, provided, however, that
23 the amendments to subdivision 4 of section 854 of the general municipal
24 law made by section seventy of this act shall not affect the expiration
25 of such subdivision and shall be deemed to expire therewith and provided
26 further that sections sixty-seven and sixty-eight of this act shall
27 apply to taxable years beginning on or after January 1, 1998 and
28 [provided further that sections eighty-one through eighty-seven of this

1 act shall expire and be deemed repealed on December 31, 2015 and]
2 provided further, however, that the amendments to section ninety of this
3 act shall take effect January 1, 1998 and shall apply to all policies,
4 contracts, certificates, riders or other evidences of coverage of long
5 term care insurance issued, renewed, altered or modified pursuant to
6 section 3229 of the insurance law on or after such date.

7 § 21. Paragraph (b) of subdivision 17 of section 2808 of the public
8 health law, as amended by section 98 of part H of chapter 59 of the laws
9 of 2011, is amended to read as follows:

10 (b) Notwithstanding any inconsistent provision of law or regulation to
11 the contrary, for the state fiscal [year] years beginning April first,
12 two thousand ten and ending March thirty-first, two thousand [fifteen]
13 nineteen, the commissioner shall not be required to revise certified
14 rates of payment established pursuant to this article for rate periods
15 prior to April first, two thousand [fifteen] nineteen, based on consid-
16 eration of rate appeals filed by residential health care facilities or
17 based upon adjustments to capital cost reimbursement as a result of
18 approval by the commissioner of an application for construction under
19 section twenty-eight hundred two of this article, in excess of an aggre-
20 gate annual amount of eighty million dollars for each such state fiscal
21 year provided, however, that for the period April first, two thousand
22 eleven through March thirty-first, two thousand twelve such aggregate
23 annual amount shall be fifty million dollars. In revising such rates
24 within such fiscal limit, the commissioner shall, in prioritizing such
25 rate appeals, include consideration of which facilities the commissioner
26 determines are facing significant financial hardship as well as such
27 other considerations as the commissioner deems appropriate and, further,
28 the commissioner is authorized to enter into agreements with such facil-

1 ities or any other facility to resolve multiple pending rate appeals
2 based upon a negotiated aggregate amount and may offset such negotiated
3 aggregate amounts against any amounts owed by the facility to the
4 department, including, but not limited to, amounts owed pursuant to
5 section twenty-eight hundred seven-d of this article; provided, however,
6 that the commissioner's authority to negotiate such agreements resolving
7 multiple pending rate appeals as hereinbefore described shall continue
8 on and after April first, two thousand [fifteen] nineteen. Rate adjust-
9 ments made pursuant to this paragraph remain fully subject to approval
10 by the director of the budget in accordance with the provisions of
11 subdivision two of section twenty-eight hundred seven of this article.

12 § 22. Paragraph (a) of subdivision 13 of section 3614 of the public
13 health law, as added by section 4 of part H of chapter 59 of the laws of
14 2011, is amended to read as follows:

15 (a) Notwithstanding any inconsistent provision of law or regulation
16 and subject to the availability of federal financial participation,
17 effective April first, two thousand twelve [through March thirty-first,
18 two thousand fifteen], payments by government agencies for services
19 provided by certified home health agencies, except for such services
20 provided to children under eighteen years of age and other discreet
21 groups as may be determined by the commissioner pursuant to regulations,
22 shall be based on episodic payments. In establishing such payments, a
23 statewide base price shall be established for each sixty day episode of
24 care and adjusted by a regional wage index factor and an individual
25 patient case mix index. Such episodic payments may be further adjusted
26 for low utilization cases and to reflect a percentage limitation of the
27 cost for high-utilization cases that exceed outlier thresholds of such
28 payments.

1 § 23. Subdivision (a) of section 40 of part B of chapter 109 of the
2 laws of 2010, amending the social services law relating to transporta-
3 tion costs, is amended to read as follows:

4 (a) sections two, three, three-a, three-b, three-c, three-d, three-e
5 and twenty-one of this act shall take effect July 1, 2010; sections
6 fifteen, sixteen, seventeen, eighteen and nineteen of this act shall
7 take effect January 1, 2011; [and provided further that section twenty
8 of this act shall be deemed repealed four years after the date the
9 contract entered into pursuant to section 365-h of the social services
10 law, as amended by section twenty of this act, is executed; provided
11 that the commissioner of health shall notify the legislative bill draft-
12 ing commission upon the execution of the contract entered into pursuant
13 to section 367-h of the social services law in order that the commission
14 may maintain an accurate and timely effective data base of the official
15 text of the laws of the state of New York in furtherance of effectuating
16 the provisions of section 44 of the legislative law and section 70-b of
17 the public officers law;]

18 § 24. Subdivision 4 of section 365-h of the social services law, as
19 added by section 20 of part B of chapter 109 of the laws of 2010, is
20 amended to read as follows:

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

1 managers to manage transportation services in any local social services
2 district. Any transportation manager or managers selected by the commis-
3 sioner to manage transportation services shall have proven experience in
4 coordinating transportation services in a geographic and demographic
5 area similar to the area in New York state within which the contractor
6 would manage the provision of services under this section. Such a
7 contract or contracts may include responsibility for: review, approval
8 and processing of transportation orders; management of the appropriate
9 level of transportation based on documented patient medical need; and
10 development of new technologies leading to efficient transportation
11 services. If the commissioner elects to assume such responsibility from
12 a local social services district, the commissioner shall examine and, if
13 appropriate, adopt quality assurance measures that may include, but are
14 not limited to, global positioning tracking system reporting require-
15 ments and service verification mechanisms. Any and all reimbursement
16 rates developed by transportation managers under this subdivision shall
17 be subject to the review and approval of the commissioner. [Notwith-
18 standing any inconsistent provision of sections one hundred twelve and
19 one hundred sixty-three of the state finance law, or section one hundred
20 forty-two of the economic development law, or any other law, the commis-
21 sioner is authorized to enter into a contract or contracts under this
22 subdivision without a competitive bid or request for proposal process,
23 provided, however, that:

24 (a) the department shall post on its website, for a period of no less
25 than thirty days:

26 (i) a description of the proposed services to be provided pursuant to
27 the contract or contracts;

28 (ii) the criteria for selection of a contractor or contractors;

1 (iii) the period of time during which a prospective contractor may
2 seek selection, which shall be no less than thirty days after such
3 information is first posted on the website; and

4 (iv) the manner by which a prospective contractor may seek such
5 selection, which may include submission by electronic means;

6 (b) all reasonable and responsive submissions that are received from
7 prospective contractors in timely fashion shall be reviewed by the
8 commissioner; and

9 (c) the commissioner shall select such contractor or contractors that,
10 in his or her discretion, are best suited to serve the purposes of this
11 section.]

12 § 25. Section 5 of chapter 21 of the laws of 2011, amending the educa-
13 tion law relating to authorizing pharmacists to perform collaborative
14 drug therapy management with physicians in certain settings, as amended
15 by chapter 125 of the laws of 2014, is amended to read as follows:

16 § 5. This act shall take effect on the one hundred twentieth day after
17 it shall have become a law and shall expire [4] 7 years after such
18 effective date when upon such date the provisions of this act shall be
19 deemed repealed; provided, however, that the amendments to subdivision 1
20 of section 6801 of the education law made by section one of this act
21 shall be subject to the expiration and reversion of such subdivision
22 pursuant to section 8 of chapter 563 of the laws of 2008, when upon such
23 date the provisions of section one-a of this act shall take effect;
24 provided, further, that effective immediately, the addition, amendment
25 and/or repeal of any rule or regulation necessary for the implementation
26 of this act on its effective date is authorized and directed to be made
27 and completed on or before such effective date.

1 § 26. Section 2 of chapter 459 of the laws of 1996, amending the
2 public health law relating to recertification of persons providing emer-
3 gency medical care, as amended by chapter 106 of the laws of 2011, is
4 amended to read as follows:

5 § 2. This act shall take effect immediately and shall expire and be
6 deemed repealed July 1, [2015] 2018.

7 § 27. Section 4 of chapter 505 of the laws of 1995, amending the
8 public health law relating to the operation of department of health
9 facilities, as amended by section 29 of part A of chapter 59 of the laws
10 of 2011, is amended to read as follows:

11 § 4. This act shall take effect immediately; provided, however, that
12 the provisions of paragraph (b) of subdivision 4 of section 409-c of the
13 public health law, as added by section three of this act, shall take
14 effect January 1, 1996 [and shall expire and be deemed repealed twenty
15 years from the effective date thereof].

16 § 28. Subdivision (o) of section 111 of part H of chapter 59 of the
17 laws of 2011, amending the public health law relating to the statewide
18 health information network of New York and the statewide planning and
19 research cooperative system and general powers and duties, is REPEALED.

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

26 § 30. Notwithstanding any inconsistent provision of law, rule or regu-
27 lation, the effectiveness of the provisions of sections 2807 and 3614 of
28 the public health law, section 18 of chapter 2 of the laws of 1988, and

1 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
2 or certification of rates of payment, are hereby suspended and without
3 force or effect for purposes of implementing the provisions of this act.

4 § 31. Severability clause. If any clause, sentence, paragraph, subdivi-
5 vision, 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 its
8 operation to the clause, sentence, paragraph, subdivision, section or
9 part thereof directly involved in the controversy in which such judgment
10 shall have been rendered. It is hereby declared to be the intent of the
11 legislature that this act would have been enacted even if such invalid
12 provisions had not been included herein.

13 § 32. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2015 provided,
15 that:

16 1. section eighteen of this act shall take effect on the same date as
17 the reversion of subdivision 3 of section 1680-j of the public authori-
18 ties law as provided in subdivision (a) of section 70 of part HH of
19 chapter 57 of the laws of 2013, as amended;

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 the department
2 of financial services and any appropriate council may take any steps
3 necessary to 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 the department of
7 financial services and any appropriate council is authorized to adopt or
8 amend or promulgate on an emergency basis any regulation he or she or
9 such council determines necessary to implement any provision of this act
10 on its effective date; and

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

15 PART E

16 Section 1. Subdivision 5-d of section 2807-k of the public health
17 law, as added by section 1 of part C of chapter 56 of the laws of 2013,
18 is amended to read as follows:

19 5-d. (a) Notwithstanding any inconsistent provision of this section,
20 section twenty-eight hundred seven-w of this article or any other
21 contrary provision of law, and subject to the availability of federal
22 financial participation, for periods on and after January first, two
23 thousand thirteen, through December thirty-first, two thousand [fifteen]
24 eighteen, all funds available for distribution pursuant to this section,
25 except for funds distributed pursuant to subparagraph (v) of paragraph
26 (b) of subdivision five-b of this section, and all funds available for

1 distribution pursuant to section twenty-eight hundred seven-w of this
2 article, shall be reserved and set aside and distributed in accordance
3 with the provisions of this subdivision.

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

8 (i) Such regulations shall establish methodologies for determining
9 each facility's relative uncompensated care need amount based on unin-
10 sured inpatient and outpatient units of service from the cost reporting
11 year two years prior to the distribution year, multiplied by the appli-
12 cable medicaid rates in effect January first of the distribution year,
13 as summed and adjusted by a statewide cost adjustment factor and reduced
14 by the sum of all payment amounts collected from such uninsured
15 patients, and as further adjusted by application of a nominal need
16 computation that shall take into account each facility's medicaid inpa-
17 tient share.

18 (ii) Annual distributions pursuant to such regulations for the two
19 thousand thirteen through two thousand [fifteen] eighteen calendar years
20 shall be in accord with the following:

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

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

27 (iii) (A) Such regulations shall establish transition adjustments to
28 the distributions made pursuant to clauses (A) and (B) of subparagraph

1 (ii) of this paragraph such that no facility experiences a reduction in
2 indigent care pool payments pursuant to this subdivision that is greater
3 than the percentages, as specified in clause (C) of this subparagraph as
4 compared to the average distribution that each such facility received
5 for the three calendar years prior to two thousand thirteen pursuant to
6 this section and section twenty-eight hundred seven-w of this article.

7 (B) Such regulations shall also establish adjustments limiting the
8 increases in indigent care pool payments experienced by facilities
9 pursuant to this subdivision by an amount that will be, as determined by
10 the commissioner and in conjunction with such other funding as may be
11 available for this purpose, sufficient to ensure full funding for the
12 transition adjustment payments authorized by clause (A) of this subpara-
13 graph.

14 (C) No facility shall experience a reduction in indigent care pool
15 payments pursuant to this subdivision that: for the calendar year begin-
16 ning January first, two thousand thirteen, is greater than two and one-
17 half percent; for the calendar year beginning January first, two thou-
18 sand fourteen, is greater than five percent; and, for the calendar year
19 beginning on January first, two thousand fifteen, is greater than seven
20 and one-half percent, and for the calendar year beginning on January
21 first, two thousand sixteen, is greater than ten percent; and for the
22 calendar year beginning on January first, two thousand seventeen, is
23 greater than twelve and one-half percent; and for the calendar year
24 beginning on January first, two thousand eighteen, is greater than
25 fifteen percent.

26 (D) Notwithstanding any provision of this section to the contrary, in
27 the event the aggregate level of medicaid DSH payments is reduced during
28 the periods described in clause (C) of this subparagraph, the commis-

1 sioner may adjust, by regulation: the aggregate level of payments made
2 pursuant to clauses (A) and (B) of subparagraph (ii) of paragraph (b) of
3 this subdivision, the percentage of reductions in payments required by
4 clause (C) of this subparagraph, and the methodology by which such DSH
5 payments are distributed. Such adjustments shall take effect at the
6 beginning of the calendar year following the year in which such
7 reductions in medicaid DSH payments take effect and provided, further,
8 any such regulations under this section may apply retroactively to such
9 date.

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

20 (c) The commissioner shall annually report to the governor and the
21 legislature on the distribution of funds under this subdivision includ-
22 ing, but not limited to:

23 (i) the impact on safety net providers, including community providers,
24 rural general hospitals and major public general hospitals;

25 (ii) the provision of indigent care by units of services and funds
26 distributed by general hospitals; and

27 (iii) the extent to which access to care has been enhanced.

1 § 2. Subdivision 17 of section 2807-k of the public health law, as
2 added by section 3-b of part B of chapter 109 of the laws of 2010, is
3 amended to read as follows:

4 17. Indigent care reductions. (a) For each hospital receiving payments
5 pursuant to paragraph (i) of subdivision thirty-five of section twenty-
6 eight hundred seven-c of this article, the commissioner shall reduce the
7 sum of any amounts paid pursuant to this section and pursuant to section
8 twenty-eight hundred seven-w of this article, as computed based on
9 projected facility specific disproportionate share hospital ceilings, by
10 an amount equal to the lower of such sum or each such hospital's
11 payments pursuant to paragraph (i) of subdivision thirty-five of section
12 twenty-eight hundred seven-c of this article, provided, however, that
13 any additional aggregate reductions enacted in a chapter of the laws of
14 two thousand ten to the aggregate amounts payable pursuant to this
15 section and pursuant to section twenty-eight hundred seven-w of this
16 article shall be applied subsequent to the adjustments otherwise
17 provided for in this subdivision.

18 (b) For any reductions in payments under paragraph (i) of subdivision
19 thirty-five of section twenty-eight hundred seven-c of this article
20 resulting from aggregate upper payment limit calculations, the commis-
21 sioner may reduce or redistribute payments under this section or section
22 twenty-eight hundred seven-w of this article in a manner to be deter-
23 mined in his or her discretion.

24 § 3. Notwithstanding any inconsistent provision of law, rule or regu-
25 lation, for purposes of implementing the provisions of the public health
26 law and the social services law, references to titles XIX and XXI of the
27 federal social security act in the public health law and the social

1 services law shall be deemed to include and also to mean any successor
2 titles thereto under the federal social security act.

3 § 4. Notwithstanding any inconsistent provision of law, rule or regu-
4 lation, the effectiveness of the provisions of sections 2807 and 3614 of
5 the public health law, section 18 of chapter 2 of the laws of 1988, and
6 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
7 or certification of rates of payment, are hereby suspended and without
8 force or effect for purposes of implementing the provisions of this act.

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

18 § 6. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2015; provided,
20 that:

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

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

1 c. 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 d. 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 e. 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 F

16 Section 1. The public health law is amended by adding a new section
17 4415 to read as follows:

18 § 4415. Value based payments. 1. Notwithstanding any contrary
19 provision of law in this article or section three hundred sixty-four-j
20 of the social services law, the commissioner may authorize managed care
21 organizations licensed under this article to contract for value based
22 payments and further, may authorize the department to utilize methodol-
23 ogies of reimbursement that are value based.

24 2. Nothing in subdivision one of this section shall limit the authori-
25 ty of the commissioner to authorize value based payments for performing
26 provider systems participating in the delivery system reform incentive

1 program ("DSRIP"), or to authorize value based payments for any such
2 subset of providers.

3 3. For the purposes of this section and notwithstanding any provision
4 of law to the contrary, a performing provider system participating in
5 DSRIP, or any such subset of providers, is authorized to arrange by
6 contract for the delivery and provision of health services as contem-
7 plated by this chapter or the social services law.

8 4. The commissioner, in consultation with the superintendent of finan-
9 cial services, may promulgate regulations to effectuate the provisions
10 of this section; provided, however, that the failure to adopt regu-
11 lations shall not invalidate any exercise of authority under this
12 section. Such regulations may, and shall as necessary for the purposes
13 of this section, address matters including, but not limited to:

14 (a) Authorizing discrete levels of value based payments that account
15 for level of risk;

16 (b) Placing conditions upon any such level of value based payment;

17 (c) Requiring or adjusting reserves, as applicable, for managed care
18 organizations licensed under this article and entities participating in
19 value based payment arrangements;

20 (d) Authorizing the commissioner to establish a reinsurance pool;

21 (e) Making any changes to value based payments or methodologies of
22 reimbursement that are value based as necessary to conform to the terms
23 and conditions of the DSRIP waiver.

24 5. Nothing contained in this section shall limit the authority of the
25 commissioner to maintain a system of value based payments subsequent to
26 the conclusion or expiration of the DSRIP waiver, nor shall any refer-
27 ence to the DSRIP program within this section limit the authority of the
28 commissioner, in consultation with the superintendent of financial

1 services, to otherwise apply such principles to organizations licensed
2 under this article or to implement methodologies that utilize value
3 based payments for any provider reimbursed under this chapter.

4 § 2. Notwithstanding any inconsistent provision of law, rule or regu-
5 lation, for purposes of implementing the provisions of the public health
6 law and the social services law, references to titles XIX and XXI of the
7 federal social security act in the public health law and the social
8 services law shall be deemed to include and also to mean any successor
9 titles thereto under the federal social security act.

10 § 3. Notwithstanding any inconsistent provision of law, rule or regu-
11 lation, the effectiveness of the provisions of sections 2807 and 3614 of
12 the public health law, section 18 of chapter 2 of the laws of 1988, and
13 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
14 or certification of rates of payment, are hereby suspended and without
15 force or effect for purposes of implementing the provisions of this act.

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

25 § 5. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2015; provided
27 that:

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

5 2. this act shall not be construed to alter, change, affect, impair or
6 defeat any rights, obligations, duties or interests accrued, incurred or
7 conferred prior to the effective date of this act;

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

11 4. notwithstanding any inconsistent provision of the state administra-
12 tive procedure act or any other provision of law, rule or regulation,
13 the commissioner of health and the superintendent of financial services
14 and any appropriate council are authorized to adopt or amend or promul-
15 gate on an emergency basis any regulation he or she or such council
16 determines necessary to implement any provision of this act on its
17 effective date; and

18 5. the provisions of this act shall become effective notwithstanding
19 the failure of the commissioner of health or the superintendent of
20 financial services or any council to adopt or amend or promulgate regu-
21 lations implementing this act.

22 PART G

23 Section 1. The financial services law is amended by adding a new
24 section 208 to read as follows:

25 § 208. Assessment for the operating expenses of the New York health
26 benefit exchange. (a) For each fiscal year commencing on or after April

1 first, two thousand fifteen, assessments for the operating expenses
2 attributable to qualified health plan coverage of the New York Health
3 Benefit Exchange, established within the department of health by Execu-
4 tive Order 42 signed by Governor Andrew M. Cuomo on April 12, 2012 in
5 conformity with the Patient Protection and Affordable Care Act, Public
6 Law 111-14 and the Health Care and Education Reconciliation Act, Public
7 Law 111-152, and doing business as the NY State of Health, The Official
8 Health Plan Marketplace (NY State of Health) shall be assessed by the
9 superintendent in accordance with this section. A domestic accident and
10 health insurer shall be assessed by the superintendent pursuant to this
11 section for the operating expenses of the NY State of Health attribut-
12 able to qualified health plans' coverage, which shall include direct and
13 indirect expenses related to the operation of the New York State of
14 Health attributable to such qualified health plan coverage with the
15 assessments allocated pro rata upon all domestic accident and health
16 insurers in the individual, small group and large group markets, in
17 proportion to the gross direct premiums, exclusive of federal tax cred-
18 its and other considerations, written or received by them in this state
19 during the calendar year ending December thirty-first immediately
20 preceding the end of the fiscal year for which the assessment is made
21 (less return premiums and considerations thereon) for insurance policies
22 or contracts of major medical or similar comprehensive type medical
23 coverage or dental coverage delivered or issued for delivery in this
24 state; but excluding insurance policies or contracts for major medical
25 or similar comprehensive type medical or dental coverage delivered or
26 issued for delivery in this state under title XVIII of the Social Secu-
27 rity Act (Medicare), medical assistance under title eleven of article
28 five of the social services law, child health plus insurance plan under

1 section twenty-five hundred of the public health law and/or the basic
2 health insurance plan pursuant to paragraph (e) of subdivision one of
3 section three hundred sixty-nine-gg of the social services law.

4 (b) The assessment upon domestic accident and health insurers
5 described in subsection (a) of this section shall be made by the super-
6 intendent commencing April first, two thousand fifteen, in a sum as
7 prescribed by the superintendent for such insurers' pro rata share of
8 the annual expenses of the NY State of Health attributable to qualified
9 health plan coverage for the two thousand fifteen-two thousand sixteen
10 fiscal year, as estimated by the superintendent. Such payment shall be
11 made on or before February fifteenth, two thousand sixteen, or on or
12 before such other dates as the superintendent may prescribe. Following
13 the determination of the amount collected based on the actual enrollment
14 in qualified health plan coverage through the NY State of Health and
15 fully insured individual, small group, and large group coverage outside
16 the NY State of Health for the two thousand fifteen-two thousand sixteen
17 fiscal year, any overpayment of such assessment shall be applied against
18 the next estimated quarterly assessment for such expenses as set forth
19 in this section, if less than or equal to such amount, until fully
20 reconciled. However, if the assessment collected is less than the
21 expenses of the NY State of Health attributable to qualified health plan
22 coverage for the two thousand fifteen-two thousand sixteen fiscal year,
23 the superintendent may require full payment to be made on such date of
24 the fiscal year as the superintendent may determine.

25 (c) For each fiscal year commencing on or after April first, two thou-
26 sand sixteen, a partial payment shall be made by a domestic accident and
27 health insurer in a sum equal to twenty-five per centum, or such other
28 per centum or per centums as the superintendent may prescribe, of its

1 pro rata share of the annual expenses of the NY State of Health attrib-
2 utable to qualified health plan coverage assessed upon it for the fiscal
3 year as estimated by the superintendent. Such payment shall be made on
4 March fifteenth of the preceding fiscal year and on June fifteenth,
5 September fifteenth and December fifteenth of each year, or at such
6 other dates as the superintendent may prescribe. The superintendent
7 shall annually reconcile the assessment percentage based upon actual
8 premium data submitted to the superintendent or commissioner of health,
9 as applicable. The balance of assessments for the fiscal year shall be
10 paid upon determination of the amount collected for policies or
11 contracts of major medical or similar comprehensive type medical cover-
12 age or dental coverage delivered or issued for delivery in this state as
13 set forth in subsection (a) of this section. Any overpayment of annual
14 assessment resulting from complying with the requirements of this
15 section shall be applied against the next estimated quarterly assess-
16 ment, if less than or equal to such amount, until fully reconciled.

17 (d) (1) Payments and reports submitted or required to be submitted to
18 the commissioner of health pursuant to this section by a domestic acci-
19 dent and health insurer shall be subject to audit by the commissioner of
20 health for a period of six years following the close of the calendar
21 year in which such payments and reports are due, after which such
22 payments shall be deemed final and not subject to further adjustment or
23 reconciliation, including through offset adjustments or reconciliations
24 made by the domestic accident and health insurer with regard to subse-
25 quent payments, provided, however, that nothing herein shall be
26 construed as precluding the commissioner of health from pursuing
27 collection of any such payments which are identified as delinquent with-
28 in such six year period, or which are identified as delinquent as a

1 result of an audit commenced within such six year period, or from
2 conducting an audit of any adjustments and reconciliation within such
3 six year period, or from conducting an audit of payments made prior to
4 such six year period which are found to be commingled with payments
5 which are otherwise subject to timely audit pursuant to this section.

6 (2) The superintendent may assess a domestic accident and health
7 insurer which, in the course of an audit pursuant to this section, fails
8 to produce data or documentation requested in furtherance of such an
9 audit, within thirty days of such request, a civil penalty of up to ten
10 thousand dollars for each such failure, provided, however, that such
11 civil penalty shall not be imposed if the domestic accident and health
12 insurer demonstrates good cause for such failure.

13 (3) Records required to be retained for audit verification purposes by
14 a domestic accident and health insurer in accordance with this section
15 shall include, on a monthly basis, the source records generated by
16 supporting information systems, financial accounting records, and such
17 other records as may be required to prove compliance with, and to
18 support reports submitted in accordance with, this section.

19 (4) If a domestic accident and health insurer fails to produce data or
20 documentation requested in furtherance of an audit pursuant to this
21 section for a quarter to which the assessment applies, the superinten-
22 dent may estimate, based on available financial and statistical data as
23 determined by the superintendent, the amount due for such quarter.
24 Interest and penalties shall be applied to such amounts due in accord-
25 ance with the provisions of subsection (b) of section nine thousand one
26 hundred nine of the insurance law.

27 (5) The superintendent may, as part of a final resolution of an audit
28 conducted by the commissioner of health pursuant to this subsection,

1 waive payment of interest and penalties otherwise applicable pursuant to
2 subsection (b) of section nine thousand one hundred nine of the insur-
3 ance law, when amounts due as a result of such audit, other than such
4 waived penalties and interest, are paid in full to the commissioner of
5 health within sixty days of the issuance of a final audit report that is
6 mutually agreed to by the commissioner of health and domestic accident
7 and health insurer, provided, however, that if such final audit report
8 is not so mutually agreed upon, then the superintendent shall have no
9 obligations pursuant to this paragraph.

10 (6) The commissioner of health may enter into an agreement with a
11 domestic accident and health insurer in regard to which audit findings
12 or prior settlements have been made pursuant to this section, extending
13 and applying such audit findings or prior settlements, or a portion
14 thereof, in settlement and satisfaction of potential audit liabilities
15 for subsequent unaudited periods. The superintendent may reduce or waive
16 payment of interest and penalties otherwise applicable to such subse-
17 quent unaudited periods when such amounts due as a result of such agree-
18 ment, other than reduced or waived interest and penalties, are paid in
19 full to the commissioner of health within sixty days of execution of
20 such agreement by all parties to the agreement. Any payments made pursu-
21 ant to an agreement entered into in accordance with this paragraph shall
22 be deemed to be in full satisfaction of any liability arising under this
23 section, as referenced in such agreement and for the time periods
24 covered by such agreement, provided, however, that the commissioner of
25 health may audit future retroactive adjustments to payments made for
26 such periods based on reports filed by a domestic accident and health
27 insurer subsequent to such agreement.

1 (e) The commissioner of health shall have the authority under section
2 twenty-eight hundred seven-y of the public health law to contract with
3 the article forty-three insurance law plans, or such other contractors
4 as the commissioner of health shall designate, to issue invoices,
5 receive payment, and distribute funds from the assessment authorized by
6 this section and to deposit it into the special revenue funds-other,
7 HCRA Resources Fund.

8 (f) For the purpose of this section, "accident and health insurer"
9 shall mean an insurer authorized under the insurance law to write acci-
10 dent and health insurance in this state, a corporation organized pursu-
11 ant to article forty-three of the insurance law, or a health maintenance
12 organization holding or required to hold a certificate of authority
13 pursuant to article forty-four of the public health law, that writes
14 major medical or similar comprehensive type medical coverage or writes
15 dental coverage.

16 (g) For the purpose of this section, "domestic accident and health
17 insurer" shall mean an accident and health insurer incorporated or
18 organized under any law of this state.

19 § 2. Paragraph (g) and (h) of subdivision 1 of section 2807-y of the
20 public health law, as added by section 67 of part B of chapter 58 of the
21 laws of 2005, are amended and a new paragraph (i) is added to read as
22 follows:

23 (g) section thirty-six hundred fourteen-a of this chapter; [and]

24 (h) section three hundred sixty-seven-i of the social services law[.];
25 and

26 (i) section two hundred eight of the financial services law.

1 § 3. Subdivision 3 of section 2807-y of the public health law, as
2 added by section 67 of part B of chapter 58 of the laws of 2005, is
3 amended to read as follows:

4 3. The reasonable costs and expenses of an administrator as approved
5 by the commissioner, not to exceed for personnel services on an annual
6 basis [four] six million [five hundred] fifty thousand dollars,
7 increased annually by the lower of the consumer price index or five
8 percent, for collection and distribution of allowances and assessments
9 set forth in subdivision one of this section, shall be paid from the
10 allowance and assessment funds.

11 § 4. Notwithstanding any inconsistent provision of law, rule or regu-
12 lation, for purposes of implementing the provisions of the public health
13 law and the social services law, references to titles XIX and XXI of the
14 federal social security act in the public health law and the social
15 services law shall be deemed to include and also to mean any successor
16 titles thereto under the federal social security act.

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

26 § 6. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 1, 2015; provided
28 that:

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

5 2. this act shall not be construed to alter, change, affect, impair or
6 defeat any rights, obligations, duties or interests accrued, incurred or
7 conferred prior to the effective date of this act;

8 3. the commissioner of health and the superintendent of financial
9 services may take any steps necessary to implement this act prior to its
10 effective date;

11 4. notwithstanding any inconsistent provision of the state administra-
12 tive procedure act or any other provision of law, rule or regulation,
13 the commissioner of health and the superintendent of financial services
14 are authorized to adopt or amend or promulgate on an emergency basis any
15 regulation they determine necessary to implement any provision of this
16 act on its effective date; and

17 5. the provisions of this act shall become effective notwithstanding
18 the failure of the commissioner of health or the superintendent of
19 financial services to adopt or amend or promulgate regulations imple-
20 menting this act.

21 PART H

22 Section 1. Section 2801-a of the public health law is amended by
23 adding a new subdivision 17 to read as follows:

24 17. (a) Diagnostic or treatment centers established to provide health
25 care services within the space of a retail business operation, such as a
26 pharmacy or a store open to the general public, or within space used by

1 an employer for providing health care services to its employees, may be
2 operated by legal entities formed under the laws of the state of New
3 York: (i) whose stockholders or members, as applicable, are not natural
4 persons; (ii) whose principal stockholders and members, as applicable,
5 and controlling persons comply with all applicable requirements of this
6 section; and (iii) that demonstrate, to the satisfaction of the public
7 health and health planning council, sufficient experience and expertise
8 in delivering high quality health care services. Such diagnostic and
9 treatment centers shall be referred to in this section as "limited
10 services clinics".

11 (b) For purposes of paragraph (a) of this subdivision, the public
12 health and health planning council shall adopt and amend rules and regu-
13 lations, notwithstanding any inconsistent provision of this section, to
14 address any matter it deems pertinent to the establishment of limited
15 services clinics. Such rules and regulations shall include, but not be
16 limited to, provisions governing or relating to: (i) any direct or indi-
17 rect changes or transfers of ownership interests or voting rights in
18 such entities or their stockholders or members, as applicable; (ii)
19 public health and health planning council approval of any change in
20 controlling interests, principal stockholders, controlling persons,
21 parent company or sponsors; (iii) oversight of the operator and its
22 shareholders or members, as applicable, including local governance of
23 the limited services clinics; and (iv) the character and competence and
24 qualifications of, and changes relating to, the directors and officers
25 of the operator and its principal stockholders, controlling persons,
26 parent company or sponsors.

27 (c) The following provisions of this section shall not apply to limit-
28 ed services clinics: (i) paragraph (a) of subdivision three of this

1 section; (ii) paragraph (b) of subdivision three of this section, relat-
2 ing to stockholders and members other than principal stockholders and
3 principal members; (iii) paragraph (c) of subdivision four of this
4 section, relating to the disposition of stock or voting rights; and (iv)
5 paragraph (e) of subdivision four of this section, relating to the
6 ownership of stock or membership.

7 (d) A limited services clinic shall be deemed to be a "health care
8 provider" for the purposes of title two-D of article two of this chap-
9 ter. A prescriber practicing in a limited service clinic shall not be
10 deemed to be in the employ of a pharmacy or practicing in a hospital for
11 purposes of subdivision two of section sixty-eight hundred seven of the
12 education law.

13 (e) The commissioner shall promulgate regulations setting forth opera-
14 tional and physical plant standards for limited services clinics, which
15 may be different from the regulations otherwise applicable to diagnostic
16 or treatment centers, including, but not limited to:

17 (i) requiring that limited services clinics attain and maintain
18 accreditation and requiring timely reporting to the department if a
19 limited service clinic loses its accreditation;

20 (ii) designating or limiting the treatments and services that may be
21 provided, including:

22 (1) prohibiting the provision of services to patients twenty-four
23 months of age or younger;

24 (2) the provision of specific immunizations to patients younger than
25 eighteen years of age;

26 (iii) requiring limited service clinics to accept walk-ins and offer
27 extended business hours;

1 (iv) setting forth guidelines for advertising and signage, disclosure
2 of ownership interests, informed consent, record keeping, referral for
3 treatment and continuity of care, case reporting to the patient's prima-
4 ry care or other health care providers, design, construction, fixtures,
5 and equipment. Signage shall also be required to indicate that
6 prescriptions and over-the-counter supplies may be purchased by a
7 patient from any business and do not need to be purchased on-site; and

8 (v) requiring the operator to directly employ a medical director who
9 is licensed and currently registered to practice medicine in the state
10 of New York.

11 (f) Such regulations also shall promote and strengthen primary care
12 through: (i) the integration of services provided by limited services
13 clinics with the services provided by the patient's other health care
14 providers; and (ii) the referral of patients to appropriate health care
15 providers, including appropriate transmission of patient health records.

16 § 2. The public health law is amended by adding a new section 230-e to
17 read as follows:

18 § 230-e. Urgent care. 1. Definitions. As used in this section:

19 (a) "Accredited status" shall mean the full accreditation by such
20 nationally-recognized accrediting agencies as determined by the commis-
21 sioner.

22 (b) "Emergency medical care" shall mean the provision of treatment for
23 life-threatening or potentially disabling trauma, burns, respiratory,
24 circulatory or obstetrical conditions.

25 (c) "Licensee" shall mean an individual licensed or otherwise author-
26 ized under article one hundred thirty-one or one hundred thirty-one-B of
27 the education law.

1 (d) "Urgent care" shall mean the provision of treatment on an unsched-
2 uled basis to patients for acute episodic illness, minor traumas that
3 are not life-threatening, or potentially disabling, or for monitoring or
4 treatment over prolonged periods.

5 (e) "Urgent care provider" shall mean a licensee practice that adver-
6 tises or holds itself out as a provider of urgent care.

7 2. No licensee practice shall, within this state, display signage,
8 advertise or hold itself out as a provider of urgent care through the
9 use of the term urgent care, or through any other term or symbol that
10 implies that it is a provider of urgent care, unless it obtains and
11 maintains accredited status, obtains the approval of the department and
12 otherwise complies with the provisions of this section and regulations
13 promulgated hereunder. Any provider that loses its accredited status
14 shall promptly notify the department thereof.

15 3. No licensee practice shall, within this state, display signage,
16 advertise or hold itself out as a provider of emergency medical care
17 through the use of the term emergency, or through any other term or
18 symbol that implies that it is a provider of emergency medical care,
19 regardless of whether it is an urgent care provider accredited under
20 this section.

21 4. Nothing in this section shall be construed to prohibit a hospital
22 established under article twenty-eight of this chapter from providing
23 urgent care or emergency medical care, or from displaying signage,
24 advertising or holding itself out as a provider of urgent or emergency
25 care pursuant to regulations promulgated under that article.

26 5. The public health and health planning council, by a majority vote
27 of its members, shall adopt and amend rules and regulations, subject to
28 the approval of the commissioner, to effectuate the purposes and

1 provisions of this section, including, but not limited to defining the
2 scope of services that may be provided by urgent care providers and the
3 minimum services that shall be provided; requiring urgent care providers
4 to disclose to patients the scope of services provided; and establishing
5 standards for appropriate referral and continuity of care, staffing,
6 equipment, and maintenance and transmission of patient records. Such
7 regulations shall also promote and strengthen primary care through: (i)
8 the integration of services provided by urgent care providers with the
9 services provided by the patient's other health care providers; and (ii)
10 the referral of patients to appropriate health care providers, including
11 appropriate transmission of patient health records.

12 § 3. Subdivision 4 of section 2951 of the public health law is
13 REPEALED.

14 § 4. Section 2956 of the public health law is REPEALED.

15 § 5. Section 225 of the public health law is amended by adding a new
16 subdivision 13 to read as follows:

17 13. The public health and health planning council may review the type
18 of procedures performed in outpatient settings, including practices
19 required to report adverse events under section two hundred thirty-d of
20 this article and health care facilities licensed under article twenty-
21 eight of this chapter that provide ambulatory surgery services, for
22 purposes of:

23 (a) identifying the types of procedures performed and types of
24 anesthesia/sedation administered in such settings;

25 (b) considering whether it is appropriate for such procedures or
26 anesthesia/sedation to be performed in such settings;

27 (c) considering whether settings performing such procedures or admin-
28 istering such anesthesia/sedation are subject to sufficient oversight;

1 (d) considering whether settings performing such procedures or admin-
2 istering such anesthesia/sedation are subject to an equivalent level of
3 oversight regardless of setting; and

4 (e) making recommendations to the department regarding the foregoing.

5 § 6. This act shall take effect immediately, provided, however, that
6 subdivision 2 of section 230-e of the public health law, as added by
7 section two of this act, shall take effect January 1, 2017; subdivision
8 3 of section 230-e of the public health law, as added by section two of
9 this act, shall take effect January 1, 2016; and regulations shall be
10 adopted or amended pursuant to subdivision 5 of section 230-e of the
11 public health law, as added by section two of this act, on or before
12 January 1, 2016, and shall not take effect until January 1, 2017.

13 PART I

14 Section 1. Subdivision 2-a of section 2781 of the public health law is
15 REPEALED.

16 § 2. The criminal procedure law is amended by adding a new section
17 60.47 to read as follows:

18 § 60.47 Possession of condoms; receipt into evidence.

19 Evidence that a person was in possession of one or more condoms may
20 not be admitted at any trial, hearing, or other proceeding in a prose-
21 cution for section 230.00 or section 240.37 of the penal law for the
22 purpose of establishing probable cause for an arrest or proving any
23 person's commission or attempted commission of such offense.

24 § 3. Section 220.45 of the penal law, as amended by chapter 284 of the
25 laws of 2010, is amended to read as follows:

26 § 220.45 Criminally possessing a hypodermic instrument.

1 A person is guilty of criminally possessing a hypodermic instrument
2 when he or she knowingly and unlawfully possesses or sells a hypodermic
3 syringe or hypodermic needle. It shall not be a violation of this
4 section when a person obtains and possesses a hypodermic syringe or
5 hypodermic needle pursuant to section thirty-three hundred eighty-one of
6 the public health law, which includes the state's syringe exchange and
7 pharmacy and medical provider-based expanded syringe access programs.

8 Criminally possessing a hypodermic instrument is a class A misdemea-
9 nor.

10 § 4. Section 220.03 of the penal law, as amended by chapter 284 of the
11 laws of 2010, the opening paragraph as amended by chapter 154 of the
12 laws of 2011, is amended to read as follows:

13 § 220.03 Criminal possession of a controlled substance in the seventh
14 degree.

15 A person is guilty of criminal possession of a controlled substance in
16 the seventh degree when he or she knowingly and unlawfully possesses a
17 controlled substance; provided, however, that it shall not be a
18 violation of this section when a person possesses a residual amount of a
19 controlled substance and that residual amount is in or on a hypodermic
20 syringe or hypodermic needle obtained and possessed pursuant to section
21 thirty-three hundred eighty-one of the public health law, which includes
22 the state's syringe exchange and pharmacy and medical provider-based
23 expanded syringe access programs; nor shall it be a violation of this
24 section when a person's unlawful possession of a controlled substance is
25 discovered as a result of seeking immediate health care as defined in
26 paragraph (b) of subdivision three of section 220.78 of the penal law,
27 for either another person or him or herself because such person is expe-
28 riencing a drug or alcohol overdose or other life threatening medical

1 emergency as defined in paragraph (a) of subdivision three of section
2 220.78 of the penal law.

3 Criminal possession of a controlled substance in the seventh degree is
4 a class A misdemeanor.

5 § 5. Paragraph (g) of subdivision 2 of section 850 of the general
6 business law, as amended by chapter 812 of the laws of 1980, is amended
7 to read as follows:

8 (g) Hypodermic syringes, needles and other objects, used or designed
9 for the purpose of parenterally injecting controlled substances into the
10 human body; provided, however, hypodermic syringes and needles obtained
11 and possessed from the state's syringe exchange and pharmacy and medical
12 provider-based expanded syringe access programs shall not be considered
13 drug-related paraphernalia;

14 § 6. Paragraph (c) of subdivision 1 of section 3381 of the public
15 health law, as amended by chapter 178 of the laws of 2010, is amended to
16 read as follows:

17 (c) by a pharmacy licensed under article one hundred thirty-seven of
18 the education law, health care facility licensed under article twenty-
19 eight of this chapter or a health care practitioner who is otherwise
20 authorized to prescribe the use of hypodermic needles or syringes within
21 his or her scope of practice; provided, however, that such sale or
22 furnishing: (i) shall only be to a person eighteen years of age or
23 older; and (ii) [shall be limited to a quantity of ten or less hypoderm-
24 ic needles or syringes; and (iii)] shall be in accordance with subdivi-
25 sion five of this section.

26 § 7. Paragraph (d) of subdivision 5 of section 3381 of the public
27 health law, as amended by section 9-a of part B of chapter 58 of the
28 laws of 2007, is amended to read as follows:

1 (d) In addition to the requirements of paragraph (c) of subdivision
2 one of this section, a pharmacy licensed under article one hundred thir-
3 ty-seven of the education law may sell or furnish hypodermic needles or
4 syringes only if such pharmacy[: (i) does not advertise to the public
5 the availability for retail sale or furnishing of hypodermic needles or
6 syringes without a prescription; and (ii) at any location where hypo-
7 dermic needles or syringes are kept for retail sale or furnishing,]
8 stores such needles and syringes in a manner that makes them available
9 only to authorized personnel and not openly available to customers.
10 § 8. This act shall take effect immediately.

11 PART J

12 Section 1. Subparagraph (v) of paragraph a of subdivision 1 of section
13 6908 of the education law is relettered subparagraph (vi) and a new
14 subparagraph (v) is added to read as follows:

15 (v) tasks provided by an advanced home health aide in accordance with
16 regulations developed in consultation with the commissioner of health
17 which, at a minimum, shall: (1) specify the types of tasks that may be
18 performed by advanced home health aides pursuant to this subparagraph
19 ("advanced tasks"), which shall include the administration of medica-
20 tions which are routine and prefilled or otherwise packaged in a manner
21 that promotes relative ease of administration; (2) provide that advanced
22 tasks performed by advanced home health aides may be performed only
23 under the direct supervision of a registered professional nurse licensed
24 in New York state and employed by a home care services agency licensed
25 or certified pursuant to article thirty-six of the public health law or
26 hospice program certified pursuant to article forty of the public health

1 law, where such nursing supervision (A) includes training and periodic
2 assessment of the performance of advanced tasks, (B) shall be determined
3 by the registered professional nurse responsible for supervising such
4 advanced tasks based upon the complexity of such advanced tasks, the
5 skill and experience of the advanced home health aide, and the health
6 status of the individual for whom such advanced tasks are being
7 performed, and (C) includes a comprehensive assessment of the individ-
8 ual's needs; (3) provide that advanced tasks may be performed only in
9 accordance with and pursuant to an authorized practitioner's ordered
10 care; (4) provide that only a home health aide who has at least one year
11 of experience as a certified home health aide, has completed the requi-
12 site training and demonstrated competencies of an advanced home health
13 aide, has successfully completed competency examinations satisfactory to
14 the commissioner and meets other appropriate qualifications may perform
15 advanced tasks as an advanced home health aide; (5) provide that only an
16 individual who is listed in the home care services registry maintained
17 by the department of health pursuant to subdivision nine of section
18 thirty-six hundred thirteen of the public health law as having satisfied
19 all applicable training requirements and having passed the applicable
20 competency examinations and who meets other requirements as set forth in
21 regulations issued by the commissioner of health pursuant to subdivision
22 seventeen of section thirty-six hundred two of the public health law may
23 perform advanced tasks pursuant to this subparagraph and may hold
24 himself or herself out as an advanced home health aide; (6) establish
25 minimum standards of training for the performance of advanced tasks by
26 advanced home health aides, including (A) didactic training, (B) clin-
27 ical training, and (C) a supervised clinical practicum with standards
28 set forth by the commissioner; (7) provide that advanced home health

1 aides shall receive case-specific training on the advanced tasks to be
2 assigned by the supervising nurse, provided that additional training
3 shall take place whenever additional advanced tasks are assigned; (8)
4 prohibit an advanced home health aide from holding himself or herself
5 out, or accepting employment as, a person licensed to practice nursing
6 under the provisions of this article; (9) provide that an advanced home
7 health aide is not required nor permitted to assess the medication needs
8 of an individual; (10) provide that an advanced home health aide shall
9 not be authorized to perform any tasks or activities pursuant to this
10 subparagraph that are outside the scope of practice of a licensed prac-
11 tical nurse; (11) provide that an advanced home health aide shall docu-
12 ment medication administration to each individual through the use of a
13 medication administration record; and (12) provide that the supervising
14 registered professional nurse shall retain the discretion to decide
15 whether to assign advanced tasks to home health aides under this program
16 and shall not be subject to coercion or the threat of retaliation; in
17 developing such regulations, the commissioner shall take into account
18 the recommendations of the workgroup of stakeholders convened by the
19 commissioner of health for the purpose of providing guidance on the
20 foregoing; or

21 § 2. Section 3602 of the public health law is amended by adding a new
22 subdivision 17 to read as follows:

23 17. "Advanced home health aides" means home health aides who are
24 authorized to perform advanced tasks as delineated in subparagraph (v)
25 of paragraph a of subdivision one of section six thousand nine hundred
26 eight of the education law and regulations issued by the commissioner of
27 education, in consultation with the commissioner of health, relating
28 thereto. The commissioner shall promulgate regulations regarding such

1 aides, which shall include a process for the limitation or revocation of
2 the advanced home health aide's authorization to perform advanced tasks
3 in appropriate cases.

4 § 3. Subdivision 9 of section 3613 of the public health law is renum-
5 bered subdivision 10 and a new subdivision 9 is added to read as
6 follows:

7 9. The department shall indicate within the home care services worker
8 registry when a home health aide has satisfied all applicable training
9 and recertification requirements and has passed the applicable competen-
10 cy examinations necessary to perform advanced tasks pursuant to subpara-
11 graph (v) of paragraph a of subdivision one of section six thousand nine
12 hundred eight of the education law and regulations issued thereto. Any
13 limitation or revocation of the advanced home health aide's authori-
14 zation also shall be indicated on the registry.

15 § 4. In developing regulations required under subparagraph (v) of
16 paragraph a of subdivision 1 of section 6908 of the education law, as
17 added by section one of this act, the commissioner of education shall
18 consider the recommendations of the workgroup of stakeholders convened
19 by the commissioner of health, to provide guidance on the tasks which
20 may be performed by advanced home health aides pursuant to such section
21 including but not limited to recommendations encompassing the following
22 matters:

23 (a) the tasks that appropriately could be performed by advanced home
24 health aides with appropriate training and supervision ("advanced
25 tasks");

26 (b) the types of medications that advanced home health aides should be
27 authorized to administer, including whether subcutaneous injectables and
28 controlled substances should be authorized;

1 (c) qualifications that must be satisfied by advanced home health
2 aides to perform advanced tasks, including those related to experience,
3 training, moral character, and examination requirements;

4 (d) minimum training and education standards; and

5 (e) adequate levels of supervision to be provided by nurses, including
6 adherence to existing requirements for comprehensive assessment and any
7 additional assessment that should be required, including when the indi-
8 vidual receiving advanced tasks performed by an advanced home health
9 aide experiences a significant change in condition.

10 § 5. This act shall take effect October 1, 2015; provided, however,
11 that the commissioner of education shall adopt or amend regulations
12 necessary to implement the provisions of subparagraph (v) of paragraph a
13 of subdivision 1 of section 6908 of the education law, as added by
14 section one of this act, by such effective date; provided, further, that
15 no advanced tasks may be performed pursuant to such provision until such
16 regulations are adopted and except in conformance with such regulations.

17 PART K

18 Section 1. Subdivisions 1, 2 and 3 of section 2802 of the public
19 health law, subdivisions 1 and 2 as amended by section 58 of part A of
20 chapter 58 of the laws of 2010, subdivision 3 as amended by chapter 609
21 of the laws of 1982 and paragraph (e) of subdivision 3 as amended by
22 chapter 731 of the laws of 1993, are amended to read as follows:

23 1. An application for such construction shall be filed with the
24 department, together with such other forms and information as shall be
25 prescribed by, or acceptable to, the department. Thereafter the depart-
26 ment shall forward a copy of the application and accompanying documents

1 to the public health and health planning council, and the health systems
2 agency, if any, having geographical jurisdiction of the area where the
3 hospital is located.

4 2. The commissioner shall not act upon an application for construction
5 of a hospital until the public health and health planning council and
6 the health systems agency have had a reasonable time to submit their
7 recommendations, and unless (a) the applicant has obtained all approvals
8 and consents required by law for its incorporation or establishment
9 (including the approval of the public health and health planning council
10 pursuant to the provisions of this article) provided, however, that the
11 commissioner may act upon an application for construction by an appli-
12 cant possessing a valid operating certificate when the application qual-
13 ifies for review without the recommendation of the council pursuant to
14 regulations adopted by the council and approved by the commissioner; and
15 (b) the commissioner is satisfied as to the public need for the
16 construction, at the time and place and under the circumstances
17 proposed, provided however that[,] in the case of an application by a
18 hospital established or operated by an organization defined in subdivi-
19 sion one of section four hundred eighty-two-b of the social services
20 law, the needs of the members of the religious denomination concerned,
21 for care or treatment in accordance with their religious or ethical
22 convictions, shall be deemed to be public need[.]; and further provided
23 that: (i) an application by a general hospital or diagnostic and treat-
24 ment center, established under this article, to construct a facility to
25 provide primary care services, as defined in regulation, may be approved
26 without regard for public need; or (ii) an application by a general
27 hospital or a diagnostic and treatment center, established under this
28 article, to undertake construction that does not involve a change in

1 capacity, the types of services provided, major medical equipment,
2 facility replacement, or the geographic location of services, may be
3 approved without regard for public need.

4 3. Subject to the provisions of paragraph (b) of subdivision two of
5 this section, the commissioner in approving the construction of a hospi-
6 tal shall take into consideration and be empowered to request informa-
7 tion and advice as to (a) the availability of facilities or services
8 such as preadmission, ambulatory or home care services which may serve
9 as alternatives or substitutes for the whole or any part of the proposed
10 hospital construction;

11 (b) the need for special equipment in view of existing utilization of
12 comparable equipment at the time and place and under the circumstances
13 proposed;

14 (c) the possible economies and improvements in service to be antic-
15 ipated from the operation of joint central services including, but not
16 limited to laboratory, research, radiology, pharmacy, laundry and
17 purchasing;

18 (d) the adequacy of financial resources and sources of future revenue,
19 provided that the commissioner may, but is not required to, consider the
20 adequacy of financial resources and sources of future revenue in
21 relation to applications under subparagraphs (i) and (ii) of paragraph
22 (b) of subdivision two of this section; and

23 (e) whether the facility is currently in substantial compliance with
24 all applicable codes, rules and regulations, provided, however, that the
25 commissioner shall not disapprove an application solely on the basis
26 that the facility is not currently in substantial compliance, if the
27 application is specifically:

28 (i) to correct life safety code or patient care deficiencies;

1 (ii) to correct deficiencies which are necessary to protect the life,
2 health, safety and welfare of facility patients, residents or staff;

3 (iii) for replacement of equipment that no longer meets the generally
4 accepted operational standards existing for such equipment at the time
5 it was acquired; and

6 (iv) for decertification of beds and services.

7 § 2. Subdivisions 1, 2 and 3 of section 2807-z of the public health
8 law, as amended by chapter 400 of the laws of 2012, are amended to read
9 as follows:

10 1. Notwithstanding any provision of this chapter or regulations or any
11 other state law or regulation, for any eligible capital project as
12 defined in subdivision six of this section, the department shall have
13 thirty days [of] after receipt of the certificate of need or
14 construction application, pursuant to section twenty-eight hundred two
15 of this article, for a limited or administrative review to deem such
16 application complete. If the department determines the application is
17 incomplete or that more information is required, the department shall
18 notify the applicant in writing within thirty days of the date of the
19 application's submission, and the applicant shall have twenty business
20 days to provide additional information or otherwise correct the defi-
21 ciency in the application.

22 2. For an eligible capital project requiring a limited or administra-
23 tive review, within ninety days of the department deeming the applica-
24 tion complete, the department shall make a decision to approve or disap-
25 prove the certificate of need or construction application for such
26 project. If the department determines to disapprove the project, the
27 basis for such disapproval shall be provided in writing; however, disap-
28 proval shall not be based on the incompleteness of the application. If

1 the department fails to take action to approve or disapprove the appli-
2 cation within ninety days of the certificate of need application being
3 deemed complete, the application will be deemed approved.

4 3. For an eligible capital project requiring full review by the coun-
5 cil, the certificate of need or construction application shall be placed
6 on the next council agenda following the department deeming the applica-
7 tion complete.

8 § 3. Section 2801-a of the public health law is amended by adding a
9 new subdivision 3-b to read as follows:

10 3-b. Notwithstanding any other provisions of this chapter to the
11 contrary, the public health and health planning council may approve the
12 establishment of diagnostic or treatment centers to be issued operating
13 certificates for the purpose of providing primary care, as defined by
14 the commissioner in regulations, without regard to the requirements of
15 public need and financial resources as set forth in subdivision three of
16 this section.

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

20 3. The public health and health planning council shall not approve a
21 certificate of incorporation, articles of organization or application
22 for establishment unless it is satisfied, insofar as applicable, as to
23 (a) the public need for the existence of the institution at the time and
24 place and under the circumstances proposed, provided, however, that in
25 the case of an institution proposed to be established or operated by an
26 organization defined in subdivision one of section one hundred seventy-
27 two-a of the executive law, the needs of the members of the religious
28 denomination concerned, for care or treatment in accordance with their

1 religious or ethical convictions, shall be deemed to be public need; (b)
2 the character, competence, and standing in the community, of the
3 proposed incorporators, directors, sponsors, members, principal members,
4 stockholders, [members] principal stockholders or operators; with
5 respect to any proposed incorporator, director, sponsor, member, princi-
6 pal member, stockholder, [member] principal stockholder or operator who
7 is already or within the past [ten] seven years has been an incorpora-
8 tor, director, sponsor, member, principal stockholder, principal member,
9 or operator of any hospital, private proprietary home for adults, resi-
10 dence for adults, or non-profit home for the aged or blind which has
11 been issued an operating certificate by the state department of social
12 services, or a halfway house, hostel or other residential facility or
13 institution for the care, custody or treatment of the mentally disabled
14 which is subject to approval by the department of mental hygiene, no
15 approval shall be granted unless the public health and health planning
16 council, having afforded an adequate opportunity to members of health
17 systems agencies, if any, having geographical jurisdiction of the area
18 where the institution is to be located to be heard, shall affirmatively
19 find by substantial evidence as to each such incorporator, director,
20 sponsor, member, principal member, principal stockholder or operator
21 that a substantially consistent high level of care is being or was being
22 rendered in each such hospital, home, residence, halfway house, hostel,
23 or other residential facility or institution with which such person is
24 or was affiliated; for the purposes of this paragraph, the public health
25 and health planning council shall adopt rules and regulations, subject
26 to the approval of the commissioner, to establish the criteria to be
27 used to determine whether a substantially consistent high level of care
28 has been rendered, provided, however, that there shall not be a finding

1 that a substantially consistent high level of care has been rendered
2 where there have been violations of the state hospital code, or other
3 applicable rules and regulations, that (i) threatened to directly affect
4 the health, safety or welfare of any patient or resident, and (ii) were
5 recurrent or were not promptly corrected, unless the proposed incorpora-
6 tor, director, sponsor, member, principal member, stockholder, principal
7 stockholder, or operator demonstrates, and the public health and health
8 planning council finds, that the violations cannot be attributed to the
9 action or inaction of such proposed incorporator, director, sponsor,
10 member, principal member, stockholder, principal stockholder, or opera-
11 tor due to the timing, extent or manner of the affiliation; (c) the
12 financial resources of the proposed institution and its sources of
13 future revenues; and (d) such other matters as it shall deem pertinent.

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

17 (b) [(i)] Any transfer, assignment or other disposition of ten percent
18 or more of [an] direct or indirect interest or voting rights in [a part-
19 nership or limited liability company, which is the] an operator of a
20 hospital to a new stockholder, partner or member, or any transfer,
21 assignment or other disposition of a direct or indirect interest or
22 voting rights of such an operator which results in the ownership or
23 control of more than ten percent of the interest or voting rights of
24 such operator by any person not previously approved by the public health
25 and health planning council, or its predecessor, for that operator shall
26 be approved by the public health and health planning council, in accord-
27 ance with the provisions of subdivisions two and three of this section,
28 except that: (A) any such change shall be subject to the approval by the

1 public health and health planning council in accordance with paragraph
2 (b) of subdivision three of this section only with respect to the new
3 stockholder, partner or member, and any remaining stockholders, partners
4 or members who have not been previously approved for that facility in
5 accordance with such paragraph, and (B) such change shall not be subject
6 to paragraph (a) of subdivision three of this section. In the absence of
7 such approval, the operating certificate of such hospital shall be
8 subject to revocation or suspension.

9 [(ii)] (c) (i) With respect to a transfer, assignment or disposition
10 involving less than ten percent of [an] a direct or indirect interest or
11 voting rights in [such partnership or limited liability company] an
12 operator of a hospital to a new stockholder, partner or member, no prior
13 approval of the public health and health planning council shall be
14 required except where required by paragraph (b) of this subdivision.
15 However, no such transaction shall be effective unless at least ninety
16 days prior to the intended effective date thereof, the [partnership or
17 limited liability company] operator fully completes and files with the
18 public health and health planning council notice on a form, to be devel-
19 oped by the public health and health planning council, which shall
20 disclose such information as may reasonably be necessary for the public
21 health and health planning council to determine whether it should bar
22 the transaction for any of the reasons set forth in item (A), (B), (C)
23 or (D) below. Within ninety days from the date of receipt of such
24 notice, the public health and health planning council may bar any trans-
25 action under this subparagraph: (A) if the equity position of the [part-
26 nership or limited liability company,] operator, determined in accord-
27 ance with generally accepted accounting principles, would be reduced as
28 a result of the transfer, assignment or disposition; (B) if the trans-

1 action would result in the ownership of a [partnership or membership]
2 direct or indirect interest or voting rights by any persons who have
3 been convicted of a felony described in subdivision five of section
4 twenty-eight hundred six of this article; (C) if there are reasonable
5 grounds to believe that the proposed transaction does not satisfy the
6 character and competence criteria set forth in subdivision three of this
7 section; or (D) upon the recommendation of the department, if the trans-
8 action, together with all transactions under this subparagraph for the
9 [partnership] operator, or successor, during any five year period would,
10 in the aggregate, involve twenty-five percent or more of the interest in
11 the [partnership] operator. The public health and health planning coun-
12 cil shall state specific reasons for barring any transaction under this
13 subparagraph and shall so notify each party to the proposed transaction.

14 [(iii) With respect to a transfer, assignment or disposition of an
15 interest or voting rights in such partnership or limited liability
16 company to any remaining partner or member, which transaction involves
17 the withdrawal of the transferor from the partnership or limited liabil-
18 ity company, no prior approval of the public health and health planning
19 council shall be required. However, no such transaction shall be effec-
20 tive unless at least ninety days prior to the intended effective date
21 thereof, the partnership or limited liability company fully completes
22 and files with the public health and health planning council notice on a
23 form, to be developed by the public health and health planning council,
24 which shall disclose such information as may reasonably be necessary for
25 the public health and health planning council to determine whether it
26 should bar the transaction for the reason set forth below. Within ninety
27 days from the date of receipt of such notice, the public health and
28 health planning council may bar any transaction under this subparagraph

1 if the equity position of the partnership or limited liability company,
2 determined in accordance with generally accepted accounting principles,
3 would be reduced as a result of the transfer, assignment or disposition.
4 The public health and health planning council shall state specific
5 reasons for barring any transaction under this subparagraph and shall so
6 notify each party to the proposed transaction.

7 (c) Any transfer, assignment or other disposition of ten percent or
8 more of the stock or voting rights thereunder of a corporation which is
9 the operator of a hospital or which is a member of a limited liability
10 company which is the operator of a hospital to a new stockholder, or any
11 transfer, assignment or other disposition of the stock or voting rights
12 thereunder of such a corporation which results in the ownership or
13 control of more than ten percent of the stock or voting rights there-
14 under of such corporation by any person not previously approved by the
15 public health and health planning council, or its predecessor, for that
16 corporation shall be subject to approval by the public health and health
17 planning council, in accordance with the provisions of subdivisions two
18 and three of this section and rules and regulations pursuant thereto;
19 except that: any such transaction shall be subject to the approval by
20 the public health and health planning council in accordance with para-
21 graph (b) of subdivision three of this section only with respect to a
22 new stockholder or a new principal stockholder; and shall not be subject
23 to paragraph (a) of subdivision three of this section. In the absence of
24 such approval, the operating certificate of such hospital shall be
25 subject to revocation or suspension.]

26 (ii) No prior approval of the public health and health planning coun-
27 cil shall be required with respect to a transfer, assignment or disposi-
28 tion of ten percent or more of [the stock] a direct or indirect interest

1 or voting rights [thereunder of a corporation which is the] in an opera-
2 tor of a hospital [or which is a member of a limited liability company
3 which is the owner of a hospital] to any person previously approved by
4 the public health and health planning council, or its predecessor, for
5 that [corporation] operator. However, no such transaction shall be
6 effective unless at least ninety days prior to the intended effective
7 date thereof, the [stockholder] operator fully completes and files with
8 the public health and health planning council notice on forms to be
9 developed by the public health and health planning council, which shall
10 disclose such information as may reasonably be necessary for the public
11 health and health planning council to determine whether it should bar
12 the transaction. Such transaction will be final as of the intended
13 effective date unless, prior thereto, the public health and health plan-
14 ning council shall state specific reasons for barring such transactions
15 under this paragraph and shall notify each party to the proposed trans-
16 action. Nothing in this paragraph shall be construed as permitting a
17 person not previously approved by the public health and health planning
18 council for that [corporation] operator to become the owner of ten
19 percent or more of the [stock of a corporation which is] interest or
20 voting rights, directly or indirectly, in the operator of a hospital [or
21 which is a member of a limited liability company which is the owner of a
22 hospital] without first obtaining the approval of the public health and
23 health planning council.

24 § 6. Subdivision 1 of section 3611-a of the public health law, as
25 amended by section 67 of part A of chapter 58 of the laws of 2010, is
26 amended to read as follows:

27 1. Any change in the person who, or any transfer, assignment, or other
28 disposition of an interest or voting rights of ten percent or more, or

1 any transfer, assignment or other disposition which results in the
2 ownership or control of an interest or voting rights of ten percent or
3 more, in a limited liability company or a partnership which is the oper-
4 ator of a licensed home care services agency or a certified home health
5 agency shall be approved by the public health and health planning coun-
6 cil, in accordance with the provisions of subdivision four of section
7 thirty-six hundred five of this article relative to licensure or subdi-
8 vision two of section thirty-six hundred six of this article relative to
9 certificate of approval, except that:

10 (a) Public health and health planning council approval shall be
11 required only with respect to the person, or the member or partner that
12 is acquiring the interest or voting rights; and

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

16 (c) In the absence of such approval, the license or certificate of
17 approval shall be subject to revocation or suspension.

18 (d) (i) No prior approval of the public health and health planning
19 council shall be required with respect to a transfer, assignment or
20 disposition of:

21 [(i)] (A) an interest or voting rights to any person previously
22 approved by the public health and health planning council, or its prede-
23 cessor, for that operator; or

24 [(ii)] (B) an interest or voting rights of less than ten percent in
25 the operator. [However, no]

26 (ii) No such transaction under subparagraph (i) of this paragraph
27 shall be effective unless at least ninety days prior to the intended
28 effective date thereof, the [partner or member] operator completes and

1 files with the public health and health planning council notice on forms
2 to be developed by the public health council, which shall disclose such
3 information as may reasonably be necessary for the public health and
4 health planning council to determine whether it should bar the trans-
5 action. Such transaction will be final as of the intended effective date
6 unless, prior thereto, the public health and health planning council
7 shall state specific reasons for barring such transactions under this
8 paragraph and shall notify each party to the proposed transaction.

9 § 7. This act shall take effect immediately.

10

PART L

11 Section 1. Section 230-d of the public health law, as added by chapter
12 365 of the laws of 2007, paragraph (i) of subdivision 1 as amended by
13 chapter 438 of the laws of 2012, and subdivision 4 as amended by chapter
14 477 of the laws of 2008, is amended to read as follows:

15 § 230-d. Office-based surgery and office-based anesthesia. 1. The
16 following words or phrases, as used in this section shall have the
17 following meanings:

18 (a) "Accredited status" means the full accreditation by nationally-re-
19 cognized accrediting agency(ies) determined by the commissioner.

20 (b) "Adverse event" means (i) patient death within thirty days; (ii)
21 unplanned transfer to a hospital or emergency department visit within
22 seventy-two hours of office-based surgery; (iii) unscheduled hospital
23 admission or assignment to observation services, within seventy-two
24 hours of the office-based surgery, for longer than twenty-four hours; or
25 (iv) any other serious or life-threatening event.

1 (c) "Deep sedation" means a drug-induced depression of consciousness
2 during which (i) the patient cannot be easily aroused but responds
3 purposefully following repeated painful stimulation; (ii) the patient's
4 ability to maintain independent ventilatory function may be impaired;
5 (iii) the patient may require assistance in maintaining a patent airway
6 and spontaneous ventilation may be inadequate; and (iv) the patient's
7 cardiovascular function is usually maintained without assistance.

8 (d) "General anesthesia" means a drug-induced depression of conscious-
9 ness during which (i) the patient is not arousable, even by painful
10 stimulation; (ii) the patient's ability to maintain independent ventila-
11 tory function is often impaired; (iii) the patient, in many cases, often
12 requires assistance in maintaining a patent airway and positive pressure
13 ventilation may be required because of depressed spontaneous ventilation
14 or drug-induced depression of neuromuscular function; and (iv) the
15 patient's cardiovascular function may be impaired.

16 (e) "Moderate sedation" means a drug-induced depression of conscious-
17 ness during which (i) the patient responds purposefully to verbal
18 commands, either alone or accompanied by light tactile stimulation; (ii)
19 no interventions are required to maintain a patent airway; (iii) sponta-
20 neous ventilation is adequate; and (iv) the patient's cardiovascular
21 function is usually maintained without assistance.

22 (f) "Minimal sedation" means a drug-induced state during which (i)
23 patients respond normally to verbal commands; (ii) cognitive function
24 and coordination may be impaired; and (iii) ventilatory and cardiovascu-
25 lar functions are unaffected.

26 (g) "Minor procedures" means (i) procedures that can be performed
27 safely with a minimum of discomfort where the likelihood of compli-
28 cations requiring hospitalization is minimal; (ii) procedures performed

1 with local or topical anesthesia; or (iii) liposuction with removal of
2 less than 500 cc of fat under unsupplemented local anesthesia.

3 (h) "Office-based surgery" means any surgical or other invasive proce-
4 dure, requiring general anesthesia, neuraxial anesthesia, major upper or
5 lower extremity regional nerve blocks, moderate sedation, or deep
6 sedation, and any liposuction procedure, where such surgical or other
7 invasive procedure or liposuction is performed by a licensee in a
8 location other than a hospital, as such term is defined in article twen-
9 ty-eight of this chapter, excluding minor procedures and procedures
10 requiring minimal sedation.

11 (i) "Licensee" shall mean an individual licensed or otherwise author-
12 ized under article one hundred thirty-one, one hundred thirty-one-B,
13 [individuals who have obtained an issuance of a privilege to perform
14 podiatric standard or advanced ankle surgery pursuant to subdivisions
15 one and two of section seven thousand nine] one hundred thirty-two, or
16 one hundred forty-one of the education law.

17 (j) "Major upper or lower extremity regional nerve blocks" means types
18 of regional anesthesia in which pain sensation is modified or blocked to
19 a large area of the extremity by administration of medication around the
20 nerves supplying that region of the extremity.

21 (k) "Neuraxial anesthesia" means a form of regional anesthesia in
22 which pain sensation is modified or blocked by administration of medica-
23 tion into the epidural space or spinal canal.

24 (l) "Office-based anesthesia" means general anesthesia, neuraxial
25 anesthesia, major upper or lower extremity regional nerve blocks, moder-
26 ate sedation or deep sedation where such anesthesia is administered by a
27 licensee in a location other than a hospital, as such term is defined in
28 article twenty-eight of this chapter.

1 2. Licensee practices in which office-based surgery or office-based
2 anesthesia is performed shall obtain and maintain full accredited status
3 and register with the department.

4 3. A licensee may only perform office-based surgery or office-based
5 anesthesia in a setting that has obtained and maintains full accredited
6 status and is registered with the department.

7 4. (a) Licensees shall report adverse events to the department's
8 patient safety center within [one] three business [day] days of the
9 occurrence of such adverse event. Licensees shall also report any
10 suspected health care disease transmission originating in their prac-
11 tices to the patient safety center within [one] three business [day]
12 days of becoming aware of such suspected transmission. For purposes of
13 this section, health care disease transmission shall mean the trans-
14 mission of a reportable communicable disease that is blood borne from a
15 health care professional to a patient or between patients as a result of
16 improper infection control practices by the health care professional.

17 (b) The department may also require licensees to report additional
18 data such as procedural information as needed for the interpretation of
19 adverse events and evaluation of patient care and quality improvement
20 and assurance activities.

21 (c) The data reported [data] under this subdivision shall be subject
22 to all confidentiality provisions provided by section twenty-nine
23 hundred ninety-eight-e of this chapter.

24 4-a. Office-based surgery or office-based anesthesia shall be limited
25 to operations and procedures with an expected duration of no more than
26 six hours and expected appropriate and safe discharge within six hours.

27 5. The commissioner shall make, adopt, promulgate and enforce such
28 rules and regulations, as he or she may deem appropriate, to effectuate

1 the purposes of this section. Where any rule or regulation under this
2 section would affect the scope of practice of a health care practitioner
3 licensed, registered or certified under title eight of the education law
4 other than those licensed under articles one hundred thirty-one or one
5 hundred thirty-one-B of the education law, the rule or regulation shall
6 be made with the concurrence of the commissioner of education.

7 § 2. The section heading and subdivisions 1 and 2 of section 2998-e of
8 the public health law, as added by chapter 365 of the laws of 2007, are
9 amended to read as follows:

10 Reporting [of adverse events] in office based surgery and anesthesia.

11 1. The commissioner shall enter into agreements with accrediting agen-
12 cies pursuant to which the accrediting agencies shall require all
13 office-based surgical and office-based anesthesia practices to conduct
14 quality improvement and quality assurance activities and utilize Ameri-
15 can Board of Medical Specialties (ABMS) or equivalent certification,
16 hospital privileging or other equivalent methods to determine competency
17 of practitioners to perform office-based surgery and office-based anes-
18 thesia, carry out surveys or complaint/incident investigations upon
19 department request and shall report, at a minimum, [aggregate data on
20 adverse events] findings of surveys and complaint/incident investi-
21 gations, and data for all office-based surgical and office-based anes-
22 thesia practices accredited by the accrediting agencies to the depart-
23 ment. The department may disclose reports of aggregate data to the
24 public.

25 2. The information required to be collected, maintained and reported
26 directly to the department and maintained by office-based surgery and
27 office-based anesthesia practices under quality improvement and quality
28 assurance activities pursuant to section two hundred thirty-d of this

1 chapter shall be kept confidential and shall not be released, except to
2 the department and except as required or permitted under subdivision
3 nine-a and subparagraph (v) of paragraph (a) of subdivision ten of
4 section two hundred thirty of this chapter. Notwithstanding any other
5 provision of law, none of such information shall be subject to disclo-
6 sure under article six of the public officers law or article thirty-one
7 of the civil practice law and rules.

8 § 3. This act shall take effect one year after it shall have become a
9 law.

10 PART M

11 Section 1. Subdivisions 1 and 2 of section 1100-a of the public health
12 law, as added by chapter 258 of the laws of 1996, are amended and two
13 new subdivisions 3 and 4 are added to read as follows:

14 1. Notwithstanding any contrary provision of law, rule, regulation or
15 code, any county, city, town or village that owns both its public water
16 system and the water supply for such system may by local law provide
17 whether a fluoride compound shall [or shall not] be added to such public
18 water supply.

19 2. Any county, wherein a public authority owns both its public water
20 system and the water supply for such system, may by local law provide
21 whether a fluoride compound shall [or shall not] be added to such public
22 water supply.

23 3. No county, city, town or village, including a county wherein a
24 public authority owns both its public water system and the water supply
25 for such system, that fluoridates a public water supply or causes a
26 public water supply to be fluoridated, shall discontinue the addition of

1 a fluoride compound to such public water supply unless it has first
2 complied with the following requirements:

3 (a) issue a notice to the public of the preliminary determination to
4 discontinue fluoridation for comment, which shall include the justifica-
5 tion for the proposed discontinuance, alternatives to fluoridation
6 available, and a summary of consultations with health professionals and
7 the department concerning the proposed discontinuance. Such notice may,
8 but is not required to, include publication in local newspapers.
9 "Consultations with health professionals" may include formal studies by
10 hired professionals, informal consultations with local public health
11 officials or other health professionals, or other consultations,
12 provided that the nature of such consultations and the identity of such
13 professionals shall be identified in the public notice. "Alternatives to
14 fluoridation" may include formal alternatives provided by or at the
15 expense of the county, city, town or village, or other alternatives
16 available to the public. Any public comments received in response to
17 such notice shall be addressed by the county, city, town or village in
18 the ordinary course of business; and

19 (b) provide the department at least ninety days prior written notice
20 of the intent to discontinue and submit a plan for discontinuance that
21 includes but is not limited to the notice that will be provided to the
22 public, consistent with paragraph (a) of this subdivision, of the deter-
23 mination to discontinue fluoridation of the water supply, including the
24 date of such discontinuance and alternatives to fluoridation, if any,
25 that will be made available in the community, and that includes informa-
26 tion as may be required under the Sanitary Code.

27 4. The commissioner is hereby authorized, within amounts appropriated
28 therefor, to make grants to counties, cities, towns or villages that own

1 their public water system and the water supply for such system, includ-
2 ing a county wherein a public authority owns both its public water
3 system and the water supply for such system, for the purpose of provid-
4 ing assistance towards the costs of installation, including but not
5 limited to technical and administrative costs associated with planning,
6 design and construction, and start-up of fluoridation systems, and
7 replacing, repairing or upgrading of fluoridation equipment for such
8 public water systems. Grant funding shall not be available for assist-
9 ance towards the costs and expenses of operation of the fluoridation
10 system, as determined by the department. The grant applications shall
11 include such information as required by the commissioner. In making the
12 grant awards, the commissioner shall consider the demonstrated need for
13 installation of new fluoridation equipment or replacing, repairing or
14 upgrading of existing fluoridation equipment, and such other criteria as
15 determined by the commissioner. Grant awards shall be made on a compet-
16 itive basis and be subject to such conditions as may be determined by
17 the commissioner.

18 § 2. This act shall take effect immediately.

19 PART N

20 Section 1. Purpose. The purpose of this act is to seek public input
21 about the creation of an office of community living with the goal of
22 providing improvements in service delivery and improved program outcomes
23 that would result from the expansion of community living integration
24 services for older adults and persons of all ages with disabilities.

25 § 2. Data and information collection. The director of the state office
26 for the aging, in collaboration with other state agencies, will consult

1 with stakeholders, providers, individuals and their families to gather
2 data and information on the creation of an office for community living.
3 Areas of focus shall include, but not be limited to, furthering the
4 goals of the governor's Olmstead plan, strengthening the No Wrong Door
5 approach to accessing information and services, reinforcing initiatives
6 of the Balancing Incentive Program, creating opportunities to better
7 leverage resources, evaluating methods for service delivery improve-
8 ments, and analyzing the fiscal impact of creating such an office on
9 services, individuals and providers. The state office for the aging
10 shall also examine recent federal initiatives to create an adminis-
11 tration on community living; and examine other states' efforts to expand
12 services supporting community living integration, and local and/or
13 regional coordination efforts within New York.

14 § 3. Reporting. The director of the state office for the aging shall
15 submit to the governor, and to the temporary president of the senate and
16 the speaker of the assembly, a report and recommendations by December
17 15, 2015, that outlines the results and findings associated with the
18 aforementioned collection of data and solicitation of feedback. Such
19 report shall include discussion regarding the potential impact and the
20 feasibility of the expansion of the agency's community living inte-
21 gration services beginning April 1, 2016.

22 § 4. This act shall take effect immediately.

23 PART O

24 Section 1. Section 1 of part D of chapter 111 of the laws of 2010
25 relating to the recovery of exempt income by the office of mental health
26 for community residences and family-based treatment programs as amended

1 by section 1 of part C of chapter 58 of the laws of 2014, is amended to
2 read as follows:

3 Section 1. The office of mental health is authorized to recover fund-
4 ing from community residences and family-based treatment providers
5 licensed by the office of mental health, consistent with contractual
6 obligations of such providers, and notwithstanding any other inconsis-
7 tent provision of law to the contrary, in an amount equal to 50 percent
8 of the income received by such providers which exceeds the fixed amount
9 of annual Medicaid revenue limitations, as established by the commis-
10 sioner of mental health. Recovery of such excess income shall be for the
11 following fiscal periods: for programs in counties located outside of
12 the city of New York, the applicable fiscal periods shall be January 1,
13 2003 through December 31, 2009 and January 1, 2011 through December 31,
14 [2015] 2016; and for programs located within the city of New York, the
15 applicable fiscal periods shall be July 1, 2003 through June 30, 2010
16 and July 1, 2011 through June 30, [2015] 2016.

17 § 2. This act shall take effect immediately.

18 PART P

19 Section 1. Subparagraph 9 of paragraph h of subdivision 4 of section
20 1950 of the education law, as added by section 1 of part M of chapter 56
21 of the laws of 2012, is amended to read as follows:

22 (9) To enter into contracts with the commissioner of the office of
23 mental health, to provide special education [and], related services and
24 any alternative education programs provided by the board of cooperative
25 educational services to component school districts, in accordance with
26 subdivision six-b of section thirty-two hundred two of this chapter to

1 patients hospitalized in hospitals operated by the office of mental
2 health who are between the ages of five and twenty-one who have not
3 received a high school diploma. Any such proposed contract shall be
4 subject to the review by the commissioner and his [and] or her determi-
5 nation that it is an approved cooperative educational service. Services
6 provided pursuant to such contracts shall be provided at cost and
7 approved by the commissioner of the office of mental health and the
8 director of the division of the budget, and the board of cooperative
9 educational services shall not be authorized to charge any costs
10 incurred in providing such services to its component school districts.

11 § 2. The opening paragraph of subdivision 6-b of section 3202 of the
12 education law, as added by section 2 of part M of chapter 56 of the laws
13 of 2012, is amended to read as follows:

14 The commissioner of mental health may meet his or her obligations
15 under section 33.11 of the mental hygiene law by contracting pursuant to
16 this subdivision for educational services for children between the ages
17 of five and twenty-one who do not hold a high school diploma and who are
18 hospitalized in hospitals operated by the office of mental health with
19 the trustees or board of education of any school district for educa-
20 tional services or with a board of cooperative educational services for
21 the provision of special education [and], related services and any
22 alternative education programs provided by the board of cooperative
23 educational services to component school districts to such children in
24 accordance with their individualized education programs. The costs of
25 such education shall not be a charge upon a school district pursuant to
26 section 33.11 of the mental hygiene law.

27 § 3. Section 4 of part M of chapter 56 of the laws of 2012 amending
28 the education law, relating to authorizing contracts for the provision

1 of special education and related services for certain patients hospital-
2 ized in hospitals operated by the office of mental health, is amended to
3 read as follows:

4 § 4. This act shall take effect July 1, 2012 and shall expire June 30,
5 [2015] 2018, when upon such date the provisions of this act shall be
6 deemed repealed.

7 § 4. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after April 1, 2015, provided,
9 however, that:

10 a. The amendments to subparagraph 9 of paragraph h of subdivision 4 of
11 section 1950 of the education law made by section one of this act shall
12 not affect the repeal of such subparagraph and shall be deemed repealed
13 therewith; and

14 b. The amendments to the opening paragraph of subdivision 6-b of
15 section 3202 of the education law made by section two of this act shall
16 not affect the repeal of such subdivision and shall be deemed repealed
17 therewith.

18 PART Q

19 Section 1. Section 2801-a of the public health law is amended by
20 adding a new subdivision 17 to read as follows:

21 17. (a) The commissioner is authorized to establish a pilot program to
22 assist in restructuring health care delivery systems by allowing for
23 increased capital investment. Pursuant to the pilot program, the public
24 health and health planning council shall approve the establishment, in
25 accordance with the provisions of paragraphs (f), (g) and (h) of this
26 subdivision and subdivision three of this section, of no more than five

1 business corporations formed under the business corporation law. Such
2 business corporations shall affiliate, the extent of the affiliation to
3 be determined by the commissioner, with at least one academic medical
4 institution or teaching hospital approved by the commissioner. A busi-
5 ness corporation shall not be eligible to participate in this program if
6 any of its stock, or that of any of its direct or indirect owners, is or
7 will be traded on a public stock exchange or on an over-the-counter
8 market.

9 (b) Notwithstanding any provision of law to the contrary, business
10 corporations established pursuant to this subdivision shall be deemed
11 eligible to participate in debt financing provided by the dormitory
12 authority of the state of New York, local development corporations and
13 economic development corporations.

14 (c) The following provisions of this chapter shall not apply to busi-
15 ness corporations established pursuant to this subdivision: (i) para-
16 graph (b) of subdivision three of this section, relating to stockhold-
17 ers, other than principal stockholders; (ii) paragraph (c) of
18 subdivision four of this section, relating to the disposition of stock
19 or voting rights; (iii) paragraphs (d) and (e) of subdivision four of
20 this section, relating to the ownership of stock; and (iv) paragraph (a)
21 of subdivision three of section four thousand four of this chapter,
22 relating to the ownership of stock. Notwithstanding the foregoing, the
23 public health and health planning council may require the disclosure of
24 the identity of stockholders.

25 (d) The corporate powers and purposes of a business corporation estab-
26 lished as an operator pursuant to this subdivision shall be limited to
27 the ownership and operation, or operation, of a hospital or hospitals
28 specifically named and the location or locations of which are specif-

1 ically designated by street address, city, town, village or locality and
2 county; provided, however, that the corporate powers and purposes may
3 also include the ownership and operation, or operation, of a certified
4 home health agency or licensed home care services agency or agencies as
5 defined in article thirty-six of this chapter or a hospice or hospices
6 as defined in article forty of this chapter, if the corporation has
7 received all approvals required under such law to own and operate, or
8 operate, such home care services agency or agencies or hospice or
9 hospices. Such corporate powers and purposes shall not be modified,
10 amended or deleted without the prior approval of the commissioner.

11 (e)(1) In discharging the duties of their respective positions, the
12 board of directors, committees of the board and individual directors and
13 officers of a business corporation established pursuant to this subdivi-
14 sion shall consider the effects of any action upon:

15 (A) the ability of the business corporation to accomplish its purpose;

16 (B) the shareholders of the business corporation;

17 (C) the employees and workforce of the hospital or hospitals;

18 (D) the interests of patients of the hospital or hospitals;

19 (E) community and societal considerations, including those of any
20 community in which facilities of the hospital or hospitals are located;

21 and

22 (F) the short-term and long-term interests of the business corpo-
23 ration, including benefits that may accrue to the business corporation
24 from its long-term plans.

25 (2) The consideration of interests and factors in the manner required
26 by subparagraph one of this paragraph:

1 (A) shall not constitute a violation of the provisions of section
2 seven hundred fifteen or seven hundred seventeen of the business corpo-
3 ration law; and

4 (B) is in addition to the ability of directors to consider interests
5 and factors as provided in section seven hundred seventeen of the busi-
6 ness corporation law.

7 (f) While any decision to approve a business corporation under this
8 section must weigh and balance a number of factors, in determining
9 whether to approve a business corporation under this section, the public
10 health and health planning council, in consultation with the commission-
11 er, shall consider the extent to which the business corporation:

12 (1) provides for either equal or majority governance rights of the
13 not-for-profit hospital partner, regardless of equity stakes, through
14 weighted class voting structure or otherwise;

15 (2) incorporates a representative governance model that:

16 (A) clearly delineates authority and responsibility for the hospital's
17 operations;

18 (B) defines mechanisms for approval of designated shareholders or
19 investors; and

20 (C) reserves powers granted to a local governing authority to assure
21 access and quality;

22 (3) is incorporated as a benefit corporation under the business corpo-
23 ration law;

24 (4) commits to maintaining or enhancing existing levels of services,
25 charity care and core community benefits;

26 (5) identifies an actionable strategy to monitor and maintain or
27 improve quality of care;

1 (6) explains the level of capital commitment and the mechanism or
2 mechanisms for infusing capital into the not-for-profit hospital part-
3 ner;

4 (7) explains how it will retain the workforce, either in existing jobs
5 or through retraining, and addresses obligations owed to employee bene-
6 fit plans and pensions;

7 (8) will create a foundation to address the public health needs of the
8 community; and

9 (9) identifies how profit distributions shall be made in a way to
10 ensure that the community's access to quality care and core community
11 benefits are not compromised and access to capital is not compromised.

12 None of the foregoing factors shall be dispositive in the approval or
13 disapproval of the business corporation.

14 (g) No business corporation shall be approved under this section that
15 fails to:

16 (1) attest that it will provide the not-for-profit hospital partner
17 with the exclusive authority over functions relating to its exempt
18 status;

19 (2) commit to ongoing monitoring and reporting to the department on
20 quality of care, access to services, local investment, and workforce
21 issues, to be defined by the commissioner; and

22 (3) provide for a local advisory board consisting of community repre-
23 sentatives, which shall make recommendations on matters including:

24 (A) adopting a mission, vision and values statement;

25 (B) monitoring operating performance;

26 (C) assuring quality of care;

27 (D) ensuring medical staff comply with joint commission requirements;

28 (E) granting medical staff privileges;

1 (F) formulating strategic, operational and capital plans;

2 (G) nominating advisory board members;

3 (H) approving the chief executive officer and evaluating his or her
4 performance; and

5 (I) identifying and approving policies relating to core community
6 services and benefits and charity care policies.

7 (h) Any business corporation approved under this section must artic-
8 ulate:

9 (1) the time period it expects to keep its investment in the hospital
10 or hospitals;

11 (2) whether it will allow a "buy-back" option to its not-for-profit
12 hospital partner or by an employee ownership plan;

13 (3) what safeguards it plans to put in place to protect access to
14 services when it begins to negotiate with a subsequent investor; and

15 (4) the role of the not-for-profit hospital partner in those
16 discussions with a subsequent investor.

17 (i) The board of directors of a business corporation established
18 pursuant to this subdivision shall be deemed a "governing body" for the
19 purposes of section twenty-eight hundred three-1 of this article and
20 shall comply with the provisions of such section, regardless of the
21 corporation's profit-making status.

22 (j) A sale, lease, conveyance, exchange, transfer, or other disposi-
23 tion of all or substantially all of the assets of the business corpo-
24 ration shall not be effective unless the transaction is approved by the
25 commissioner.

26 No such transaction may occur within three years of the commissioner's
27 approval of the business corporation's participation in the demon-

1 stration project. In approving such a transaction, the commissioner
2 shall consider, among other things, whether the transaction:

3 (1) imposes safeguards to protect quality and access to core community
4 services during the transition to the new investor;

5 (2) requires the subsequent investor to guarantee all obligations,
6 including those described in subparagraph seven of paragraph (f) of this
7 subdivision;

8 (3) will maintain the hospital governance structure and local govern-
9 ing board's powers; and

10 (4) imposes minimum capitalization criteria post-transaction.

11 (k) No later than three years after the establishment of a business
12 corporation under this subdivision, the commissioner shall provide the
13 governor, the temporary president of the senate and the speaker of the
14 assembly with a written evaluation of the pilot program. Such evaluation
15 shall address the overall effectiveness of the program in allowing for
16 access to capital investment and the impact such access may have on the
17 quality of care provided by hospitals operated by business corporations
18 established under this subdivision.

19 § 2. Paragraph (b) of subdivision 2 of section 1676 of the public
20 authorities law is amended by adding a new undesignated paragraph to
21 read as follows:

22 Such business corporations as are established pursuant to subdivision
23 seventeen of section twenty-eight hundred one-a of the public health law
24 for the acquisition, construction, reconstruction, rehabilitation and
25 improvement, or otherwise providing, furnishing and equipping of a
26 hospital or hospitals.

27 § 3. Subdivision 1 of section 1680 of the public authorities law is
28 amended by adding a new undesignated paragraph to read as follows:

1 Such business corporations as are established pursuant to subdivision
2 seventeen of section twenty-eight hundred one-a of the public health law
3 for the acquisition, construction, reconstruction, rehabilitation and
4 improvement, or otherwise providing, furnishing and equipping of a
5 hospital or hospitals.

6 § 4. This act shall take effect immediately.

7 PART R

8 Section 1. Section 3 of part A of chapter 111 of the laws of 2010
9 amending the mental hygiene law relating to the receipt of federal and
10 state benefits received by individuals receiving care in facilities
11 operated by an office of the department of mental hygiene, as amended by
12 section 1 of part B of chapter 58 of the laws of 2014, is amended to
13 read as follows:

14 § 3. This act shall take effect immediately; and shall expire and be
15 deemed repealed June 30, [2015] 2018.

16 § 2. This act shall take effect immediately.

17 PART S

18 Section 1. Section 366 of the social services law is amended by adding
19 a new subdivision 7-a to read as follows:

20 7-a. a. The commissioner of health in consultation with the commis-
21 sioner of developmental disabilities shall apply for a home and communi-
22 ty-based waiver, pursuant to subdivision (c) of section nineteen hundred
23 fifteen of the federal social security act, in order to provide home and
24 community-based services for a population of persons with developmental

1 disabilities, as such term is defined in section 1.03 of the mental
2 hygiene law.

3 b. Persons eligible for participation in the waiver program shall:

4 (i) have a developmental disability as such term is defined in subdi-
5 vision twenty-two of section 1.03 of the mental hygiene law;

6 (ii) meet the level of care criteria provided by an intermediate care
7 facility for the developmentally disabled;

8 (iii) be eligible for Medicaid;

9 (iv) live at home or in an individualized residential alternative,
10 community residence or family care home, operated, funded or licensed by
11 the office for people with developmental disabilities or other appropri-
12 ate community setting as defined in regulation by the commissioner of
13 developmental disabilities;

14 (v) be capable of being cared for in the community if provided with
15 such services as respite, home adaptation, or other home and community-
16 based services, other than room and board, as may be approved by the
17 secretary of the federal department of health and human services, in
18 addition to other services provided under this title, as determined by
19 the assessment required by paragraph c of this subdivision;

20 (vi) have a demonstrated need for home and community based waiver
21 services; and

22 (vii) meet such other criteria as may be established by the commis-
23 sioner of health and the commissioner of developmental disabilities, as
24 may be necessary to administer the provisions of this subdivision.

25 c. The commissioner of developmental disabilities shall assess the
26 eligibility of persons enrolled, or seeking to enroll, in the waiver
27 program. The assessment shall include, but need not be limited to, an
28 evaluation of the health, psycho-social, developmental, habilitation and

1 environmental needs of the person and shall serve as the basis for the
2 development and provision of an appropriate plan of care for such
3 person.

4 d. The office for people with developmental disabilities shall under-
5 take or arrange for the development of a written plan of care for each
6 person enrolled in the waiver. Such plan of care shall describe the
7 provision of home and community based waiver services consistent with
8 the assessment for each person.

9 e. The office for people with developmental disabilities shall review
10 the plan of care and authorize those home and community based services
11 to be included in the plan of care, taking into account the person's
12 assessed needs, valued outcomes and available resources.

13 f. The commissioners of developmental disabilities and health shall
14 determine quality standards for organizations providing services under
15 such waiver and shall authorize organizations that meet such standards
16 to provide such services.

17 g. The commissioner of developmental disabilities or health may
18 promulgate rules and regulations as necessary to effectuate the
19 provisions of this section.

20 h. This subdivision shall be effective only if, and as long as, feder-
21 al financial participation is available for expenditures incurred under
22 this subdivision.

23 § 2. Paragraph (a) of subdivision 4 of section 488 of the social
24 services law, as added by section 1 of part B of chapter 501 of the laws
25 of 2012, is amended to read as follows:

26 (a) a facility or program in which services are provided and which is
27 operated, licensed or certified by the office of mental health, the
28 office for people with developmental disabilities or the office of alco-

1 holism and substance abuse services, including but not limited to
2 psychiatric centers, inpatient psychiatric units of a general hospital,
3 developmental centers, intermediate care facilities, community resi-
4 dences, group homes and family care homes, provided, however, that such
5 term shall not include a secure treatment facility as defined in section
6 10.03 of the mental hygiene law, services defined in subparagraph four
7 of subdivision (a) of section 16.03 of the mental hygiene law, or
8 services provided in programs or facilities that are operated by the
9 office of mental health and located in state correctional facilities
10 under the jurisdiction of the department of corrections and community
11 supervision;

12 § 3. Subdivision 2 of section 550 of the executive law, as added by
13 section 3 of part A of chapter 501 of the laws of 2012, is amended to
14 read as follows:

15 2. "Mental hygiene facility" shall mean a facility as defined in
16 subdivision six of section 1.03 of the mental hygiene law and facilities
17 for the operation of which an operating certificate is required pursuant
18 to article sixteen or thirty-one of the mental hygiene law and including
19 family care homes. "Mental hygiene facility" also means a secure treat-
20 ment facility as defined by article ten of the mental hygiene law. This
21 term shall not include services defined in subparagraph four of subdivi-
22 sion (a) of section 16.03 of the mental hygiene law.

23 § 4. Subdivisions 3, 4, 5 and 22 of section 1.03 of the mental hygiene
24 law, subdivision 3 as amended by chapter 223 of the laws of 1992, subdivi-
25 sion 4 as added by chapter 978 of the laws of 1977, subdivision 5 as
26 amended by chapter 75 of the laws of 2006, and subdivision 22 as amended
27 by chapter 255 of the laws of 2002, are amended to read as follows:

1 3. "Mental disability" means mental illness, [mental retardation]
2 intellectual disability, developmental disability, alcoholism, substance
3 dependence, or chemical dependence. [A mentally disabled person is one
4 who has a mental disability.]

5 4. "Services for [the mentally disabled] persons with a mental disa-
6 bility" means examination, diagnosis, care, treatment, rehabilitation,
7 supports, habilitation or training of the mentally disabled.

8 5. "Provider of services" means an individual, association, corpo-
9 ration, partnership, limited liability company, or public or private
10 agency, other than an agency or department of the state, which provides
11 services for [the mentally disabled] persons with a mental disability.
12 It shall not include any part of a hospital as defined in article twen-
13 ty-eight of the public health law which is not being operated for the
14 purpose of providing services for the mentally disabled. No provider of
15 services shall be subject to the regulation or control of the department
16 or one of its offices except as such regulation or control is provided
17 for by other provisions of this chapter.

18 22. "Developmental disability" means a disability of a person which:

19 (a) (1) is attributable to [mental retardation] intellectual disabili-
20 ty, cerebral palsy, epilepsy, neurological impairment, familial dysauto-
21 nomia or autism;

22 (2) is attributable to any other condition of a person found to be
23 closely related to [mental retardation] intellectual disability because
24 such condition results in similar impairment of general intellectual
25 functioning or adaptive behavior to that of [mentally retarded] intel-
26 lectually disabled persons or requires treatment and services similar to
27 those required for such person; or

1 (3) is attributable to dyslexia resulting from a disability described
2 in subparagraph (1) or (2) of this paragraph;

3 (b) originates before such person attains age twenty-two;

4 (c) has continued or can be expected to continue indefinitely; and

5 (d) constitutes a substantial handicap to such person's ability to
6 function normally in society.

7 § 5. Paragraph 3 of subdivision (a) of section 16.03 of the mental
8 hygiene law, as amended by chapter 37 of the laws of 2011, is amended to
9 read as follows:

10 (3) Operation of a facility established or maintained by a public
11 agency, board, or commission, or by a corporation or voluntary associ-
12 ation for the rendition of out-patient or non-residential services for
13 persons with developmental disabilities; provided, however, that such
14 operation shall not be deemed to include (i) professional practice,
15 within the scope of a professional license or certificate issued by an
16 agency of the state, by an individual practitioner or by a partnership
17 of such individuals or by a professional service corporation duly incor-
18 porated pursuant to the business corporation law or by a university
19 faculty practice corporation duly incorporated pursuant to the not-for-
20 profit corporation law or (ii) non-residential services which are
21 licensed, supervised, or operated by another agency of the state and
22 non-residential services which are chartered or issued a certificate of
23 incorporation pursuant to the education law or (iii) pastoral counseling
24 by a clergyman or minister, including those defined as clergyman or
25 minister by section two of the religious corporations law.

26 § 6. Subdivision (a) of section 16.03 of the mental hygiene law is
27 amended by adding a new paragraph 4 to read as follows:

1 (4) The provision of home and community based services approved under
2 a waiver program authorized pursuant to subdivision (c) of section nine-
3 teen hundred fifteen of the federal social security act and subdivisions
4 seven and seven-a of section three hundred sixty-six of the social
5 services law.

6 § 7. Section 16.03 of the mental hygiene law is amended by adding a
7 new subdivision (f) to read as follows:

8 (f) Notwithstanding any other provision of law to the contrary, the
9 provision of licensed professional services, including, but not limited
10 to, psychology, nursing, social work, speech-language pathology, occupa-
11 tional therapy, physical therapy and applied behavioral analysis, shall
12 be authorized as part of the programs certified pursuant to this arti-
13 cle.

14 § 8. Subdivision (a), paragraphs 2, 3, and 6 of subdivision (c), para-
15 graphs 1 and 4 of subdivision (d), subdivision (e), and subdivision (i)
16 of section 16.05 of the mental hygiene law, subdivision (a), paragraphs
17 2, 3, and 6 of subdivision (c), paragraphs 1 and 4 of subdivision (d)
18 and subdivision (e) as added by chapter 786 of the laws of 1983, para-
19 graph 6 of subdivision (c) and paragraph 4 of subdivision (d) as renum-
20 bered by chapter 618 of the laws of 1990, and subdivision (i) as amended
21 by chapter 37 of the laws of 2011, are amended to read as follows:

22 (a)(1) Application for an operating certificate shall be made upon
23 forms prescribed by the commissioner.

24 (2) Application shall be made by the person or entity responsible for
25 operation of the facility or provision of services as described in
26 subdivision four of section 16.03 of this article. Applications shall
27 be in writing, shall be verified and shall contain such information as
28 required by the commissioner.

1 (2) The character, competence and standing in the community of the
2 person or entity responsible for operating the facility or providing
3 services;

4 (3) The financial resources of the proposed facility or provider of
5 services and its sources of future revenues;

6 (6) In the case of residential facilities, that arrangements have been
7 made with other providers of services for the provision of health,
8 habilitation, day treatment, education, sheltered workshop, transporta-
9 tion or other services as may be necessary to meet the needs of
10 [clients] individuals who will reside in the facility; and

11 (1) the financial resources of the proposed facility or provider of
12 services and its sources of future revenues;

13 (4) in the case of residential facilities, that arrangements have been
14 made with other providers of services for the provision of health,
15 habilitation, day treatment, education, sheltered workshop, transporta-
16 tion or other services as may be necessary to meet the needs of
17 [clients] individuals who will reside in the facility; and

18 (e) The commissioner may disapprove an application for an operating
19 certificate, may authorize fewer services than applied for, and may
20 place limitations or conditions on the operating certificate including,
21 but not limited to compliance with a time limited plan of correction of
22 any deficiency which does not threaten the health or well-being of any
23 [client] individuals. In such cases the applicant shall be given an
24 opportunity to be heard, at a public hearing if requested by the appli-
25 cant.

26 (i) In the event that the holder of an operating certificate for a
27 residential facility issued by the commissioner pursuant to this article
28 wishes to cease the operation or conduct of any of the activities, as

1 defined in paragraph one or four of subdivision (a) of section 16.03 of
2 this article, for which such certificate has been issued or to cease
3 operation of any one or more of facilities for which such certificate
4 has been issued; wishes to transfer ownership, possession or operation
5 of the premises and facilities upon which such activities are being
6 conducted or to transfer ownership, possession or operation of any one
7 or more of the premises or facilities for which such certificate has
8 been issued; or elects not to apply to the commissioner for re-certifi-
9 cation upon the expiration of any current period of certification, it
10 shall be the duty of such certificate holder to give to the commissioner
11 written notice of such intention not less than sixty days prior to the
12 intended effective date of such transaction. Such notice shall set forth
13 a detailed plan which makes provision for the safe and orderly transfer
14 of each person with a developmental disability served by such certif-
15 icate holder pursuant to such certificate into a program of services
16 appropriate to such person's on-going needs and/or for the continuous
17 provision of a lawfully operated program of such activities and services
18 at the premises and facilities to be conveyed by the certificate holder.
19 Such certificate holder shall not cease to provide any such services to
20 any such person with a developmental disability under any of the circum-
21 stances described in this section until the notice and plan required
22 hereby are received, reviewed and approved by the commissioner. For the
23 purposes of this paragraph, the requirement of prior notice and contin-
24 uous provision of programs and services by the certificate holder shall
25 not apply to those situations and changes in circumstances directly
26 affecting the certificate holder that are not reasonably foreseeable at
27 the time of occurrence, including, but not limited to, death or other
28 sudden incapacitating disability or infirmity. Written notice shall be

1 given to the commissioner as soon as reasonably possible thereafter in
2 the manner set forth within this subdivision.

3 § 9. Paragraph 1 of subdivision (a) of section 16.09 of the mental
4 hygiene law, as added by chapter 786 of the laws of 1983, is amended to
5 read as follows:

6 (1) "Facility" is limited to a facility in which services are offered
7 for which an operating certificate is required by this article. For the
8 purposes of this section facility shall include family care homes but
9 shall not include the provision of services, as defined in paragraph
10 four of subdivision (a) of section 16.03 of this article, outside of a
11 facility.

12 § 10. The section heading and subdivision (a) of section 16.11 of the
13 mental hygiene law are REPEALED and a new section heading and subdivi-
14 sion (a) are added to read as follows:

15 Oversight of facilities and services. (a) The commissioner shall
16 provide for the oversight of facilities and providers of services hold-
17 ing operating certificates pursuant to section 16.03 of this article and
18 shall provide for the annual review of such facilities and providers in
19 implementing the requirements of the office and in providing quality
20 care and person centered and community based services.

21 (1) The review of facilities issued an operating certificate pursuant
22 to this article shall include a site visit to occur at least once during
23 each calendar year and shall be without prior notice. Areas of review
24 shall include, but not be limited to, a review of a facility's: physical
25 plant, fire safety procedures, health care, protective oversight, abuse
26 and neglect prevention, and reporting procedures.

27 (2) The review of providers of services, as defined in paragraph four
28 of subdivision (a) of section 16.03 of this article, shall ensure that

1 the provider of services complies with all the requirements of the
2 applicable federal home and community based services waiver program and
3 applicable federal regulation, subdivisions seven and seven-a of section
4 three hundred sixty-six of the social services law and rules and regu-
5 lations adopted by the commissioner.

6 § 11. Subdivisions (b), (c), (d), and (e) of section 16.11 of the
7 mental hygiene law, subdivision (b) as amended by chapter 37 of the laws
8 of 2011, and subdivisions (c), (d) and (e) as added by chapter 786 of
9 the laws of 1983, are amended to read as follows:

10 (b) The commissioner shall have the power to conduct investigations
11 into the operations of any provider of service, person or entity which
12 holds an operating certificate issued by the office, into the operation
13 of any facility, service or program issued an operating certificate by
14 the office and into the operations, related to the provision of services
15 regulated by this chapter, of any person or entity providing a residence
16 for one or more unrelated persons with developmental disabilities.

17 (c) In conducting an inspection or investigation, the commissioner or
18 his or her authorized representative shall have the power to inspect
19 facilities, conduct interviews of clients, interview personnel, examine
20 and copy all records, including financial and medical records of the
21 facility or provider of services, and obtain such other information as
22 may be required in order to carry out his or her responsibilities under
23 this chapter.

24 (d) In conducting any inspection or investigation under this chapter,
25 the commissioner or his or her authorized representative is empowered to
26 subpoena witnesses, compel their attendance, administer oaths to
27 witnesses, examine witnesses under oath, and require the production of
28 any books or papers deemed relevant to the investigation, inspection, or

1 hearing. A subpoena issued under this section shall be regulated by the
2 civil practice law and rules.

3 (e) The supreme court may enjoin persons or entities subject to
4 inspection or investigation pursuant to this article to cooperate with
5 the commissioner and to allow the commissioner access to providers of
6 services, facilities, records, clients and personnel as necessary to
7 enable the commissioner to conduct the inspection or investigation.

8 § 12. Section 16.17 of the mental hygiene law, as added by chapter 786
9 of the laws of 1983, subdivision (a) and paragraph 2 and subparagraph b
10 of paragraph 1 of subdivision (b) as amended and subparagraph d of para-
11 graph 1 of subdivision (b) as relettered by chapter 169 of the laws of
12 1992, subdivision (b) as amended by chapter 856 of the laws of 1985, the
13 opening paragraph and subparagraph c of paragraph 1 of subdivision (b)
14 as amended by chapter 37 of the laws of 2011, subparagraph d of para-
15 graph 1 of subdivision (b) as added by chapter 618 of the laws of 1990,
16 paragraph 4 of subdivision (b) as amended by chapter 168 of the laws of
17 2010, paragraph 1 of subdivision (f) as amended by chapter 601 of the
18 laws of 2007, subdivision (g) as amended by chapter 24 of the laws of
19 2007, and subdivision (h) as amended by chapter 306 of the laws of 1995,
20 is amended to read as follows:

21 § 16.17 Suspension, revocation, or limitation of an operating certif-
22 icate.

23 (a) The commissioner may revoke, suspend, or limit an operating
24 certificate or impose the penalties described in subparagraph a, b, c or
25 d of paragraph one of subdivision (b) or in subdivision (g) of this
26 section upon a determination that the holder of the certificate has
27 failed to comply with the terms of its operating certificate or with the
28 provisions of any applicable statute, rule or regulation. The holder of

1 the certificate shall be given notice and an opportunity to be heard
2 prior to any such determination except that no such notice and opportu-
3 nity to be heard shall be necessary prior to an emergency suspension or
4 limitation of the facility's or provider of services' operating certif-
5 icate imposed pursuant to paragraph one of subdivision (b) of this
6 section, nor shall such notice and opportunity to be heard be necessary
7 should the commissioner, in his or her discretion, decide to issue sepa-
8 rate operating certificates to each facility or provider of services
9 formerly included under the services authorized by one operating certif-
10 icate to the provider of services.

11 (b) (1) An operating certificate may be temporarily suspended or
12 limited without a prior hearing for a period not in excess of sixty days
13 upon written notice to the facility or provider of services following a
14 finding by the office for people with developmental disabilities that a
15 [client's] individual's health or safety is in imminent danger. Upon
16 such finding and notice, the power of the commissioner temporarily to
17 suspend or limit an operating certificate shall include, but shall not
18 be limited to, the power to:

19 a. Prohibit or limit the placement of new [clients] individuals in the
20 facility or services;

21 b. Remove or cause to be removed some or all of the [clients] individ-
22 uals in the facility or services;

23 c. Suspend or limit or cause to be suspended or limited the payment of
24 any governmental funds to the facility or provider of services provided
25 that such action shall not in any way jeopardize the health, safety and
26 welfare of any person with a developmental disability in such program or
27 facility or services;

1 d. Prohibit or limit the placement of new [clients] individuals,
2 remove or cause to be removed some or all [clients] individuals, or
3 suspend or limit or cause to be suspended or limited the payment of any
4 governmental funds, in or to any one or more of the facilities or
5 provider of services authorized pursuant to an operating certificate
6 [issued to a provider of services].

7 (2) At any time subsequent to the suspension or limitation of any
8 operating certificate pursuant to paragraph one of this subdivision
9 where said suspension or limitation is the result of correctable phys-
10 ical plant, staffing or program deficiencies, the facility or provider
11 of services may request the office to [reinspect] review the facility or
12 provider of services to redetermine whether a physical plant, staffing
13 or program deficiency continues to exist. After the receipt of such a
14 request, the office shall [reinspect] review the facility or provider of
15 services within ten days and in the event that the previously found
16 physical plant, staffing or program deficiency has been corrected, the
17 suspension or limitation shall be withdrawn. If the physical plant,
18 staffing or program deficiency has not been corrected, the commissioner
19 shall not thereafter be required to [reinspect] review the facility or
20 provider of services during the emergency period of suspension or limi-
21 tation.

22 (3) During the sixty day suspension or limitation period provided for
23 in paragraph one of this subdivision the commissioner shall determine
24 whether to reinstate or remove the limitations on the facility's or
25 provider of services' operating certificate or to revoke, suspend or
26 limit the operating certificate pursuant to subdivision (a) of this
27 section. Should the commissioner choose to revoke, suspend or limit the
28 operating certificate, then the emergency suspension or limitation

1 provided for in this subdivision shall remain in effect pending the
2 outcome of an administrative hearing on the revocation, suspension or
3 limitation.

4 (4) The facility operator or provider of services, within ten days of
5 the date when the emergency suspension or limitation pursuant to para-
6 graph one of this subdivision is first imposed, may request an evidenti-
7 ary hearing to contest the validity of the emergency suspension or limi-
8 tation. Such an evidentiary hearing shall commence within ten days of
9 the facility operator's or provider's request and no request for an
10 adjournment shall be granted without the concurrence of the facility
11 operator or provider of service, office for people with developmental
12 disabilities, and the hearing officer. The evidentiary hearing shall be
13 limited to those violations of federal and state law and regulations
14 that existed at the time of the emergency suspension or limitation and
15 which gave rise to the emergency suspension or limitation. The emergency
16 suspension or limitation shall be upheld upon a determination that the
17 office for people with developmental disabilities had reasonable cause
18 to believe that a [client's] individual's health or safety was in immi-
19 nent danger. A record of such hearing shall be made available to the
20 facility operator or provider of service upon request. Should the
21 commissioner determine to revoke, suspend or limit [the facility's] an
22 operating certificate pursuant to subdivision (a) of this section, no
23 administrative hearing on that action shall commence prior to the
24 conclusion of the evidentiary hearing. The commissioner shall issue a
25 ruling within ten days after the receipt of the hearing officer's
26 report.

27 (c) When the holder of an operating certificate shall request an
28 opportunity to be heard, the commissioner shall fix a time and place for

1 the hearing. A copy of the charges, together with the notice of the time
2 and place of the hearing, shall be served in person or mailed by regis-
3 tered or certified mail to the facility or provider of services at least
4 ten days before the date fixed for the hearing. The facility or provider
5 of services shall file with the office, not less than three days prior
6 to the hearing, a written answer to the charges.

7 (d) (1) When a hearing must be afforded pursuant to this section or
8 other provisions of this article, the commissioner, acting as hearing
9 officer, or any person designated by him or her as hearing officer,
10 shall have power to:

11 a. administer oaths and affirmations;

12 b. issue subpoenas, which shall be regulated by the civil practice law
13 and rules;

14 c. take testimony; or

15 d. control the conduct of the hearing.

16 (2) The rules of evidence observed by courts need not be observed
17 except that the rules of privilege recognized by law shall be respected.
18 Irrelevant or unduly repetitious evidence may be excluded.

19 (3) All parties shall have the right of counsel and be afforded an
20 opportunity to present evidence and cross-examine witnesses.

21 (4) If evidence at the hearing relates to the identity, condition, or
22 clinical record of [a client] an individual, the hearing officer may
23 exclude all persons from the room except parties to the proceeding,
24 their counsel and the witness. The record of such proceeding shall not
25 be available to anyone outside the office, other than a party to the
26 proceeding or his counsel, except by order of a court of record.

27 (5) The commissioner may establish regulations to govern the hearing
28 procedure and the process of determination of the proceeding.

1 (6) The commissioner shall issue a ruling within ten days after the
2 termination of the hearing or, if a hearing officer has been designated,
3 within ten days from the hearing officer's report.

4 (e) All orders or determinations hereunder shall be subject to review
5 as provided in article seventy-eight of the civil practice law and
6 rules.

7 (f) (1) Except as provided in paragraph two of this subdivision,
8 anything contained in this section to the contrary notwithstanding, an
9 operating certificate of a facility or provider of service shall be
10 revoked upon a finding by the office that any individual, member of a
11 partnership or shareholder of a corporation to whom or to which an oper-
12 ating certificate has been issued, has been convicted of a class A, B or
13 C felony or a felony related in any way to any activity or program
14 subject to the regulations, supervision, or administration of the office
15 or of the office of temporary and disability assistance, the department
16 of health, or another office of the department of mental hygiene, or in
17 violation of the public officers law in a court of competent jurisdic-
18 tion of the state, or in a court in another jurisdiction for an act
19 which would have been a class A, B or C felony in this state or a felony
20 in any way related to any activity or program which would be subject to
21 the regulations, supervision, or administration of the office or of the
22 office of temporary and disability assistance, the department of health,
23 or another office of the department of mental hygiene, or for an act
24 which would be in violation of the public officers law. The commissioner
25 shall not revoke or limit the operating certificate of any facility or
26 provider of service, solely because of the conviction, whether in the
27 courts of this state or in the courts of another jurisdiction, more than
28 ten years prior to the effective date of such revocation or limitation,

1 of any person of a felony, or what would amount to a felony if committed
2 within the state, unless the commissioner makes a determination that
3 such conviction was related to an activity or program subject to the
4 regulations, supervision, and administration of the office or of the
5 office of temporary and disability assistance, the department of health,
6 or another office of the department of mental hygiene, or in violation
7 of the public officers law.

8 (2) In the event one or more members of a partnership or shareholders
9 of a corporation shall have been convicted of a felony as described in
10 paragraph one of this subdivision, the commissioner shall, in addition
11 to his or her other powers, limit the existing operating certificate of
12 such partnership or corporation so that it shall apply only to the
13 remaining partner or shareholders, as the case may be, provided that
14 every such convicted person immediately and completely ceases and with-
15 draws from participation in the management and operation of the facility
16 or provider of services and further provided that a change of ownership
17 or transfer of stock is completed without delay, and provided that such
18 partnership or corporation shall immediately reapply for a certificate
19 of operation pursuant to subdivision (a) of section 16.05 of this arti-
20 cle.

21 (g) The commissioner may impose a fine upon a finding that the holder
22 of the certificate has failed to comply with the terms of the operating
23 certificate or with the provisions of any applicable statute, rule or
24 regulation. The maximum amount of such fine shall be one thousand
25 dollars per day or fifteen thousand dollars per violation.

26 Such penalty may be recovered by an action brought by the commissioner
27 in any court of competent jurisdiction or by offsetting such penalty
28 against a future medicaid or office payment to such provider.

1 Such penalty may be released or compromised by the commissioner before
2 the matter has been referred to the attorney general. Any such penalty
3 may be released or compromised and any action commenced to recover the
4 same may be settled or discontinued by the attorney general with the
5 consent of the commissioner.

6 (h) Where a proceeding has been brought pursuant to section 16.27 of
7 this article, and a receiver appointed pursuant thereto, the commission-
8 er may assume operation of the facility subject to such receivership,
9 upon termination of such receivership, and upon showing to the court
10 having jurisdiction over such receivership that no voluntary associ-
11 ation, not-for-profit corporation or other appropriate provider is will-
12 ing to assume operation of the facility subject to receivership and is
13 capable of meeting the requirements of this article; provided that the
14 commissioner notifies the chairman of the assembly ways and means
15 committee, the chairman of the senate finance committee and the director
16 of the budget of his intention to assume operation of such facility upon
17 service of the order to show cause upon the owner or operator of the
18 facility, pursuant to subdivision (b) of section 16.27 of this article.

19 § 13. Paragraph 5 of subdivision (a) of section 16.29 of the mental
20 hygiene law, as amended by section 9 of part C of chapter 501 of the
21 laws of 2012, is amended to read as follows:

22 (5) removing a service recipient when it is determined that there is a
23 risk to such person if he or she continues to remain in a facility or
24 service program; and

25 § 14. Paragraph (ii) of subdivision (c) of section 16.29 of the mental
26 hygiene law, as amended by section 9 of part C of chapter 501 of the
27 laws of 2012, is amended to read as follows:

1 (ii) development and implementation of a plan of prevention and reme-
2 diation, in the event an investigation of a report of an alleged report-
3 able incident exists and such reportable incident may be attributed in
4 whole or in part to noncompliance by the facility or provider of
5 services with the provisions of this chapter or regulations of the
6 office applicable to the operation of such facility or provider of
7 services. Any plan of prevention and remediation required to be devel-
8 oped pursuant to this subdivision by a facility supervised by the office
9 shall be submitted to and approved by such office in accordance with
10 time limits established by regulations of such office. Implementation of
11 the plan shall be monitored by such office. In reviewing the continued
12 qualifications of a residential facility or provider of services or
13 program for an operating certificate, the office shall evaluate such
14 facility's or provider of service's compliance with plans of prevention
15 and remediation developed and implemented pursuant to this subdivision.

16 § 15. This act shall take effect immediately.

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

26 § 3. This act shall take effect immediately provided, however, that
27 the applicable effective date of Parts A through S of this act shall be
28 as specifically set forth in the last section of such Part.