STATE OF NEW YORK

S. 6407--C A. 9007--C

SENATE - ASSEMBLY

January 14, 2016

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

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT intentionally omitted (Part A); to amend the social services law, in relation to facilitating supplemental rebates for fee-for-service pharmaceuticals, and ambulance medical transportation rate adequacy review; to amend the social services law, in relation to authorizing the commissioner of health to apply federally established consumer price index penalties for generic drugs, and authorizing the commissioner of health to impose penalties on managed care plans for reporting late or incorrect encounter data; relating to cost-sharing limits on Medicare part C; to amend part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to reporting requirements for the Medicaid global cap; to amend the public health law and the social services law, in relation to the provision of services to certain persons suffering from traumatic brain injuries or qualifying for nursing home diversion and transition services; to amend the public health law, in relation to rates of payment for certain managed long term care plans; to amend the social services law, in relation to medical assistance for certain inmates and authorizing funding for criminal justice pilot program within health home rates; to amend part H of chapter 59 of the laws of

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

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2011, amending the public health law and other laws relating to known and projected department of health state fund medicaid expenditures, in relation to extending the expiration of certain provisions relating to rates of payment to residential health care facilities based on the historical costs to the owner, and certain payments to the Citadel Rehab and Nursing Center at Kingsbridge; to amend the public health law, in relation to case payment rates for pediatric ventilator services; directs the commissioner of health to implement a restorative care unit demonstration program; directs the civil service department to create a title for a medicaid redesign team analyst as a competitive class position; to amend the social services law and part C of chapter 60 of the laws of 2014 authorizing the commissioner of health to negotiate an extension of the terms of the contract executed by the department of health for actuarial and consulting services, in relation to the extension of certain contracts; 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 relating to general hospital reimbursement for annual rates relating to the cap on local Medicaid expenditures; 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 rate protections for certain behavioral health providers; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to apportioning premium for certain policies; and to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending certain provisions concerning the hospital excess liability pool (Part C); 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 extending the authority of the department of health to make disproportionate share payments to public hospitals outside of New York City; to amend chapter 649 of the laws of 1996, amending the public health law, the mental hygiene law and the social services law relating to authorizing the establishment of special needs plans, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2009, amending the public health law relating to payment by governmental agencies for general hospital inpatient services, relating to the effectiveness thereof; to amend the public health law, in relation to temporary operator notification; to amend chapter 56 of the laws of 2013, amending the public health law relating to the general public health work program, relating to the effectiveness thereof; to amend the environmental conservation law, in relation to cancer incidence and environmental facility maps project; to amend the public health law, in relation to cancer mapping; to amend chapter 77 of the laws of 2010, amending the environmental conservation law and the public health law relating to an environmental facility and cancer incidence map, relating to the effectiveness thereof; to amend chapter 60 of the laws of 2014 amending the social services law relating to eliminating prescriber prevails for brand name drugs with generic equivalents, in relation to the effectiveness thereof; and to repeal subdivision 8 of section 84 of part A of chapter 56 of the laws of 2013, amending the public

health law and other laws relating to general hospital reimbursement for annual rates, relating thereto (Part D); intentionally omitted (Part E); relating to grants and loans authorized pursuant to eligible health care capital programs; and to amend the public health law, in relation to the health care facility transformation program (Part F); intentionally omitted (Part G); to amend part D of 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 H); to amend chapter 723 of the laws of 1989 amending the mental hygiene law and other laws relating to comprehensive psychiatric emergency programs, in relation to the effectiveness of certain provisions thereof (Part I); to amend chapter 420 of the laws of 2002 amending the education law relating to the profession of social work, in relation to extending the expiration of certain provisions thereof; to amend chapter 676 of the laws of 2002 amending the education law relating to the practice of psychology, in relation to extending the expiration of certain provisions; and to amend chapter 130 of the laws of 2010 amending the education law and other laws relating to registration of entities providing certain professional services and licensure of certain professions, in relation to extending certain provisions thereof (Part J); intentionally omitted (Part K); to amend the mental hygiene law, in relation to the appointment of temporary operators for the continued operation of programs and the provision of services for persons with serious mental illness and/or developmental disabilities and/or chemical dependence; and providing for the repeal of certain provisions upon expiration thereof (Part L); to amend the mental hygiene law, in relation to sharing clinical records with managed care organizations (Part M); to amend the facilities development corporation act, in relation to the definition of mental hygiene facility (Part N); relating to reports by the office for people with developmental disabilities relating to housing needs; and providing for the repeal of such provisions upon expiration thereof (Part O); to amend the mental hygiene law, in relation to services for people with developmental disabilities (Part P); to amend the mental hygiene law, in relation to the closure or transfer of a state-operated individualized residential alternative; and providing for the repeal of such provisions upon expiration thereof (Part Q); to amend the public health law and the education law, in relation to electronic prescriptions; to amend the public health law, in relation to loan forgiveness and practice support for physicians; to amend the social services law, in relation to the use of EQUAL program funds for adult care facilities; to amend the public health law, in relation to policy changes relating to state aid; to amend the public health law in relation to the relocation of residential health care facility long-term ventilator beds; to amend part H of chapter 60 of the laws of 2014, amending the insurance law, the public health law and the financial services law relating to establishing protections to prevent surprise medical bills including network adequacy requirements, claim submission requirements, access to out-of-network care and prohibition of excessive emergency charges, in relation to the date the report shall be submitted; and providing for the repeal of certain provisions upon expiration thereof (Part R); and to amend the elder law, in relation to the supportive service program for classic and neighborhood naturally occurring retirement communities; and providing for the repeal of certain provisions upon expiration thereof (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 2016-2017
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 Intentionally Omitted

14 PART B

15 Section 1. Intentionally omitted.
16 § 1-a. Ambulance medical transportation rate adequacy review. The
17 commissioner shall review the rates of reimbursement made through the
18 medicaid program for ambulance medical transportation for rate adequacy.
19 By December 31, 2016 the commissioner shall report the findings, of the
20 rate adequacy review to the temporary president of the senate and the
21 speaker of the assembly.
22 § 2. Intentionally omitted.
23 § 3. Intentionally omitted.
24 § 4. Intentionally omitted.
25 § 5. Intentionally omitted.
26 § 6. Intentionally omitted.
27 § 7. Intentionally omitted.
28 § 8. Intentionally omitted.
29 § 9. Intentionally omitted.
30 § 10. Intentionally omitted.
31 § 11. Subdivision 7 of section 367-a of the social services law is
32 amended by adding a new paragraph (f) to read as follows:
33 (f) (1) The department may require manufacturers of drugs other than
34 single source drugs and innovator multiple source drugs, as such terms
35 are defined in 42 U.S.C. § 1396r-8(k), to provide rebates to the depart-
36 ment for any drug that has increased more than three hundred percent of
37 its state maximum acquisition cost (SMAC), on or after April 1, 2016, in
38 comparison to its SMAC at any time during the course of the preceding
39 twelve months. The required rebate shall be limited to the amount by
40 which the current SMAC for the drug exceeds three hundred percent of the
41 SMAC for the same drug at any time during the course of the preceding
42 twelve months. Such rebates shall be in addition to any rebates payable
43 to the department pursuant to any other provision of federal or state
44 law. Nothing herein shall affect the department's obligation to reim-
45 burse for covered outpatient drugs pursuant to paragraph (d) of this
46 subdivision.
47 (2) Except as provided in subparagraph three of this paragraph, the
48 commissioner shall not determine any further rebates to be payable
49 pursuant to this paragraph once the Centers for Medicare and Medicaid

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1 Services has adopted a final methodology for determining the amount of
2 additional rebates under the federal generic drug price increase rebate
3 program pursuant to 42 U.S.C. § 1396r-8 (c)(3), as amended by section
4 602 of the Bipartisan Budget Act of 2015.
5 (3) During state fiscal year 2016-2017, if the Centers for Medicare
6 and Medicaid Services has adopted a final methodology for determining
7 the amount of additional rebates under the federal generic drug price
8 increase rebate program pursuant to 42 U.S.C. § 1396r-8 (c)(3), as
9 amended by section 602 of the Bipartisan Budget Act of 2015, the depart-
10 ment may collect for a given drug the portion of the rebate determined
11 under this paragraph that is in excess of the rebate required by such
12 federal rebate program.
13 (4) The additional rebates authorized pursuant to this paragraph shall
14 apply to generic prescription drugs dispensed to enrollees of managed
15 care providers pursuant to section three hundred sixty-four-j of this
16 title and to generic prescription drugs dispensed to Medicaid recipients
17 who are not enrollees of such providers.
18 (5) Beginning in two thousand seventeen, the department shall provide
19 an annual report to the legislature no later than February first setting
20 forth:
21 (i) The number of drugs that exceeded the ceiling price established in
22 this paragraph during the preceding year in comparison to the number of
23 drugs that experienced at least a three hundred percent price increase
24 during two thousand fourteen and two thousand fifteen;
25 (ii) The average percent amount above the ceiling price of drugs that
26 exceeded the ceiling price in the preceding year in comparison to the
27 number of drugs that experienced a price increase more than three
28 hundred percent during two thousand fourteen and two thousand fifteen;
29 (iii) The number of generic drugs available to enrollees in Medicaid
30 fee for service or Medicaid managed care, by fiscal quarter, in the
31 preceding year in comparison to the drugs available, by fiscal quarter,
32 during two thousand fourteen and two thousand fifteen; and
33 (iv) The total drug spend on generic drugs for the preceding year in
34 comparison to the total drug spend on generic drugs during two thousand
35 fourteen and two thousand fifteen.
36 § 12. The opening paragraph of paragraph (e) of subdivision 7 of
37 section 367-a of the social services law, as added by section 1 of part
38 B of chapter 57 of the laws of 2015, is amended to read as follows:
39 During the period from April first, two thousand fifteen through March
40 thirty-first, two thousand seventeen, the commissioner may, in lieu of a
41 managed care provider, negotiate directly and enter into an agreement
42 with a pharmaceutical manufacturer for the provision of supplemental
43 rebates relating to pharmaceutical utilization by enrollees of managed
44 care providers pursuant to section three hundred sixty-four-j of this
45 title and may also negotiate directly and enter into such an agreement
46 relating to pharmaceutical utilization by medical assistance recipients
47 not so enrolled. Such rebates shall be limited to drug utilization in
48 the following classes: antiretrovirals approved by the FDA for the
49 treatment of HIV/AIDS and hepatitis C agents for which the pharmaceu-
50 tical manufacturer has in effect a rebate agreement with the federal
51 secretary of health and human services pursuant to 42 U.S.C. § 1396r-8,
52 and for which the state has established standard clinical criteria. No
53 agreement entered into pursuant to this paragraph shall have an initial
54 term or be extended beyond March thirty-first, two thousand twenty.

1 § 13. Subparagraph (iv) of paragraph (e) of subdivision 7 of section
2 367-a of the social services law, as added by section 1 of part B of
3 chapter 57 of the laws of 2015, is amended to read as follows:
4 (iv) Nothing in this paragraph shall be construed to require a pharma-
5 ceutical manufacturer to enter into a supplemental rebate agreement with
6 the commissioner relating to pharmaceutical utilization by enrollees of
7 managed care providers pursuant to section three hundred sixty-four-j of
8 this title or relating to pharmaceutical utilization by medical assist-
9 ance recipients not so enrolled.
10 § 14. Section 364-j of the social services law is amended by adding a
11 new subdivision 26-a to read as follows:
12 26-a. Managed care providers shall require prior authorization of
13 prescriptions of opioid analgesics in excess of four prescriptions in a
14 thirty-day period, provided, however, that this subdivision shall not
15 apply if the patient is a recipient of hospice care, has a diagnosis of
16 cancer or sickle cell disease, or any other condition or diagnosis for
17 which the commissioner of health determines prior authorization is not
18 required.
19 § 15. Section 364-j of the social services law is amended by adding a
20 new subdivision 32 to read as follows:
21 32. (a) The commissioner may, in his or her discretion, apply penal-
22 ties to managed care organizations subject to this section and article
23 forty-four of the public health law, including managed long term care
24 plans, for untimely or inaccurate submission of encounter data; provided
25 however, no penalty shall be assessed if the managed care organization
26 submits, in good faith, timely and accurate data that is not successful-
27 ly received by the department as a result of department system failures
28 or technical issues that are beyond the control of the managed care
29 organization.
30 (b) The commissioner shall consider the following prior to assessing a
31 penalty against a managed care organization and have the discretion to
32 reduce or eliminate a penalty:
33 (i) the degree to which the data submitted is inaccurate and the
34 frequency of inaccurate data submissions by the managed care organiza-
35 tion;
36 (ii) the degree to which the data submitted is untimely and the
37 frequency of untimely data submissions by the managed care organization;
38 (iii) the timeliness of the managed care organization in curing or
39 correcting inaccurate or untimely data;
40 (iv) whether the untimely or inaccurate data was submitted by the
41 managed care organization or a third party;
42 (v) whether the managed care organization has taken corrective action
43 to reduce the likelihood of future inaccurate or untimely data
44 submissions; and
45 (vi) whether the managed care organization was or should have been
46 aware of inaccurate or untimely data.
47 For purposes of this section, "encounter data" shall mean the trans-
48 actions required to be reported under the model contract. Any penalty
49 assessed under this subdivision shall be calculated as a percentage of
50 the administrative component of the Medicaid premium calculated by the
51 department.
52 (c) Such penalties shall be as follows:
53 (i) for encounter data submitted or resubmitted past the deadlines set
54 forth in the model contract, Medicaid premiums shall be reduced by one
55 and one-half percent; and

1 (ii) for incomplete or inaccurate encounter data that fails to conform
2 to department developed benchmarks for completeness and accuracy, Medi-
3 caid premiums shall be reduced by one-half percent; and
4 (iii) for submitted data that results in a rejection rate in excess of
5 ten percent of department developed volume benchmarks, Medicaid premiums
6 shall be reduced by one-half percent.
7 (d) Penalties under this subdivision may be applied to any and all
8 circumstances described in paragraph (b) of this subdivision until the
9 managed care organization complies with the requirements for submission
10 of encounter data. No penalties for late, incomplete or inaccurate
11 encounter data shall be assessed against managed care organizations in
12 addition to those provided for in this subdivision.
13 § 16. Paragraph (d) of subdivision 1 of section 367-a of the social
14 services law is amended by adding a new subparagraph (iv) to read as
15 follows:
16 (iv) If a health plan participating in part C of title XVIII of the
17 federal social security act pays for items and services provided to
18 eligible persons who are also beneficiaries under part B of title XVIII
19 of the federal social security act or to qualified medicare benefici-
20 aries, the amount payable for services under this title shall be eight-
21 y-five percent of the amount of any co-insurance liability of such
22 eligible persons pursuant to federal law if they were not eligible for
23 medical assistance or were not qualified medicare beneficiaries with
24 respect to such benefits under such part B; provided, however, amounts
25 payable under this title for items and services provided to eligible
26 persons who are also beneficiaries under part B or to qualified medicare
27 beneficiaries by an ambulance service under the authority of an operat-
28 ing certificate issued pursuant to article thirty of the public health
29 law, or a psychologist licensed under article one hundred fifty-three of
30 the education law, shall not be less than the amount of any co-insurance
31 liability of such eligible persons or such qualified medicare benefici-
32 aries, or for which such eligible persons or such qualified medicare
33 beneficiaries would be liable under federal law were they not eligible
34 for medical assistance or were they not qualified medicare beneficiaries
35 with respect to such benefits under part B.
36 § 17. Subdivision 2-b of section 365-l of the social services law, as
37 added by section 25 of part B of chapter 57 of the laws of 2015, is
38 amended to read as follows:
39 2-b. The commissioner is authorized to make [grants] lump sum
40 payments or adjust rates of payment to providers up to a gross amount of
41 five million dollars, to establish coordination between the health homes
42 and the criminal justice system and for the integration of information
43 of health homes with state and local correctional facilities, to the
44 extent permitted by law. Such rate adjustments may be made to health
45 homes participating in a criminal justice pilot program with the purpose
46 of enrolling incarcerated individuals with serious mental illness, two
47 or more chronic conditions, including substance abuse disorders, or
48 HIV/AIDS, into such health home. Health homes receiving funds under this
49 subdivision shall be required to document and demonstrate the effective
50 use of funds distributed herein.
51 § 18. Subdivision 1 of section 92 of part H of chapter 59 of the laws
52 of 2011, amending the public health law and other laws relating to known
53 and projected department of health state fund medicaid expenditures, as
54 amended by section 8 of part B of chapter 57 of the laws of 2015, is
55 amended to read as follows:

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1 1. For state fiscal years 2011-12 through [2016-17] 2017-18, the
2 director of the budget, in consultation with the commissioner of health
3 referenced as "commissioner" for purposes of this section, shall assess
4 on a monthly basis, as reflected in monthly reports pursuant to subdivi-
5 sion five of this section known and projected department of health state
6 funds medicaid expenditures by category of service and by geographic
7 regions, as defined by the commissioner, and if the director of the
8 budget determines that such expenditures are expected to cause medicaid
9 disbursements for such period to exceed the projected department of
10 health medicaid state funds disbursements in the enacted budget finan-
11 cial plan pursuant to subdivision 3 of section 23 of the state finance
12 law, the commissioner of health, in consultation with the director of
13 the budget, shall develop a medicaid savings allocation plan to limit
14 such spending to the aggregate limit level specified in the enacted
15 budget financial plan, provided, however, such projections may be
16 adjusted by the director of the budget to account for any changes in the
17 New York state federal medical assistance percentage amount established
18 pursuant to the federal social security act, changes in provider reven-
19 ues, reductions to local social services district medical assistance
20 administration, and beginning April 1, 2012 the operational costs of the
21 New York state medical indemnity fund and state costs or savings from
22 the basic health plan. Such projections may be adjusted by the director
23 of the budget to account for increased or expedited department of health
24 state funds medicaid expenditures as a result of a natural or other type
25 of disaster, including a governmental declaration of emergency.
26 § 19. Subdivision 5 of section 92 of part H of chapter 59 of the laws
27 of 2011 amending the public health law and other laws relating to known
28 and projected department of health state fund medicaid expenditures, is
29 amended by adding a new paragraph (g) to read as follows:
30 (g) any material impact to the global cap annual projection, along
31 with an explanation of the variance from the projection at the time of
32 the enacted budget. Such material impacts shall include, but not be
33 limited to, policy and programmatic changes, significant transactions,
34 and any actions taken, administrative or otherwise, which would mate-
35 rially impact expenditures under the global cap. Reporting requirements
36 under this paragraph shall include material impacts from the preceding
37 month and any anticipated material impacts for the month in which the
38 report required under this subdivision is issued, as well as anticipated
39 material impacts for the month subsequent to such report.
40 § 20. Clauses 2 and 3 of subparagraph (v) of paragraph (b) of subdivi-
41 sion 7 of section 4403-f of the public health law, as amended by section
42 48 of part A of chapter 56 of the laws of 2013, are amended and four new
43 subparagraphs (v-a), (v-b), (v-c), and (v-d) are added to read as
44 follows:
45 (2) a participant in the traumatic brain injury waiver program or a
46 person whose circumstances would qualify him or her for the program as
47 it existed on January first, two thousand fifteen;
48 (3) a participant in the nursing home transition and diversion waiver
49 program or a person whose circumstances would qualify him or her for the
50 program as it existed on January first, two thousand fifteen;
51 (v-a) For purposes of clause two of subparagraph (v) of this para-
52 graph, program features shall be substantially comparable to those
53 services available to traumatic brain injury waiver participants as of
54 January first, two thousand fifteen, subject to federal financial
55 participation.

1 (v-b) For purposes of clause three of subparagraph (v) of this para-
2 graph, program features shall be substantially comparable to those
3 services offered to nursing home transition and diversion waiver partic-
4 ipants as of January first, two thousand fifteen, subject to federal
5 financial participation.
6 (v-c) Any managed care program providing services under clause two or
7 three of subparagraph (v) of this paragraph shall have an adequate
8 network of trained providers to meet the needs of enrollees and provide
9 services under this subdivision.
10 (v-d) Any individual providing service coordination pursuant to
11 subparagraph (v-a) or (v-b) of this paragraph shall exercise his or her
12 professional duties in the interests of the patient. Nothing in this
13 subparagraph shall be construed as diminishing the authority and obli-
14 gations of a managed long term care plan under this article and article
15 forty-nine of this chapter.
16 § 20-a. Subdivision 3 of section 364-j of the social services law is
17 amended by adding a new paragraph (d-2) to read as follows:
18 (d-2) Services provided pursuant to waivers, granted pursuant to
19 subsection (c) of section 1915 of the federal social security act, to
20 persons suffering from traumatic brain injuries or qualifying for nurs-
21 ing home diversion and transition services, shall not be provided to
22 medical assistance recipients through managed care programs until at
23 least January first, two thousand eighteen.
24 § 21. Subdivision 8 of section 4403-f of the public health law, as
25 amended by section 40-a of part B of chapter 57 of the laws of 2015, is
26 amended to read as follows:
27 8. Payment rates for managed long term care plan enrollees eligible
28 for medical assistance. The commissioner shall establish payment rates
29 for services provided to enrollees eligible under title XIX of the
30 federal social security act. Such payment rates shall be subject to
31 approval by the director of the division of the budget and shall reflect
32 savings to both state and local governments when compared to costs which
33 would be incurred by such program if enrollees were to receive compara-
34 ble health and long term care services on a fee-for-service basis in the
35 geographic region in which such services are proposed to be provided.
36 Payment rates shall be risk-adjusted to take into account the character-
37 istics of enrollees, or proposed enrollees, including, but not limited
38 to: frailty, disability level, health and functional status, age,
39 gender, the nature of services provided to such enrollees, and other
40 factors as determined by the commissioner. The risk adjusted premiums
41 may also be combined with disincentives or requirements designed to
42 mitigate any incentives to obtain higher payment categories. In setting
43 such payment rates, the commissioner shall consider costs borne by the
44 managed care program to ensure actuarially sound and adequate rates of
45 payment to ensure quality of care shall comply with all applicable laws
46 and regulations, state and federal, including regulations as to actuari-
47 al soundness for medicaid managed care.
48 § 21-a. Subdivision 1-a of section 366 of the social services law, as
49 added by chapter 355 of the laws of 2007, is amended to read as follows:
50 1-a. Notwithstanding any other provision of law, in the event that a
51 person who is an inmate of a state or local correctional facility, as
52 defined in section two of the correction law, was in receipt of medical
53 assistance pursuant to this title immediately prior to being admitted to
54 such facility, such person shall remain eligible for medical assistance
55 while an inmate, except that no medical assistance shall be furnished
56 pursuant to this title for any care, services, or supplies provided

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1 during such time as the person is an inmate; provided, however, that
2 nothing herein shall be deemed as preventing the provision of medical
3 assistance for inpatient hospital services furnished to an inmate at a
4 hospital outside of the premises of such correctional facility or pursu-
5 ant to other federal authority authorizing the provision of medical
6 assistance to an inmate of a state or local correctional facility during
7 the thirty days prior to release, to the extent that federal financial
8 participation is available for the costs of such services. Upon release
9 from such facility, such person shall continue to be eligible for
10 receipt of medical assistance furnished pursuant to this title until
11 such time as the person is determined to no longer be eligible for
12 receipt of such assistance. To the extent permitted by federal law, the
13 time during which such person is an inmate shall not be included in any
14 calculation of when the person must recertify his or her eligibility for
15 medical assistance in accordance with this article. The state may seek
16 federal authority to provide medical assistance for transitional
17 services including but not limited to medical, prescription, and care
18 coordination services for high needs inmates in state and local correc-
19 tional facilities during the thirty days prior to release.
20 § 22. Notwithstanding any provision of law to the contrary, for rate
21 periods from April 1, 2016 through March 31, 2046, The Citadel Rehab and
22 Nursing Center at Kingsbridge, located at 3400 Cannon Place, Bronx, New
23 York 10463, shall receive one million dollars, annually, for the purpose
24 of reimbursing expenses related to a facility purchased and transferred
25 immediately following the operation of such facility under a court-ord-
26 ered receivership. Such reimbursement shall be state only Medicaid
27 payments and subject to cash receipts assessment, equity withdrawal
28 limitations and any other provisions of section 2808 of the public
29 health law that does not implicate capital reimbursement, and such
30 reimbursement shall be in addition to real property costs otherwise
31 reimbursable pursuant to section 2808 of the public health law.
32 § 23. Subparagraph (i) of paragraph (e-2) of subdivision 4 of section
33 2807-c of the public health law, as added by section 13 of part C of
34 chapter 58 of the laws of 2009, is amended to read as follows:
35 (i) For physical medical rehabilitation services and for chemical
36 dependency rehabilitation services, the operating cost component of such
37 rates shall reflect the use of two thousand five operating costs for
38 each respective category of services as reported by each facility to the
39 department prior to July first, two thousand nine and as adjusted for
40 inflation pursuant to paragraph (c) of subdivision ten of this section,
41 as otherwise modified by any applicable statute, provided, however, that
42 such two thousand five reported operating costs, but not including
43 reported direct medical education cost, shall, for rate-setting
44 purposes, be held to a ceiling of one hundred ten percent of the average
45 of such reported costs in the region in which the facility is located,
46 as determined pursuant to clause (E) of subparagraph [(iii)] (iv) of
47 paragraph (1) of this subdivision; and provided, further, that for phys-
48 ical medical rehabilitation services, the commissioner is authorized to
49 make adjustments to such rates for the purposes of reimbursing pediatric
50 ventilator services.
51 § 24. Restorative care unit demonstration program. 1. Notwithstanding
52 any law, rule or regulation to the contrary, the commissioner of health,
53 within amounts appropriated, shall implement a restorative care unit
54 demonstration program within one year of the effective date of this
55 section to reduce hospital admissions and readmissions from residential
56 health care facilities established pursuant to article 28 of the public

1 health law, through the establishment of restorative care units. Such
2 units shall provide higher-intensity treatment services for residents
3 who are at risk of hospitalization upon an acute change in condition,
4 and seek to improve the capacity of nursing facilities to identify and
5 treat higher acuity patients with multiple co-morbidities as effectively
6 as possible in-situ, rather than through admission to an acute care
7 facility. The unit shall utilize evidence based tools, as well as: (a) a
8 critical indicator monitoring system to evaluate performance indicators;
9 (b) patient-focused education to support advanced care planning and
10 palliative care decisions; and (c) protocols to effect care monitoring
11 practices designed to reduce the likelihood of change in patient status
12 conditions that may require acute care evaluation. A residential health
13 care facility, established pursuant to article 28 of the public health
14 law, wishing to establish restorative care units must contract with an
15 eligible applicant.
16 2. For the purposes of this section, an eligible applicant must at a
17 minimum meet the following criteria: (a) be a New York state entity in
18 good standing; and (b) have demonstrated experience and capacity in
19 developing and implementing a similar unit as described herein. An
20 eligible applicant for this demonstration program shall contract with a
21 residential health care facility, established pursuant to article 28 of
22 the public health law, with a license in good standing that: (i) employs
23 a nursing home administrator with at least two years operational experi-
24 ence; (ii) has a minimum of 160 certified beds; (iii) accepts reimburse-
25 ment pursuant to title XVIII and title XIX of the federal social securi-
26 ty act; (iv) has achieved at least a three star overall nursing home
27 compare rating from the Center for Medicare and Medicaid Services five-
28 star quality rating system; and (v) operates a discreet dedicated
29 restorative care unit with a minimum of 18 beds. Additionally, the
30 contracting facility must have at the time of application, and maintain
31 during the course of the demonstration, functional wireless internet
32 connectivity throughout the facility, including backup, with sufficient
33 bandwidth to support technological monitoring.
34 3. Restorative care units; requirements. Restorative care units shall
35 provide on-site healthcare services, including, but not limited to: (a)
36 radiology; (b) peripherally inserted central catheter insertion; (c)
37 blood sugar, hemoglobin/hematocrit, electrolytes and blood gases moni-
38 toring; (d) 12-lead transmissible electrocardiograms; (e) specialized
39 cardiac services, including rapid response teams, crash carts, and defi-
40 brillators; (f) telemedicine and telemetry which shall have the capabil-
41 ity to notify the user, in real time, when an urgent or emergent physio-
42 logical change has occurred in a patient's condition requiring
43 intervention, and to generate reports that can be accessed by any
44 provider, in real time, in any location to allow for immediate clinical
45 intervention.
46 4. Electronic health records. For the duration of the demonstration,
47 the restorative care unit shall utilize and maintain an electronic
48 health record system that connects to the local regional health informa-
49 tion organization to facilitate the exchange of health information.
50 5. The department of health shall monitor the quality and effective-
51 ness of the demonstration program in reducing hospital admissions and
52 readmissions over a three year period and shall report to the legisla-
53 ture, within one year of implementation, on the demonstration program's
54 effectiveness in providing a higher level of care at lower cost, and
55 include recommendations regarding the utilization of the restorative
56 care unit model in the state.

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1 § 25. Within one hundred twenty (120) days of the effective date of
2 this section, the department of civil service, in consultation with the
3 department of health, shall create a new title or titles and a new title
4 series, for a Medicaid Redesign Team Analyst, as a permanent competitive
5 class. The Medicaid Redesign Team Analyst series will be responsible for
6 programmatic duties related to health insurance program initiatives such
7 as implementation of new program initiative tasks, compliance monitoring
8 and providing technical assistance to state agencies and health care
9 providers.
10 § 26. Notwithstanding any inconsistent provision of sections 112 and
11 163 of the state finance law, or sections 142 and 143 of the economic
12 development law, or any other contrary provision of law, excepting the
13 responsible vendor requirements of the state finance law, including, but
14 not limited to, sections 163 and 139-k of the state finance law, the
15 commissioner of health is authorized to amend or otherwise extend the
16 terms of a contract awarded prior to the effective date and entered into
17 pursuant to subdivision 24 of section 206 of the public health law, as
18 added by section 39 of part C of chapter 58 of the laws of 2008, and a
19 contract awarded prior to the effective date and entered into to conduct
20 enrollment broker and conflict-free evaluation services for the Medicaid
21 program, both for a period of three years, without a competitive bid or
22 request for proposal process, upon determination that the existing
23 contractor is qualified to continue to provide such services, and
24 provided that efficiency savings are achieved during the period of
25 extension; and provided, further, that the department of health shall
26 submit a request for applications for such contract during the time
27 period specified in this section and may terminate the contract identi-
28 fied herein prior to expiration of the extension authorized by this
29 section.
30 § 27. Section 48 of part C of chapter 60 of the laws of 2014, author-
31 izing the commissioner of health to negotiate an extension of the terms
32 of the contract executed by the department of health for actuarial and
33 consulting services, is amended to read as follows:
34 § 48. Notwithstanding sections 112 and 163 of the state finance law,
35 excepting the responsible vendor requirements of the state finance law,
36 including, but not limited to, sections 163 and 139-k of the state
37 finance law, or any other contrary provision of law, the commissioner of
38 health is authorized to negotiate an extension of the terms of the
39 contract executed by the department of health for actuarial and consult-
40 ing services, on September 18, 2009, without a competitive bid or
41 request for proposal process; provided, however, such extension shall
42 not extend beyond December 31, [2016] 2017; provided, however, that the
43 department of health shall submit a request for applications for such
44 contract during the time period specified in this section and may termi-
45 nate the contract identified herein prior to expiration of the extension
46 authorized by this section.
47 § 28. Subdivision 9 of section 365-l of the social services law, as
48 amended by section 35 of part C of chapter 60 of the laws of 2014, is
49 amended to read as follows:
50 9. The contract entered into by the commissioner of health prior to
51 January first, two thousand thirteen pursuant to subdivision eight of
52 this section may be amended or modified without the need for a compet-
53 itive bid or request for proposal process, and without regard to the
54 provisions of sections one hundred twelve and one hundred sixty-three of
55 the state finance law, section one hundred forty-two of the economic
56 development law, or any other provision of law, excepting the responsi-

1 ble vendor requirements of the state finance law, including, but not
2 limited to, sections one hundred sixty-three and one hundred thirty-
3 nine-k of the state finance law, to allow the purchase of additional
4 personnel and services, subject to available funding, for the limited
5 purpose of assisting the department of health with implementing the
6 Balancing Incentive Program, the Fully Integrated Duals Advantage
7 Program, the Vital Access Provider Program, the Medicaid waiver amend-
8 ment associated with the public hospital transformation, the addition of
9 behavioral health services as a managed care plan benefit, the delivery
10 system reform incentive payment plan, activities to facilitate the tran-
11 sition of vulnerable populations to managed care and/or any workgroups
12 required to be established by the chapter of the laws of two thousand
13 thirteen that added this subdivision. The department is authorized to
14 extend such contract for a period of one year, without a competitive bid
15 or request for proposal process, upon determination that the existing
16 contractor is qualified to continue to provide such services; provided,
17 however, that the department of health shall submit a request for appli-
18 cations for such contract during the time period specified in this
19 subdivision and may terminate the contract identified herein prior to
20 expiration of the extension authorized by this subdivision.
21 § 29. Section 48-a of part A of chapter 56 of the laws of 2013 amend-
22 ing chapter 59 of the laws of 2011 amending the public health law and
23 other laws relating to general hospital reimbursement for annual rates
24 relating to the cap on local Medicaid expenditures, as amended by
25 section 1 of part C of chapter 57 of the laws of 2015, is amended to
26 read as follows:
27 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-
28 sioners of the office of alcoholism and substance abuse services and the
29 office of mental health are authorized, subject to the approval of the
30 director of the budget, to transfer to the commissioner of health state
31 funds to be utilized as the state share for the purpose of increasing
32 payments under the medicaid program to managed care organizations
33 licensed under article 44 of the public health law or under article 43
34 of the insurance law. Such managed care organizations shall utilize such
35 funds for the purpose of reimbursing providers licensed pursuant to
36 article 28 of the public health law or article 31 or 32 of the mental
37 hygiene law for ambulatory behavioral health services, as determined by
38 the commissioner of health, in consultation with the commissioner of
39 alcoholism and substance abuse services and the commissioner of the
40 office of mental health, provided to medicaid eligible outpatients. Such
41 reimbursement shall be in the form of fees for such services which are
42 equivalent to the payments established for such services under the ambu-
43 latory patient group (APG) rate-setting methodology as utilized by the
44 department of health, the office of alcoholism and substance abuse
45 services, or the office of mental health for rate-setting purposes;
46 provided, however, that the increase to such fees that shall result from
47 the provisions of this section shall not, in the aggregate and as deter-
48 mined by the commissioner of health, in consultation with the commis-
49 sioner of alcoholism and substance abuse services and the commissioner
50 of the office of mental health, be greater than the increased funds made
51 available pursuant to this section. The increase of such ambulatory
52 behavioral health fees to providers available under this section shall
53 be for all rate periods on and after the effective date of section [13]
54 1 of part C of chapter [60] 57 of the laws of [2014] 2015 through [June
55 30, 2017] March 31, 2018 for patients in the city of New York, for all
56 rate periods on and after the effective date of section [13] 1 of part C

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1 of chapter [60] 57 of the laws of [2014] 2015 through [December 31,
2 2017] June 30, 2018 for patients outside the city of New York, and for
3 all rate periods on and after the effective date of such chapter through
4 [December 31, 2017] June 30, 2018 for all services provided to persons
5 under the age of twenty-one; provided, however, [that managed] eligible
6 providers may work with managed care plans to achieve quality and effi-
7 ciency objectives and engage in shared savings. Nothing in this section
8 shall prohibit managed care organizations and providers [may negotiate]
9 from negotiating different rates and methods of payment during such
10 periods described above, subject to the approval of the department of
11 health. The department of health shall consult with the office of alco-
12 holism and substance abuse services and the office of mental health in
13 determining whether such alternative rates shall be approved. The
14 commissioner of health may, in consultation with the commissioner of
15 alcoholism and substance abuse services and the commissioner of the
16 office of mental health, promulgate regulations, including emergency
17 regulations promulgated prior to October 1, 2015 to establish rates for
18 ambulatory behavioral health services, as are necessary to implement the
19 provisions of this section. Rates promulgated under this section shall
20 be included in the report required under section 45-c of part A of this
21 chapter.
22 2. Notwithstanding any contrary provision of law, the fees paid by
23 managed care organizations licensed under article 44 of the public
24 health law or under article 43 of the insurance law, to providers
25 licensed pursuant to article 28 of the public health law or article 31
26 or 32 of the mental hygiene law, for ambulatory behavioral health
27 services provided to patients enrolled in the child health insurance
28 program pursuant to title one-A of article 25 of the public health law,
29 shall be in the form of fees for such services which are equivalent to
30 the payments established for such services under the ambulatory patient
31 group (APG) rate-setting methodology. The commissioner of health shall
32 consult with the commissioner of alcoholism and substance abuse services
33 and the commissioner of the office of mental health in determining such
34 services and establishing such fees. Such ambulatory behavioral health
35 fees to providers available under this section shall be for all rate
36 periods on and after the effective date of this chapter through [Decem-
37 ber 31, 2017] June 30, 2018, provided, however, that managed care organ-
38 izations and providers may negotiate different rates and methods of
39 payment during such periods described above, subject to the approval of
40 the department of health. The department of health shall consult with
41 the office of alcoholism and substance abuse services and the office of
42 mental health in determining whether such alternative rates shall be
43 approved. The report required under section 16-a of part C of chapter
44 60 of the laws of 2014 shall also include the population of patients
45 enrolled in the child health insurance program pursuant to title one-A
46 of article 25 of the public health law in its examination on the transi-
47 tion of behavioral health services into managed care.
48 § 30. Section 1 of part H of chapter 111 of the laws of 2010 relating
49 to increasing Medicaid payments to providers through managed care organ-
50 izations and providing equivalent fees through an ambulatory patient
51 group methodology, as amended by section 2 of part C of chapter 57 of
52 the laws of 2015, is amended to read as follows:
53 Section 1. a. Notwithstanding any contrary provision of law, the
54 commissioners of mental health and alcoholism and substance abuse
55 services are authorized, subject to the approval of the director of the
56 budget, to transfer to the commissioner of health state funds to be

1 utilized as the state share for the purpose of increasing payments under
2 the medicaid program to managed care organizations licensed under arti-
3 cle 44 of the public health law or under article 43 of the insurance
4 law. Such managed care organizations shall utilize such funds for the
5 purpose of reimbursing providers licensed pursuant to article 28 of the
6 public health law, or pursuant to article 31 or article 32 of the mental
7 hygiene law for ambulatory behavioral health services, as determined by
8 the commissioner of health in consultation with the commissioner of
9 mental health and commissioner of alcoholism and substance abuse
10 services, provided to medicaid eligible outpatients. Such reimbursement
11 shall be in the form of fees for such services which are equivalent to
12 the payments established for such services under the ambulatory patient
13 group (APG) rate-setting methodology as utilized by the department of
14 health or by the office of mental health or office of alcoholism and
15 substance abuse services for rate-setting purposes; provided, however,
16 that the increase to such fees that shall result from the provisions of
17 this section shall not, in the aggregate and as determined by the
18 commissioner of health in consultation with the commissioners of mental
19 health and alcoholism and substance abuse services, be greater than the
20 increased funds made available pursuant to this section. The increase of
21 such behavioral health fees to providers available under this section
22 shall be for all rate periods on and after the effective date of section
23 [15] 2 of part C of chapter [60] 57 of the laws of [2014] 2015 through
24 [June 30, 2017] March 31, 2018 for patients in the city of New York, for
25 all rate periods on and after the effective date of section [15] 2 of
26 part C of chapter [60] 57 of the laws of [2014] 2015 through [December
27 31, 2017] June 30, 2018 for patients outside the city of New York, and
28 for all rate periods on and after the effective date of section [15] 2
29 of part C of chapter [60] 57 of the laws of [2014] 2015 through [Decem-
30 ber 31, 2017] June 30, 2018 for all services provided to persons under
31 the age of twenty-one; provided, however, [that managed] eligible
32 providers may work with managed care plans to achieve quality and effi-
33 ciency objectives and engage in shared savings. Nothing in this section
34 shall prohibit managed care organizations and providers [may negotiate]
35 from negotiating different rates and methods of payment during such
36 periods described, subject to the approval of the department of health.
37 The department of health shall consult with the office of alcoholism and
38 substance abuse services and the office of mental health in determining
39 whether such alternative rates shall be approved. The commissioner of
40 health may, in consultation with the commissioners of mental health and
41 alcoholism and substance abuse services, promulgate regulations, includ-
42 ing emergency regulations promulgated prior to October 1, 2013 that
43 establish rates for behavioral health services, as are necessary to
44 implement the provisions of this section. Rates promulgated under this
45 section shall be included in the report required under section 45-c of
46 part A of chapter 56 of the laws of 2013.
47 b. Notwithstanding any contrary provision of law, the fees paid by
48 managed care organizations licensed under article 44 of the public
49 health law or under article 43 of the insurance law, to providers
50 licensed pursuant to article 28 of the public health law or article 31
51 or 32 of the mental hygiene law, for ambulatory behavioral health
52 services provided to patients enrolled in the child health insurance
53 program pursuant to title one-A of article 25 of the public health law,
54 shall be in the form of fees for such services which are equivalent to
55 the payments established for such services under the ambulatory patient
56 group (APG) rate-setting methodology. The commissioner of health shall

1 consult with the commissioner of alcoholism and substance abuse services
2 and the commissioner of the office of mental health in determining such
3 services and establishing such fees. Such ambulatory behavioral health
4 fees to providers available under this section shall be for all rate
5 periods on and after the effective date of this chapter through [Decem-
6 ber 31, 2017] June 30, 2018, provided, however, that managed care organ-
7 izations and providers may negotiate different rates and methods of
8 payment during such periods described above, subject to the approval of
9 the department of health. The department of health shall consult with
10 the office of alcoholism and substance abuse services and the office of
11 mental health in determining whether such alternative rates shall be
12 approved. The report required under section 16-a of part C of chapter
13 60 of the laws of 2014 shall also include the population of patients
14 enrolled in the child health insurance program pursuant to title one-A
15 of article 25 of the public health law in its examination on the transi-
16 tion of behavioral health services into managed care.
17 § 31. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after April 1, 2016; provided
19 that:
20 (a) section eleven of this act shall expire and be deemed repealed
21 March 31, 2018;
22 (b) the amendments to paragraph (e) of subdivision 7 of section 367-a
23 of the social services law, made by sections twelve and thirteen of this
24 act shall not affect the repeal of such paragraph and shall be deemed
25 repealed therewith;
26 (c) subdivisions 26-a and 32 of section 364-j of the social services
27 law, as added by sections fourteen and fifteen of this act shall be
28 deemed repealed on the same date and in the same manner as such section
29 is repealed;
30 (d) the amendments to subdivisions 7 and 8 of section 4403-f of the
31 public health law, made by sections twenty and twenty-one of this act,
32 shall not affect the expiration of such subdivision 7 or the repeal of
33 such section, and shall expire or be deemed repealed therewith;
34 (e) section sixteen of this act shall take effect July 1, 2016;
35 (f) the amendments to section 364-j of the social services law, made
36 by section twenty-a of this act shall not affect the repeal of such
37 section and shall be deemed repealed therewith; and
38 (g) the amendments to section 48-a of part A of chapter 56 of the laws
39 of 2013 made by section twenty-nine of this act and the amendments to
40 section 1 of part H of chapter 111 of the laws of 2010 made by section
41 thirty of this act shall not affect the expiration of such sections and
42 shall be deemed to expire therewith.

43 PART C

44 Section 1. Intentionally omitted.
45 § 2. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of
46 the laws of 1986, amending the civil practice law and rules and other
47 laws relating to malpractice and professional medical conduct, as
48 amended by section 1 of part Y of chapter 57 of the laws of 2015, is
49 amended to read as follows:
50 (a) The superintendent of financial services and the commissioner of
51 health or their designee shall, from funds available in the hospital
52 excess liability pool created pursuant to subdivision 5 of this section,
53 purchase a policy or policies for excess insurance coverage, as author-
54 ized by paragraph 1 of subsection (e) of section 5502 of the insurance

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1 law; or from an insurer, other than an insurer described in section 5502
2 of the insurance law, duly authorized to write such coverage and actual-
3 ly writing medical malpractice insurance in this state; or shall
4 purchase equivalent excess coverage in a form previously approved by the
5 superintendent of financial services for purposes of providing equiv-
6 alent excess coverage in accordance with section 19 of chapter 294 of
7 the laws of 1985, for medical or dental malpractice occurrences between
8 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
9 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
10 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
11 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
12 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
13 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
14 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
15 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
16 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
17 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
18 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
19 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
20 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
21 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
22 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
23 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
24 1, 2014 and June 30, 2015, [and] between July 1, 2015 and June 30, 2016,
25 and between July 1, 2016 and June 30, 2017 or reimburse the hospital
26 where the hospital purchases equivalent excess coverage as defined in
27 subparagraph (i) of paragraph (a) of subdivision 1-a of this section for
28 medical or dental malpractice occurrences between July 1, 1987 and June
29 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
30 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
31 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
32 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
33 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
34 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
35 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
36 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
37 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
38 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
39 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
40 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
41 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
42 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
43 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
44 between July 1, 2014 and June 30, 2015, [and] between July 1, 2015 and
45 June 30, 2016, and between July 1, 2016 and June 30, 2017 for physicians
46 or dentists certified as eligible for each such period or periods pursu-
47 ant to subdivision 2 of this section by a general hospital licensed
48 pursuant to article 28 of the public health law; provided that no single
49 insurer shall write more than fifty percent of the total excess premium
50 for a given policy year; and provided, however, that such eligible
51 physicians or dentists must have in force an individual policy, from an
52 insurer licensed in this state of primary malpractice insurance coverage
53 in amounts of no less than one million three hundred thousand dollars
54 for each claimant and three million nine hundred thousand dollars for
55 all claimants under that policy during the period of such excess cover-
56 age for such occurrences or be endorsed as additional insureds under a

1 hospital professional liability policy which is offered through a volun-
2 tary attending physician ("channeling") program previously permitted by
3 the superintendent of financial services during the period of such
4 excess coverage for such occurrences. During such period, such policy
5 for excess coverage or such equivalent excess coverage shall, when
6 combined with the physician's or dentist's primary malpractice insurance
7 coverage or coverage provided through a voluntary attending physician
8 ("channeling") program, total an aggregate level of two million three
9 hundred thousand dollars for each claimant and six million nine hundred
10 thousand dollars for all claimants from all such policies with respect
11 to occurrences in each of such years provided, however, if the cost of
12 primary malpractice insurance coverage in excess of one million dollars,
13 but below the excess medical malpractice insurance coverage provided
14 pursuant to this act, exceeds the rate of nine percent per annum, then
15 the required level of primary malpractice insurance coverage in excess
16 of one million dollars for each claimant shall be in an amount of not
17 less than the dollar amount of such coverage available at nine percent
18 per annum; the required level of such coverage for all claimants under
19 that policy shall be in an amount not less than three times the dollar
20 amount of coverage for each claimant; and excess coverage, when combined
21 with such primary malpractice insurance coverage, shall increase the
22 aggregate level for each claimant by one million dollars and three
23 million dollars for all claimants; and provided further, that, with
24 respect to policies of primary medical malpractice coverage that include
25 occurrences between April 1, 2002 and June 30, 2002, such requirement
26 that coverage be in amounts no less than one million three hundred thou-
27 sand dollars for each claimant and three million nine hundred thousand
28 dollars for all claimants for such occurrences shall be effective April
29 1, 2002.
30 § 3. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
31 amending the civil practice law and rules and other laws relating to
32 malpractice and professional medical conduct, as amended by section 2 of
33 part Y of chapter 57 of the laws of 2015, is amended to read as follows:
34 (3)(a) The superintendent of financial services shall determine and
35 certify to each general hospital and to the commissioner of health the
36 cost of excess malpractice insurance for medical or dental malpractice
37 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
38 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
39 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
40 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
41 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
42 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
43 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
44 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
45 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
46 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
47 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
48 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
49 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
50 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
51 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
52 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
53 30, 2015, [and] between July 1, 2015 and June 30, 2016, and between July
54 1, 2016 and June 30, 2017 allocable to each general hospital for physi-
55 cians or dentists certified as eligible for purchase of a policy for
56 excess insurance coverage by such general hospital in accordance with

1 subdivision 2 of this section, and may amend such determination and
2 certification as necessary.
3 (b) The superintendent of financial services shall determine and
4 certify to each general hospital and to the commissioner of health the
5 cost of excess malpractice insurance or equivalent excess coverage for
6 medical or dental malpractice occurrences between July 1, 1987 and June
7 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
8 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
9 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
10 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
11 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
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13 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
14 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
15 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
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17 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
18 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
19 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
20 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
21 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
22 between July 1, 2014 and June 30, 2015, [and] between July 1, 2015 and
23 June 30, 2016, and between July 1, 2016 and June 30, 2017 allocable to
24 each general hospital for physicians or dentists certified as eligible
25 for purchase of a policy for excess insurance coverage or equivalent
26 excess coverage by such general hospital in accordance with subdivision
27 2 of this section, and may amend such determination and certification as
28 necessary. The superintendent of financial services shall determine and
29 certify to each general hospital and to the commissioner of health the
30 ratable share of such cost allocable to the period July 1, 1987 to
31 December 31, 1987, to the period January 1, 1988 to June 30, 1988, to
32 the period July 1, 1988 to December 31, 1988, to the period January 1,
33 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989,
34 to the period January 1, 1990 to June 30, 1990, to the period July 1,
35 1990 to December 31, 1990, to the period January 1, 1991 to June 30,
36 1991, to the period July 1, 1991 to December 31, 1991, to the period
37 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December
38 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period
39 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June
40 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period
41 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December
42 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period
43 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June
44 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period
45 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December
46 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period
47 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June
48 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period
49 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,
50 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,
51 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to
52 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006
53 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the
54 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and
55 June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the
56 period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and

1 June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the
2 period July 1, 2014 and June 30, 2015, [and] to the period July 1, 2015
3 and June 30, 2016, and between July 1, 2016 and June 30, 2017.
4 § 4. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
5 18 of chapter 266 of the laws of 1986, amending the civil practice law
6 and rules and other laws relating to malpractice and professional
7 medical conduct, as amended by section 3 of part Y of chapter 57 of the
8 laws of 2015, are amended to read as follows:
9 (a) To the extent funds available to the hospital excess liability
10 pool pursuant to subdivision 5 of this section as amended, and pursuant
11 to section 6 of part J of chapter 63 of the laws of 2001, as may from
12 time to time be amended, which amended this subdivision, are insuffi-
13 cient to meet the costs of excess insurance coverage or equivalent
14 excess coverage for coverage periods during the period July 1, 1992 to
15 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
16 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
17 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
18 during the period July 1, 1997 to June 30, 1998, during the period July
19 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
20 2000, during the period July 1, 2000 to June 30, 2001, during the period
21 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
22 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
23 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
24 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
25 during the period July 1, 2006 to June 30, 2007, during the period July
26 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
27 2009, during the period July 1, 2009 to June 30, 2010, during the period
28 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
29 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
30 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
31 June 30, 2015, [and] during the period July 1, 2015 and June 30, 2016,
32 and between July 1, 2016 and June 30, 2017 allocated or reallocated in
33 accordance with paragraph (a) of subdivision 4-a of this section to
34 rates of payment applicable to state governmental agencies, each physi-
35 cian or dentist for whom a policy for excess insurance coverage or
36 equivalent excess coverage is purchased for such period shall be respon-
37 sible for payment to the provider of excess insurance coverage or equiv-
38 alent excess coverage of an allocable share of such insufficiency, based
39 on the ratio of the total cost of such coverage for such physician to
40 the sum of the total cost of such coverage for all physicians applied to
41 such insufficiency.
42 (b) Each provider of excess insurance coverage or equivalent excess
43 coverage covering the period July 1, 1992 to June 30, 1993, or covering
44 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
45 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
46 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
47 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
48 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
49 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
50 the period July 1, 2001 to October 29, 2001, or covering the period
51 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
52 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
53 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
54 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
55 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
56 covering the period July 1, 2008 to June 30, 2009, or covering the peri-

1 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
2 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
3 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
4 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
5 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
6 covering the period July 1, 2016 to June 30, 2017 shall notify a covered
7 physician or dentist by mail, mailed to the address shown on the last
8 application for excess insurance coverage or equivalent excess coverage,
9 of the amount due to such provider from such physician or dentist for
10 such coverage period determined in accordance with paragraph (a) of this
11 subdivision. Such amount shall be due from such physician or dentist to
12 such provider of excess insurance coverage or equivalent excess coverage
13 in a time and manner determined by the superintendent of financial
14 services.
15 (c) If a physician or dentist liable for payment of a portion of the
16 costs of excess insurance coverage or equivalent excess coverage cover-
17 ing the period July 1, 1992 to June 30, 1993, or covering the period
18 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
19 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
20 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
21 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
22 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
23 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
24 od July 1, 2001 to October 29, 2001, or covering the period April 1,
25 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
26 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
27 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
28 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
29 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
30 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
31 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
32 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
33 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
34 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
35 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
36 the period July 1, 2016 to June 30, 2017 determined in accordance with
37 paragraph (a) of this subdivision fails, refuses or neglects to make
38 payment to the provider of excess insurance coverage or equivalent
39 excess coverage in such time and manner as determined by the superinten-
40 dent of financial services pursuant to paragraph (b) of this subdivi-
41 sion, excess insurance coverage or equivalent excess coverage purchased
42 for such physician or dentist in accordance with this section for such
43 coverage period shall be cancelled and shall be null and void as of the
44 first day on or after the commencement of a policy period where the
45 liability for payment pursuant to this subdivision has not been met.
46 (d) Each provider of excess insurance coverage or equivalent excess
47 coverage shall notify the superintendent of financial services and the
48 commissioner of health or their designee of each physician and dentist
49 eligible for purchase of a policy for excess insurance coverage or
50 equivalent excess coverage covering the period July 1, 1992 to June 30,
51 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
52 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
53 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
54 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
55 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
56 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,

1 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
2 ing the period April 1, 2002 to June 30, 2002, or covering the period
3 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
4 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
5 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
6 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
7 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
8 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
9 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
10 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
11 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
12 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
13 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017 that
14 has made payment to such provider of excess insurance coverage or equiv-
15 alent excess coverage in accordance with paragraph (b) of this subdivi-
16 sion and of each physician and dentist who has failed, refused or
17 neglected to make such payment.
18 (e) A provider of excess insurance coverage or equivalent excess
19 coverage shall refund to the hospital excess liability pool any amount
20 allocable to the period July 1, 1992 to June 30, 1993, and to the period
21 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
22 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
23 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
24 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
25 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
26 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
27 and to the period April 1, 2002 to June 30, 2002, and to the period July
28 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
29 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
30 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
31 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
32 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
33 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
34 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
35 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
36 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
37 2015 to June 30, 2016, and to the period July 1, 2016 to June 30, 2017
38 received from the hospital excess liability pool for purchase of excess
39 insurance coverage or equivalent excess coverage covering the period
40 July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to
41 June 30, 1994, and covering the period July 1, 1994 to June 30, 1995,
42 and covering the period July 1, 1995 to June 30, 1996, and covering the
43 period July 1, 1996 to June 30, 1997, and covering the period July 1,
44 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30,
45 1999, and covering the period July 1, 1999 to June 30, 2000, and cover-
46 ing the period July 1, 2000 to June 30, 2001, and covering the period
47 July 1, 2001 to October 29, 2001, and covering the period April 1, 2002
48 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003,
49 and covering the period July 1, 2003 to June 30, 2004, and covering the
50 period July 1, 2004 to June 30, 2005, and covering the period July 1,
51 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30,
52 2007, and covering the period July 1, 2007 to June 30, 2008, and cover-
53 ing the period July 1, 2008 to June 30, 2009, and covering the period
54 July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to
55 June 30, 2011, and covering the period July 1, 2011 to June 30, 2012,
56 and covering the period July 1, 2012 to June 30, 2013, and covering the

1 period July 1, 2013 to June 30, 2014, and covering the period July 1,
2 2014 to June 30, 2015, and covering the period July 1, 2015 to June 30,
3 2016, and covering the period July 1, 2016 to June 30, 2017 for a physi-
4 cian or dentist where such excess insurance coverage or equivalent
5 excess coverage is cancelled in accordance with paragraph (c) of this
6 subdivision.
7 § 5. Section 40 of chapter 266 of the laws of 1986, amending the civil
8 practice law and rules and other laws relating to malpractice and
9 professional medical conduct, as amended by section 4 of part Y of chap-
10 ter 57 of the laws of 2015, is amended to read as follows:
11 § 40. The superintendent of financial services shall establish rates
12 for policies providing coverage for physicians and surgeons medical
13 malpractice for the periods commencing July 1, 1985 and ending June 30,
14 [2016] 2017; provided, however, that notwithstanding any other provision
15 of law, the superintendent shall not establish or approve any increase
16 in rates for the period commencing July 1, 2009 and ending June 30,
17 2010. The superintendent shall direct insurers to establish segregated
18 accounts for premiums, payments, reserves and investment income attrib-
19 utable to such premium periods and shall require periodic reports by the
20 insurers regarding claims and expenses attributable to such periods to
21 monitor whether such accounts will be sufficient to meet incurred claims
22 and expenses. On or after July 1, 1989, the superintendent shall impose
23 a surcharge on premiums to satisfy a projected deficiency that is
24 attributable to the premium levels established pursuant to this section
25 for such periods; provided, however, that such annual surcharge shall
26 not exceed eight percent of the established rate until July 1, [2016]
27 2017, at which time and thereafter such surcharge shall not exceed twen-
28 ty-five percent of the approved adequate rate, and that such annual
29 surcharges shall continue for such period of time as shall be sufficient
30 to satisfy such deficiency. The superintendent shall not impose such
31 surcharge during the period commencing July 1, 2009 and ending June 30,
32 2010. On and after July 1, 1989, the surcharge prescribed by this
33 section shall be retained by insurers to the extent that they insured
34 physicians and surgeons during the July 1, 1985 through June 30, [2016]
35 2017 policy periods; in the event and to the extent physicians and
36 surgeons were insured by another insurer during such periods, all or a
37 pro rata share of the surcharge, as the case may be, shall be remitted
38 to such other insurer in accordance with rules and regulations to be
39 promulgated by the superintendent. Surcharges collected from physicians
40 and surgeons who were not insured during such policy periods shall be
41 apportioned among all insurers in proportion to the premium written by
42 each insurer during such policy periods; if a physician or surgeon was
43 insured by an insurer subject to rates established by the superintendent
44 during such policy periods, and at any time thereafter a hospital,
45 health maintenance organization, employer or institution is responsible
46 for responding in damages for liability arising out of such physician's
47 or surgeon's practice of medicine, such responsible entity shall also
48 remit to such prior insurer the equivalent amount that would then be
49 collected as a surcharge if the physician or surgeon had continued to
50 remain insured by such prior insurer. In the event any insurer that
51 provided coverage during such policy periods is in liquidation, the
52 property/casualty insurance security fund shall receive the portion of
53 surcharges to which the insurer in liquidation would have been entitled.
54 The surcharges authorized herein shall be deemed to be income earned for
55 the purposes of section 2303 of the insurance law. The superintendent,
56 in establishing adequate rates and in determining any projected defi-

1 ciency pursuant to the requirements of this section and the insurance
2 law, shall give substantial weight, determined in his discretion and
3 judgment, to the prospective anticipated effect of any regulations
4 promulgated and laws enacted and the public benefit of stabilizing
5 malpractice rates and minimizing rate level fluctuation during the peri-
6 od of time necessary for the development of more reliable statistical
7 experience as to the efficacy of such laws and regulations affecting
8 medical, dental or podiatric malpractice enacted or promulgated in 1985,
9 1986, by this act and at any other time. Notwithstanding any provision
10 of the insurance law, rates already established and to be established by
11 the superintendent pursuant to this section are deemed adequate if such
12 rates would be adequate when taken together with the maximum authorized
13 annual surcharges to be imposed for a reasonable period of time whether
14 or not any such annual surcharge has been actually imposed as of the
15 establishment of such rates.
16 § 6. Section 5 and subdivisions (a) and (e) of section 6 of part J of
17 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
18 1986, amending the civil practice law and rules and other laws relating
19 to malpractice and professional medical conduct, as amended by section 5
20 of part Y of chapter 57 of the laws of 2015, are amended to read as
21 follows:
22 § 5. The superintendent of financial services and the commissioner of
23 health shall determine, no later than June 15, 2002, June 15, 2003, June
24 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
25 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
26 2013, June 15, 2014, June 15, 2015, [and] June 15, 2016<u>, and June 15,</u>
27 <u>2017</u> the amount of funds available in the hospital excess liability
28 pool, created pursuant to section 18 of chapter 266 of the laws of 1986,
29 and whether such funds are sufficient for purposes of purchasing excess
30 insurance coverage for eligible participating physicians and dentists
31 during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June
32 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
33 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
34 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,
35 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,
36 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,
37 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
38 2015, or July 1, 2015 to June 30, 2016, <u>or July 1, 2016 to June 30, 2017</u>
39 as applicable.
40 (a) This section shall be effective only upon a determination, pursu-
41 ant to section five of this act, by the superintendent of financial
42 services and the commissioner of health, and a certification of such
43 determination to the state director of the budget, the chair of the
44 senate committee on finance and the chair of the assembly committee on
45 ways and means, that the amount of funds in the hospital excess liabil-
46 ity pool, created pursuant to section 18 of chapter 266 of the laws of
47 1986, is insufficient for purposes of purchasing excess insurance cover-
48 age for eligible participating physicians and dentists during the period
49 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
50 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
51 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
52 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
53 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
54 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
55 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
56 2016, <u>or July 1, 2016 to June 30, 2017</u> as applicable.

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1 (e) The commissioner of health shall transfer for deposit to the
2 hospital excess liability pool created pursuant to section 18 of chapter
3 266 of the laws of 1986 such amounts as directed by the superintendent
4 of financial services for the purchase of excess liability insurance
5 coverage for eligible participating physicians and dentists for the
6 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
7 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
8 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
9 2007, as applicable, and the cost of administering the hospital excess
10 liability pool for such applicable policy year, pursuant to the program
11 established in chapter 266 of the laws of 1986, as amended, no later
12 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
13 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
14 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
15 2015, [and] June 15, 2016, <u>and June 15, 2017</u> as applicable.
16 § 7. Notwithstanding any law, rule or regulation to the contrary, only
17 physicians or dentists who were eligible, and for whom the superinten-
18 dent of financial services and the commissioner of health, or their
19 designee, purchased, with funds available in the hospital excess liabil-
20 ity pool, a full or partial policy for excess coverage or equivalent
21 excess coverage for the coverage period ending the thirtieth of June,
22 two thousand sixteen, shall be eligible to apply for such coverage for
23 the coverage period beginning the first of July, two thousand sixteen;
24 provided, however, if the total number of physicians or dentists for
25 whom such excess coverage or equivalent excess coverage was purchased
26 for the policy year ending the thirtieth of June, two thousand sixteen
27 exceeds the total number of physicians or dentists certified as eligible
28 for the coverage period beginning the first of July, two thousand
29 sixteen, then the general hospitals may certify additional eligible
30 physicians or dentists in a number equal to such general hospital's
31 proportional share of the total number of physicians or dentists for
32 whom excess coverage or equivalent excess coverage was purchased with
33 funds available in the hospital excess liability pool as of the thirti-
34 eth of June, two thousand sixteen, as applied to the difference between
35 the number of eligible physicians or dentists for whom a policy for
36 excess coverage or equivalent excess coverage was purchased for the
37 coverage period ending the thirtieth of June, two thousand sixteen and
38 the number of such eligible physicians or dentists who have applied for
39 excess coverage or equivalent excess coverage for the coverage period
40 beginning the first of July, two thousand sixteen.
41 § 8. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2016, provided,
43 however, section two of this act shall take effect July 1, 2016.

44 PART D

45 Section 1. Paragraph (a) of subdivision 1 of section 212 of chapter
46 474 of the laws of 1996, amending the education law and other laws
47 relating to rates for residential healthcare facilities, as amended by
48 section 2 of part B of chapter 56 of the laws of 2013, is amended to
49 read as follows:
50 (a) Notwithstanding any inconsistent provision of law or regulation to
51 the contrary, effective beginning August 1, 1996, for the period April
52 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
53 1998 through March 31, 1999, August 1, 1999, for the period April 1,
54 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000

1 through March 31, 2001, April 1, 2001, for the period April 1, 2001
2 through March 31, 2002, April 1, 2002, for the period April 1, 2002
3 through March 31, 2003, and for the state fiscal year beginning April 1,
4 2005 through March 31, 2006, and for the state fiscal year beginning
5 April 1, 2006 through March 31, 2007, and for the state fiscal year
6 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
7 year beginning April 1, 2008 through March 31, 2009, and for the state
8 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
9 state fiscal year beginning April 1, 2010 through March 31, 2016, and
10 for the state fiscal year beginning April 1, 2016 through March 31,
11 2019, the department of health is authorized to pay public general
12 hospitals, as defined in subdivision 10 of section 2801 of the public
13 health law, operated by the state of New York or by the state university
14 of New York or by a county, which shall not include a city with a popu-
15 lation of over one million, of the state of New York, and those public
16 general hospitals located in the county of Westchester, the county of
17 Erie or the county of Nassau, additional payments for inpatient hospital
18 services as medical assistance payments pursuant to title 11 of article
19 5 of the social services law for patients eligible for federal financial
20 participation under title XIX of the federal social security act in
21 medical assistance pursuant to the federal laws and regulations govern-
22 ing disproportionate share payments to hospitals up to one hundred
23 percent of each such public general hospital's medical assistance and
24 uninsured patient losses after all other medical assistance, including
25 disproportionate share payments to such public general hospital for
26 1996, 1997, 1998, and 1999, based initially for 1996 on reported 1994
27 reconciled data as further reconciled to actual reported 1996 reconciled
28 data, and for 1997 based initially on reported 1995 reconciled data as
29 further reconciled to actual reported 1997 reconciled data, for 1998
30 based initially on reported 1995 reconciled data as further reconciled
31 to actual reported 1998 reconciled data, for 1999 based initially on
32 reported 1995 reconciled data as further reconciled to actual reported
33 1999 reconciled data, for 2000 based initially on reported 1995 recon-
34 ciled data as further reconciled to actual reported 2000 data, for 2001
35 based initially on reported 1995 reconciled data as further reconciled
36 to actual reported 2001 data, for 2002 based initially on reported 2000
37 reconciled data as further reconciled to actual reported 2002 data, and
38 for state fiscal years beginning on April 1, 2005, based initially on
39 reported 2000 reconciled data as further reconciled to actual reported
40 data for 2005, and for state fiscal years beginning on April 1, 2006,
41 based initially on reported 2000 reconciled data as further reconciled
42 to actual reported data for 2006, for state fiscal years beginning on
43 and after April 1, 2007 through March 31, 2009, based initially on
44 reported 2000 reconciled data as further reconciled to actual reported
45 data for 2007 and 2008, respectively, for state fiscal years beginning
46 on and after April 1, 2009, based initially on reported 2007 reconciled
47 data, adjusted for authorized Medicaid rate changes applicable to the
48 state fiscal year, and as further reconciled to actual reported data for
49 2009, for state fiscal years beginning on and after April 1, 2010, based
50 initially on reported reconciled data from the base year two years prior
51 to the payment year, adjusted for authorized Medicaid rate changes
52 applicable to the state fiscal year, and further reconciled to actual
53 reported data from such payment year, and to actual reported data for
54 each respective succeeding year. The payments may be added to rates of
55 payment or made as aggregate payments to an eligible public general
56 hospital.

1 § 2. Section 10 of chapter 649 of the laws of 1996, amending the
2 public health law, the mental hygiene law and the social services law
3 relating to authorizing the establishment of special needs plans, as
4 amended by section 20 of part D of chapter 59 of the laws of 2011, is
5 amended to read as follows:
6 § 10. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after July 1, 1996; provided,
8 however, that sections one, two and three of this act shall expire and
9 be deemed repealed on March 31, [2016] 2020 provided, however that the
10 amendments to section 364-j of the social services law made by section
11 four of this act shall not affect the expiration of such section and
12 shall be deemed to expire therewith and provided, further, that the
13 provisions of subdivisions 8, 9 and 10 of section 4401 of the public
14 health law, as added by section one of this act; section 4403-d of the
15 public health law as added by section two of this act and the provisions
16 of section seven of this act, except for the provisions relating to the
17 establishment of no more than twelve comprehensive HIV special needs
18 plans, shall expire and be deemed repealed on July 1, 2000.
19 § 3. Subdivision 8 of section 84 of part A of chapter 56 of the laws
20 of 2013, amending the public health law and other laws relating to
21 general hospital reimbursement for annual rates is REPEALED.
22 § 4. Subdivision (f) of section 129 of part C of chapter 58 of the
23 laws of 2009, amending the public health law relating to payment by
24 governmental agencies for general hospital inpatient services, as
25 amended by section 1 of part B of chapter 56 of the laws of 2013, is
26 amended to read as follows:
27 (f) section twenty-five of this act shall expire and be deemed
28 repealed April 1, [2016] 2019;
29 § 4-a. Section 2806-a of the public health law is amended by adding a
30 new subdivision 8 to read as follows:
31 8. The commissioner shall cause the temporary president of the senate,
32 the speaker of the assembly, and the chairs of the senate and the assem-
33 bly health committees to be notified of the appointment of a temporary
34 operator pursuant to paragraph (a) of subdivision two of this section
35 upon such appointment. Such notification shall include, but not be
36 limited to, the name of the established operator, the name of the
37 appointed temporary operator and a description of the reasons for such
38 appointment to the extent practicable under the circumstances and in the
39 sole discretion of the commissioner.
40 § 5. Subdivision (c) of section 122 of part E of chapter 56 of the
41 laws of 2013 amending the public health law relating to the general
42 public health work program, is amended to read as follows:
43 (c) section fifty of this act shall take effect immediately and shall
44 expire [three] six years after it becomes law;
45 § 5-a. Subdivision 2 of section 3-0317 of the environmental conserva-
46 tion law, as added by chapter 77 of the laws of 2010, is amended to read
47 as follows:
48 2. The department shall, pursuant to established security protocols,
49 provide to the department of health the GPS coordinates, category of
50 license or permit, facility identification number, and address on
51 current environmental facilities that are necessary for the department
52 of health to develop and maintain cancer incidence and environmental
53 facility maps required pursuant to section twenty-four hundred one-b of
54 the public health law, and shall provide any technical assistance neces-
55 sary for the development of such maps. The department, in consultation

1 with the department of health, shall update such data [periodically] <u>not</u>
2 <u>less than once every five years</u>.
3 § 5-b. Subdivision 9 of section 2401-b of the public health law, as
4 added by chapter 77 of the laws of 2010, is amended to read as follows:
5 9. The department shall make available to the public cancer incidence
6 and environmental facility maps in the manner described in subdivision
7 four of this section showing cancer clusters by cancer types. Prior to
8 plotting such data, the department shall use an appropriate statistical
9 method to detect statistical anomalies for the purpose of identifying
10 cancer clusters.
11 [(a)] The department shall make such maps available [as follows:
12 (i) by June thirtieth, two thousand twelve cancer types listed in
13 paragraphs (a) through (e) of subdivision five of this section;
14 (ii) by December thirty-first, two thousand twelve cancer types listed
15 in paragraphs (f) through (o) of subdivision five of this section; and
16 (iii) by June thirtieth, two thousand thirteen cancer types listed in
17 paragraphs (p) through (w) of subdivision five of this section.
18 (b) The department] <u>on its public website, and shall</u>, in consultation
19 with the department of environmental conservation, [shall] update the
20 maps [periodically.
21 (c) The department shall post these maps on its public website as soon
22 as practicable following the dates set forth in paragraph (a) of this
23 subdivision] <u>not less than once every five years</u>.
24 § 5-c. Section 5 of chapter 77 of the laws of 2010 amending the envi-
25 ronmental conservation law and the public health law relating to an
26 environmental facility and cancer incidence map, is amended to read as
27 follows:
28 § 5. This act shall take effect immediately and shall expire and be
29 deemed repealed March 31, [2016] <u>2022</u>.
30 § 6. Subdivision 4-a of section 71 of part C of chapter 60 of the laws
31 of 2014 amending the social services law relating to eliminating pres-
32 criber prevails for brand name drugs with generic equivalents, is
33 amended to read as follows:
34 4-a. section twenty-two of this act shall take effect April 1, 2014,
35 and shall be deemed expired January 1, [2017] <u>2018</u>;
36 § 7. This act shall take effect immediately and shall be deemed to
37 have been in full force and effect on and after April 1, 2016; provided,
38 however, that the amendments to section 2806-a of the public health law
39 made by section four-a of this act, the amendments to section 3-0317 of
40 the environmental conservation law made by section five-a of this act
41 and the amendments to section 2401-b of the public health law made by
42 section five-b of this act shall not affect the repeal of such sections
43 and shall be deemed repealed therewith.

44 PART E

45 Intentionally Omitted

46 PART F

47 Section 1. Notwithstanding any inconsistent provision of sections
48 2825-a, 2825-b and 2825-c of the public health law and section 2825-d of
49 the public health law as added by section two of this act, hereinafter
50 referred to as the eligible health care capital programs, and the
51 provisions of any other law to the contrary:

1 a. The dormitory authority of the state of New York (DASNY) and the
2 department of health (DOH) are authorized to make grants or loans in
3 support of debt restructuring, capital and non-capital projects or
4 purposes from the amounts appropriated for the eligible health care
5 capital programs; provided that such projects or purposes facilitate
6 health care transformation and are intended to create a financially
7 sustainable system of care. Grants or loans shall not be available to
8 support general operating expenses unconnected to such authorized
9 projects or purposes.
10 b. To the extent that a grant or a loan authorized pursuant to the
11 eligible health care capital programs or this section is determined to
12 not qualify under an eligible health care capital program or cannot be
13 funded with the proceeds of bonds issued pursuant to section 1680-r of
14 the public authorities law, the director of the budget is authorized to
15 make a determination to fund the project or purpose with proceeds of
16 moneys from the New York State Special Infrastructure Account appropri-
17 ation pursuant to chapter 54 of the laws of 2015, as amended.
18 c. To the extent that a grant authorized pursuant to the eligible
19 health care capital programs or this section can be funded with the
20 proceeds of bonds issued pursuant to section 1680-r of the public
21 authorities law, the director of the budget is authorized to make a
22 determination to fund the project or purpose with the proceeds of bonds
23 issued pursuant to section 1680-r of the public authorities law and any
24 such projects or purposes shall be approved by the New York state public
25 authorities control board, as required under section 51 of the public
26 authorities law.
27 d. The total amount of funds awarded may not exceed the total amounts
28 appropriated for the eligible health care capital programs.
29 e. If DASNY and DOH determine to make funds available in accordance
30 with subdivision a of this section as a loan, the director of the budget
31 is authorized to suballocate such funds to the Health Facility Restruc-
32 turing Pool and such funds would be used in accordance with section 2815
33 of the public health law. In no event shall the total of such suballo-
34 cations exceed ten percent of the total amounts appropriated for the
35 eligible health care capital programs.
36 f. DASNY and DOH will provide notice to the chair of the senate
37 finance committee and chair of the assembly ways and means committee no
38 later than thirty days prior to making an award pursuant to this act,
39 and such awards shall also be so noted in the quarterly reports required
40 pursuant to each of the eligible health care capital programs.
41 § 2. The public health law is amended by adding a new section 2825-d
42 to read as follows:
43 § 2825-d. Health care facility transformation program: statewide. 1.
44 A statewide health care facility transformation program is hereby estab-
45 lished under the joint administration of the commissioner and the presi-
46 dent of the dormitory authority of the state of New York for the purpose
47 of strengthening and protecting continued access to health care services
48 in communities. The program shall provide capital funding in support of
49 projects that replace inefficient and outdated facilities as part of a
50 merger, consolidation, acquisition or other significant corporate
51 restructuring activity that is part of an overall transformation plan
52 intended to create a financially sustainable system of care. The issu-
53 ance of any bonds or notes hereunder shall be subject to section sixteen
54 hundred eighty-r of the public authorities law and the approval of the
55 director of the division of the budget, and any projects funded through
56 the issuance of bonds or notes hereunder shall be approved by the New

1 York state public authorities control board, as required under section
2 fifty-one of the public authorities law.
3 2. The commissioner and the president of the authority shall enter
4 into an agreement, subject to approval by the director of the budget,
5 and subject to section sixteen hundred eighty-r of the public authori-
6 ties law, for the purposes of awarding, distributing, and administering
7 the funds made available pursuant to this section. Such funds may be
8 distributed by the commissioner and the president of the authority for
9 capital grants to general hospitals, residential health care facilities,
10 diagnostic and treatment centers and clinics licensed pursuant to this
11 chapter or the mental hygiene law, for capital non-operational works or
12 purposes that support the purposes set forth in this section. A copy of
13 such agreement, and any amendments thereto, shall be provided to the
14 chair of the senate finance committee, the chair of the assembly ways
15 and means committee, and the director of the division of budget no later
16 than thirty days prior to the release of a request for applications for
17 funding under this program. Priority shall be given to projects not
18 funded, in whole or in part, under section twenty-eight hundred twenty-
19 five or twenty-eight hundred twenty-five-c of this article. Projects
20 awarded, in whole or part, under sections twenty-eight hundred twenty-
21 five-a and twenty-eight hundred twenty-five-b of this article shall not
22 be eligible for grants or awards made available under this section.
23 3. Notwithstanding section one hundred sixty-three of the state
24 finance law or any inconsistent provision of law to the contrary, up to
25 two hundred million dollars of the funds appropriated for this program
26 shall be awarded without a competitive bid or request for proposal proc-
27 ess for capital grants to health care providers (hereafter "appli-
28 cants"). Provided however that a minimum of thirty million dollars of
29 total awarded funds shall be made to community-based health care provid-
30 ers, which, for purposes of this section shall be defined as a diagnos-
31 tic and treatment center licensed or granted an operating certificate
32 under this article; a mental health clinic licensed or granted an oper-
33 ating certificate under article thirty-one of the mental hygiene law; an
34 alcohol and substance abuse treatment clinic licensed or granted an
35 operating certificate under article thirty-two of the mental hygiene
36 law; primary care providers; or a home care provider certified or
37 licensed pursuant to article thirty-six of this chapter. Eligible
38 applicants shall be those deemed by the commissioner to be a provider
39 that fulfills or will fulfill a health care need for acute inpatient,
40 outpatient, primary, home care or residential health care services in a
41 community.
42 4. In determining awards for eligible applicants under this section,
43 the commissioner and the president of the authority shall consider
44 criteria including, but not limited to:
45 (a) the extent to which the proposed capital project will contribute
46 to the integration of health care services and long term sustainability
47 of the applicant or preservation of essential health services in the
48 community or communities served by the applicant;
49 (b) the extent to which the proposed project or purpose is aligned
50 with delivery system reform incentive payment ("DSRIP") program goals
51 and objectives;
52 (c) consideration of geographic distribution of funds;
53 (d) the relationship between the proposed capital project and identi-
54 fied community need;
55 (e) the extent to which the applicant has access to alternative
56 financing;

1 (f) the extent that the proposed capital project furthers the develop-
2 ment of primary care and other outpatient services;
3 (g) the extent to which the proposed capital project benefits Medicaid
4 enrollees and uninsured individuals;
5 (h) the extent to which the applicant has engaged the community
6 affected by the proposed capital project and the manner in which commu-
7 nity engagement has shaped such capital project; and
8 (i) the extent to which the proposed capital project addresses poten-
9 tial risk to patient safety and welfare.
10 5. Disbursement of awards made pursuant to this section shall be
11 conditioned on the awardee achieving certain process and performance
12 metrics and milestones as determined in the sole discretion of the
13 commissioner. Such metrics and milestones shall be structured to ensure
14 that the health care transformation and provider sustainability goals of
15 the project are achieved, and such metrics and milestones shall be
16 included in grant disbursement agreements or other contractual documents
17 as required by the commissioner.
18 6. The department shall provide a report on a quarterly basis to the
19 chairs of the senate finance, assembly ways and means, senate health and
20 assembly health committees. Such reports shall be submitted no later
21 than sixty days after the close of the quarter, and shall include, for
22 each award, the name of the applicant, a description of the project or
23 purpose, the amount of the award, disbursement date, and status of
24 achievement of process and performance metrics and milestones pursuant
25 to subdivision five of this section.
26 § 3. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 1, 2016.

28 PART G

29 Intentionally Omitted

30 PART H

31 Section 1. Section 1 of part D of chapter 111 of the laws of 2010
32 relating to the recovery of exempt income by the office of mental health
33 for community residences and family-based treatment programs, as amended
34 by section 1 of part JJ of chapter 58 of the laws of 2015, is amended to
35 read as follows:
36 Section 1. The office of mental health is authorized to recover fund-
37 ing from community residences and family-based treatment providers
38 licensed by the office of mental health, consistent with contractual
39 obligations of such providers, and notwithstanding any other inconsist-
40 ent provision of law to the contrary, in an amount equal to 50 percent
41 of the income received by such providers which exceeds the fixed amount
42 of annual Medicaid revenue limitations, as established by the commis-
43 sioner of mental health. Recovery of such excess income shall be for the
44 following fiscal periods: for programs in counties located outside of
45 the city of New York, the applicable fiscal periods shall be January 1,
46 2003 through December 31, 2009 and January 1, 2011 through December 31,
47 [2016] 2019; and for programs located within the city of New York, the
48 applicable fiscal periods shall be July 1, 2003 through June 30, 2010
49 and July 1, 2011 through June 30, [2016] 2019.
50 § 2. The office of mental health shall report on the providers
51 impacted by section one of this act. This information shall be submitted

1 annually to the governor, the temporary president of the senate and the
2 speaker of the assembly no later than December 31st of each year.
3 § 3. This act shall take effect immediately.

4 PART I

5 Section 1. Sections 19 and 21 of chapter 723 of the laws of 1989
6 amending the mental hygiene law and other laws relating to comprehensive
7 psychiatric emergency programs, as amended by section 1 of part K of
8 chapter 56 of the laws of 2012, are amended to read as follows:
9 § 19. Notwithstanding any other provision of law, the commissioner of
10 mental health shall, until July 1, [2016] 2020, be solely authorized, in
11 his or her discretion, to designate those general hospitals, local
12 governmental units and voluntary agencies which may apply and be consid-
13 ered for the approval and issuance of an operating certificate pursuant
14 to article 31 of the mental hygiene law for the operation of a compre-
15 hensive psychiatric emergency program.
16 § 21. This act shall take effect immediately, and sections one, two
17 and four through twenty of this act shall remain in full force and
18 effect, until July 1, [2016] 2020, at which time the amendments and
19 additions made by such sections of this act shall be deemed to be
20 repealed, and any provision of law amended by any of such sections of
21 this act shall revert to its text as it existed prior to the effective
22 date of this act.
23 § 2. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2016.

25 PART J

26 Section 1. Subdivision a of section 9 of chapter 420 of the laws of
27 2002 amending the education law relating to the profession of social
28 work, as amended by section 1 of part AA of chapter 57 of the laws of
29 2013, is amended to read as follows:
30 a. Nothing in this act shall prohibit or limit the activities or
31 services on the part of any person in the employ of a program or service
32 operated, regulated, funded, or approved by the department of mental
33 hygiene, the office of children and family services, the office of
34 temporary and disability assistance, the department of corrections and
35 community supervision, the state office for the aging, the department of
36 health, or a local governmental unit as that term is defined in article
37 41 of the mental hygiene law or a social services district as defined in
38 section 61 of the social services law, provided, however, this section
39 shall not authorize the use of any title authorized pursuant to article
40 154 of the education law, except that this section shall be deemed
41 repealed on July 1, [2016] 2018.
42 § 2. Subdivision a of section 17-a of chapter 676 of the laws of 2002
43 amending the education law relating to the practice of psychology, as
44 amended by section 2 of part AA of chapter 57 of the laws of 2013, is
45 amended to read as follows:
46 a. In relation to activities and services provided under article 153
47 of the education law, nothing in this act shall prohibit or limit such
48 activities or services on the part of any person in the employ of a
49 program or service operated, regulated, funded, or approved by the
50 department of mental hygiene or the office of children and family
51 services, or a local governmental unit as that term is defined in arti-
52 cle 41 of the mental hygiene law or a social services district as

1 defined in section 61 of the social services law. In relation to activ-
2 ities and services provided under article 163 of the education law,
3 nothing in this act shall prohibit or limit such activities or services
4 on the part of any person in the employ of a program or service oper-
5 ated, regulated, funded, or approved by the department of mental
6 hygiene, the office of children and family services, the department of
7 corrections and community supervision, the office of temporary and disa-
8 bility assistance, the state office for the aging and the department of
9 health or a local governmental unit as that term is defined in article
10 41 of the mental hygiene law or a social services district as defined in
11 section 61 of the social services law, pursuant to authority granted by
12 law. This section shall not authorize the use of any title authorized
13 pursuant to article 153 or 163 of the education law by any such employed
14 person, except as otherwise provided by such articles respectively.
15 This section shall be deemed repealed July 1, [2016] 2018.
16 § 3. Section 16 of chapter 130 of the laws of 2010 amending the educa-
17 tion law and other laws relating to the registration of entities provid-
18 ing certain professional services and the licensure of certain
19 professions, as amended by section 3 of part AA of chapter 57 of the
20 laws of 2013, is amended to read as follows:
21 § 16. This act shall take effect immediately; provided that sections
22 thirteen, fourteen and fifteen of this act shall take effect immediately
23 and shall be deemed to have been in full force and effect on and after
24 June 1, 2010 and such sections shall be deemed repealed July 1, [2016]
25 2018; provided further that the amendments to section 9 of chapter 420
26 of the laws of 2002 amending the education law relating to the profes-
27 sion of social work made by section thirteen of this act shall repeal on
28 the same date as such section repeals; provided further that the amend-
29 ments to section 17-a of chapter 676 of the laws of 2002 amending the
30 education law relating to the practice of psychology made by section
31 fourteen of this act shall repeal on the same date as such section
32 repeals.
33 § 4. This act shall take effect immediately.

34 PART K

35 Intentionally Omitted

36 PART L

37 Section 1. The mental hygiene law is amended by adding a new section
38 16.25 to read as follows:
39 § 16.25 Temporary operator.
40 (a) For the purposes of this section:
41 (1) "Established operator" shall mean the provider of services that
42 has been established and issued an operating certificate pursuant to
43 this article.
44 (2) "Extraordinary financial assistance" shall mean state funds
45 provided to, or requested by, a program for the express purpose of
46 preventing the closure of the program that the commissioner finds
47 provides essential and necessary services within the community.
48 (3) "Serious financial instability" shall include but not be limited
49 to defaulting or violating material covenants of bond issues, missed
50 mortgage payments, missed rent payments, a pattern of untimely payment
51 of debts, failure to pay its employees or vendors, insufficient funds to
52 meet the general operating expenses of the program, failure to maintain

1 required debt service coverage ratios and/or, as applicable, factors
2 that have triggered a written event of default notice to the office by
3 the dormitory authority of the state of New York.
4 (4) "Office" shall mean the office for people with developmental disa-
5 bilities.
6 (5) "Temporary operator" shall mean any provider of services that has
7 been established and issued an operating certificate pursuant to this
8 article or which is directly operated by the office, that:
9 a. agrees to provide services certified pursuant to this article on a
10 temporary basis in the best interests of its individuals served by the
11 program; and
12 b. has a history of compliance with applicable laws, rules, and regu-
13 lations and a record of providing care of good quality, as determined by
14 the commissioner; and
15 c. prior to appointment as temporary operator, develops a plan deter-
16 mined to be satisfactory by the commissioner to address the program's
17 deficiencies.
18 (b) (1) In the event that: (i) the established operator is seeking
19 extraordinary financial assistance; (ii) office collected data demon-
20 strates that the established operator is experiencing serious financial
21 instability issues; (iii) office collected data demonstrates that the
22 established operator's board of directors or administration is unable or
23 unwilling to ensure the proper operation of the program; or (iv) office
24 collected data indicates there are conditions that seriously endanger or
25 jeopardize continued access to necessary services within the community,
26 the commissioner shall notify the established operator of his or her
27 intention to appoint a temporary operator to assume sole responsibility
28 for the provider of services' operations for a limited period of time.
29 The appointment of a temporary operator shall be effectuated pursuant to
30 this section, and shall be in addition to any other remedies provided by
31 law.
32 (2) The established operator may at any time request the commissioner
33 to appoint a temporary operator. Upon receiving such a request, the
34 commissioner may, if he or she determines that such an action is neces-
35 sary, enter into an agreement with the established operator for the
36 appointment of a temporary operator to restore or maintain the provision
37 of quality care to the individuals until the established operator can
38 resume operations within the designated time period or other action is
39 taken as described in section 16.17 of this article.
40 (c) (1) A temporary operator appointed pursuant to this section shall
41 use his or her best efforts to implement the plan deemed satisfactory by
42 the commissioner to correct or eliminate any deficiencies in the program
43 and to promote the quality and accessibility of services in the communi-
44 ty served by the provider of services.
45 (2) During the term of appointment, the temporary operator shall have
46 the authority to direct the staff of the established operator as neces-
47 sary to appropriately provide services for individuals. The temporary
48 operator shall, during this period, provide services in such a manner as
49 to promote safety and the quality and accessibility of services in the
50 community served by the established operator until either the estab-
51 lished operator can resume operations or until the office revokes the
52 operating certificate for the services issued under this article.
53 (3) The established operator shall grant access to the temporary oper-
54 ator to the established operator's accounts and records in order to
55 address any deficiencies related to the program experiencing serious
56 financial instability or an established operator requesting financial

1 assistance in accordance with this section. The temporary operator shall
2 approve any financial decision related to an established provider's day
3 to day operations or the established provider's ability to provide
4 services.
5 (4) The temporary operator shall not be required to file any bond. No
6 security interest in any real or personal property comprising the estab-
7 lished operator or contained within the established operator or in any
8 fixture of the program, shall be impaired or diminished in priority by
9 the temporary operator. Neither the temporary operator nor the office
10 shall engage in any activity that constitutes a confiscation of proper-
11 ty.
12 (d) The temporary operator shall be entitled to a reasonable fee, as
13 determined by the commissioner and subject to the approval of the direc-
14 tor of the division of the budget, and necessary expenses incurred while
15 serving as a temporary operator. The temporary operator shall be liable
16 only in its capacity as temporary operator for injury to person and
17 property by reason of its operation of such program; no liability shall
18 incur in the temporary operator's personal capacity, except for gross
19 negligence and intentional acts.
20 (e) (1) The initial term of the appointment of the temporary operator
21 shall not exceed ninety days. After ninety days, if the commissioner
22 determines that termination of the temporary operator would cause
23 significant deterioration of the quality of, or access to, care in the
24 community or that reappointment is necessary to correct the deficiencies
25 that required the appointment of the temporary operator, the commission-
26 er may authorize an additional ninety-day term. However, such authori-
27 zation shall include the commissioner's requirements for conclusion of
28 the temporary operatorship to be satisfied within the additional term.
29 (2) Within fourteen days prior to the termination of each term of the
30 appointment of the temporary operator, the temporary operator shall
31 submit to the commissioner and to the established operator a report
32 describing:
33 a. the actions taken during the appointment to address the identified
34 program deficiencies, the resumption of program operations by the estab-
35 lished operator, or the revocation of an operating certificate issued by
36 the office;
37 b. objectives for the continuation of the temporary operatorship if
38 necessary and a schedule for satisfaction of such objectives; and
39 c. if applicable, the recommended actions for the ongoing provision of
40 services subsequent to the temporary operatorship.
41 (3) The term of the initial appointment and of any subsequent reap-
42 pointment may be terminated prior to the expiration of the designated
43 term, if the established operator and the commissioner agree on a plan
44 of correction and the implementation of such plan.
45 (f) (1) The commissioner shall, upon making a determination of an
46 intention to appoint a temporary operator pursuant to paragraph one of
47 subdivision (b) of this section, cause the established operator to be
48 notified of the intention by registered or certified mail addressed to
49 the principal office of the established operator. Such notification
50 shall include a detailed description of the findings underlying the
51 intention to appoint a temporary operator, and the date and time of a
52 required meeting with the commissioner and/or his or her designee within
53 ten business days of the receipt of such notice. At such meeting, the
54 established operator shall have the opportunity to review and discuss
55 all relevant findings. At such meeting, the commissioner and the estab-
56 lished operator shall attempt to develop a mutually satisfactory plan of

1 correction and schedule for implementation. In such event, the commis-
2 sioner shall notify the established operator that the commissioner will
3 abstain from appointing a temporary operator contingent upon the estab-
4 lished operator remediating the identified deficiencies within the
5 agreed upon timeframe.
6 (2) Should the commissioner and the established operator be unable to
7 establish a plan of correction pursuant to paragraph one of this subdi-
8 vision, or should the established operator fail to respond to the
9 commissioner's initial notification, there shall be an administrative
10 hearing on the commissioner's determination to appoint a temporary oper-
11 ator to begin no later than thirty days from the date of the notice to
12 the established operator. Any such hearing shall be strictly limited to
13 the issue of whether the determination of the commissioner to appoint a
14 temporary operator is supported by substantial evidence. A copy of the
15 decision shall be sent to the established operator.
16 (3) If the decision to appoint a temporary operator is upheld such
17 temporary operator shall be appointed as soon as is practicable and
18 shall provide services pursuant to the provisions of this section.
19 (g) Notwithstanding the appointment of a temporary operator, the
20 established operator shall remain obligated for the continued provision
21 of services. No provision contained in this section shall be deemed to
22 relieve the established operator or any other person of any civil or
23 criminal liability incurred, or any duty imposed by law, by reason of
24 acts or omissions of the established operator or any other person prior
25 to the appointment of any temporary operator of the program hereunder;
26 nor shall anything contained in this section be construed to suspend
27 during the term of the appointment of the temporary operator of the
28 program any obligation of the established operator or any other person
29 for the maintenance and repair of the facility, provision of utility
30 services, payment of taxes or other operating and maintenance expenses
31 of the facility, nor of the established operator or any other person for
32 the payment of mortgages or liens.
33 (h) Upon appointment of a temporary operator, the commissioner shall
34 cause the temporary president of the senate, the speaker of the assem-
35 bly, and the chairs of the senate mental health and developmental disa-
36 bilities committee and the assembly mental health committee to be noti-
37 fied of such determination. Such notification shall include, but not be
38 limited to, the name of the established operator, the name of the
39 appointed temporary operator and a description of the reasons for such
40 determination to the extent practicable under the circumstances and in
41 the sole discretion of the commissioner.
42 § 2. The mental hygiene law is amended by adding a new section 31.20
43 to read as follows:
44 § 31.20 Temporary operator.
45 (a) For the purposes of this section:
46 (1) "Established operator" shall mean the operator of a mental health
47 program that has been established and issued an operating certificate
48 pursuant to this article.
49 (2) "Extraordinary financial assistance" shall mean state funds
50 provided to, or requested by, a program for the express purpose of
51 preventing the closure of the program that the commissioner finds
52 provides essential and necessary services within the community.
53 (3) "Mental health program" shall mean a provider of services for
54 persons with serious mental illness, as such terms are defined in
55 section 1.03 of this chapter, which is licensed or operated by the
56 office.

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1 (4) "Office" shall mean the office of mental health.
2 (5) "Serious financial instability" shall include but not be limited
3 to defaulting or violating material covenants of bond issues, missed
4 mortgage payments, a pattern of untimely payment of debts, failure to
5 pay its employees or vendors, insufficient funds to meet the general
6 operating expenses of the program, failure to maintain required debt
7 service coverage ratios and/or, as applicable, factors that have trig-
8 gered a written event of default notice to the office by the dormitory
9 authority of the state of New York.
10 (6) "Temporary operator" shall mean any operator of a mental health
11 program that has been established and issued an operating certificate
12 pursuant to this article or which is directly operated by the office of
13 mental health, that:
14 a. agrees to operate a mental health program on a temporary basis in
15 the best interests of its patients served by the program; and
16 b. has a history of compliance with applicable laws, rules, and regu-
17 lations and a record of providing care of good quality, as determined by
18 the commissioner; and
19 c. prior to appointment as temporary operator, develops a plan deter-
20 mined to be satisfactory by the commissioner to address the program's
21 deficiencies.
22 (b) (1) In the event that: (i) the established operator is seeking
23 extraordinary financial assistance; (ii) office collected data demon-
24 strates that the established operator is experiencing serious financial
25 instability issues; (iii) office collected data demonstrates that the
26 established operator's board of directors or administration is unable or
27 unwilling to ensure the proper operation of the program; or (iv) office
28 collected data indicates there are conditions that seriously endanger or
29 jeopardize continued access to necessary mental health services within
30 the community, the commissioner shall notify the established operator of
31 his or her intention to appoint a temporary operator to assume sole
32 responsibility for the program's treatment operations for a limited
33 period of time. The appointment of a temporary operator shall be effec-
34 tuated pursuant to this section, and shall be in addition to any other
35 remedies provided by law.
36 (2) The established operator may at any time request the commissioner
37 to appoint a temporary operator. Upon receiving such a request, the
38 commissioner may, if he or she determines that such an action is neces-
39 sary, enter into an agreement with the established operator for the
40 appointment of a temporary operator to restore or maintain the provision
41 of quality care to the patients until the established operator can
42 resume operations within the designated time period; the patients may be
43 transferred to other mental health programs operated or licensed by the
44 office; or the operations of the mental health program should be
45 completely discontinued.
46 (c) (1) A temporary operator appointed pursuant to this section shall
47 use his or her best efforts to implement the plan deemed satisfactory by
48 the commissioner to correct or eliminate any deficiencies in the mental
49 health program and to promote the quality and accessibility of mental
50 health services in the community served by the mental health program.
51 (2) If the identified deficiencies cannot be addressed in the time
52 period designated in the plan, the patients shall be transferred to
53 other appropriate mental health programs licensed or operated by the
54 office.
55 (3) During the term of appointment, the temporary operator shall have
56 the authority to direct the staff of the established operator as neces-

1 sary to appropriately treat and/or transfer the patients. The temporary
2 operator shall, during this period, operate the mental health program in
3 such a manner as to promote safety and the quality and accessibility of
4 mental health services in the community served by the established opera-
5 tor until either the established operator can resume program operations
6 or until the patients are appropriately transferred to other programs
7 licensed or operated by the office.
8 (4) The established operator shall grant access to the temporary oper-
9 ator to the established operator's accounts and records in order to
10 address any deficiencies related to a mental health program experiencing
11 serious financial instability or an established operator requesting
12 financial assistance in accordance with this section. The temporary
13 operator shall approve any financial decision related to a program's day
14 to day operations or program's ability to provide mental health
15 services.
16 (5) The temporary operator shall not be required to file any bond. No
17 security interest in any real or personal property comprising the estab-
18 lished operator or contained within the established operator or in any
19 fixture of the mental health program, shall be impaired or diminished in
20 priority by the temporary operator. Neither the temporary operator nor
21 the office shall engage in any activity that constitutes a confiscation
22 of property.
23 (d) The temporary operator shall be entitled to a reasonable fee, as
24 determined by the commissioner and subject to the approval of the direc-
25 tor of the division of the budget, and necessary expenses incurred while
26 serving as a temporary operator. The temporary operator shall be liable
27 only in its capacity as temporary operator of the mental health program
28 for injury to person and property by reason of its operation of such
29 program; no liability shall incur in the temporary operator's personal
30 capacity, except for gross negligence and intentional acts.
31 (e) (1) The initial term of the appointment of the temporary operator
32 shall not exceed ninety days. After ninety days, if the commissioner
33 determines that termination of the temporary operator would cause
34 significant deterioration of the quality of, or access to, mental health
35 care in the community or that reappointment is necessary to correct the
36 deficiencies that required the appointment of the temporary operator,
37 the commissioner may authorize an additional ninety-day term. However,
38 such authorization shall include the commissioner's requirements for
39 conclusion of the temporary operatorship to be satisfied within the
40 additional term.
41 (2) Within fourteen days prior to the termination of each term of the
42 appointment of the temporary operator, the temporary operator shall
43 submit to the commissioner and to the established operator a report
44 describing:
45 a. the actions taken during the appointment to address the identified
46 mental health program deficiencies, the resumption of mental health
47 program operations by the established operator, or the transfer of the
48 patients to other providers licensed or operated by the office;
49 b. objectives for the continuation of the temporary operatorship if
50 necessary and a schedule for satisfaction of such objectives; and
51 c. if applicable, the recommended actions for the ongoing operation of
52 the mental health program subsequent to the temporary operatorship.
53 (3) The term of the initial appointment and of any subsequent reap-
54 pointment may be terminated prior to the expiration of the designated
55 term, if the established operator and the commissioner agree on a plan
56 of correction and the implementation of such plan.

1 (f) (1) The commissioner shall, upon making a determination of an
2 intention to appoint a temporary operator pursuant to paragraph one of
3 subdivision (b) of this section cause the established operator to be
4 notified of the intention by registered or certified mail addressed to
5 the principal office of the established operator. Such notification
6 shall include a detailed description of the findings underlying the
7 intention to appoint a temporary operator, and the date and time of a
8 required meeting with the commissioner and/or his or her designee within
9 ten business days of the receipt of such notice. At such meeting, the
10 established operator shall have the opportunity to review and discuss
11 all relevant findings. At such meeting, the commissioner and the estab-
12 lished operator shall attempt to develop a mutually satisfactory plan of
13 correction and schedule for implementation. In such event, the commis-
14 sioner shall notify the established operator that the commissioner will
15 abstain from appointing a temporary operator contingent upon the estab-
16 lished operator remediating the identified deficiencies within the
17 agreed upon timeframe.
18 (2) Should the commissioner and the established operator be unable to
19 establish a plan of correction pursuant to paragraph one of this subdi-
20 vision, or should the established operator fail to respond to the
21 commissioner's initial notification, there shall be an administrative
22 hearing on the commissioner's determination to appoint a temporary oper-
23 ator to begin no later than thirty days from the date of the notice to
24 the established operator. Any such hearing shall be strictly limited to
25 the issue of whether the determination of the commissioner to appoint a
26 temporary operator is supported by substantial evidence. A copy of the
27 decision shall be sent to the established operator.
28 (3) If the decision to appoint a temporary operator is upheld such
29 temporary operator shall be appointed as soon as is practicable and
30 shall operate the mental health program pursuant to the provisions of
31 this section.
32 (g) Notwithstanding the appointment of a temporary operator, the
33 established operator shall remain obligated for the continued operation
34 of the mental health program so that such program can function in a
35 normal manner. No provision contained in this section shall be deemed to
36 relieve the established operator or any other person of any civil or
37 criminal liability incurred, or any duty imposed by law, by reason of
38 acts or omissions of the established operator or any other person prior
39 to the appointment of any temporary operator of the program hereunder;
40 nor shall anything contained in this section be construed to suspend
41 during the term of the appointment of the temporary operator of the
42 program any obligation of the established operator or any other person
43 for the maintenance and repair of the facility, provision of utility
44 services, payment of taxes or other operating and maintenance expenses
45 of the facility, nor of the established operator or any other person for
46 the payment of mortgages or liens.
47 (h) Upon appointment of a temporary operator, the commissioner shall
48 cause the temporary president of the senate, the speaker of the assem-
49 bly, and the chairs of the senate mental health and developmental disa-
50 bilities committee and the assembly mental health committee to be noti-
51 fied of such determination. Such notification shall include, but not be
52 limited to, the name of the established operator, the name of the
53 appointed temporary operator and a description of the reasons for such
54 determination to the extent practicable under the circumstances and in
55 the sole discretion of the commissioner.

1 § 3. Subdivision 6 of section 32.20 of the mental hygiene law is
2 amended by adding a new paragraph (d) to read as follows:
3 (d) Upon appointment of a temporary operator, the commissioner shall
4 cause the temporary president of the senate, the speaker of the assem-
5 bly, and the chairs of the senate and assembly committees on alcoholism
6 and drug abuse to be notified of such determination. Such notification
7 shall include, but not be limited to, the name of the established opera-
8 tor, the name of the appointed temporary operator and a description of
9 the reasons for such determination to the extent practicable under the
10 circumstances and in the sole discretion of the commissioner.
11 § 4. This act shall take effect immediately and shall be deemed to
12 have been in full force and effect on and after April 1, 2016; provided,
13 however, that sections one and two of this act shall expire and be
14 deemed repealed on March 31, 2021.

15 PART M

16 Section 1. Subdivision (d) of section 33.13 of the mental hygiene law,
17 as amended by section 3 of part E of chapter 111 of the laws of 2010, is
18 amended to read as follows:
19 (d) Nothing in this section shall prevent the electronic or other
20 exchange of information concerning patients or clients, including iden-
21 tification, between and among (i) facilities or others providing
22 services for such patients or clients pursuant to an approved local
23 services plan, as defined in article forty-one of this chapter, or
24 pursuant to agreement with the department, and (ii) the department or
25 any of its licensed or operated facilities. Neither shall anything in
26 this section prevent the exchange of information concerning patients or
27 clients, including identification, between facilities and managed care
28 organizations, behavioral health organizations, health homes or other
29 entities authorized by the department or the department of health to
30 provide, arrange for or coordinate health care services for such
31 patients or clients who are enrolled in or receiving services from such
32 organizations or entities. Provided however, written patient or client
33 consent shall be obtained prior to the exchange of information where
34 required by 42 USC 290dd-2 as amended, and any regulations promulgated
35 thereunder. Furthermore, subject to the prior approval of the commis-
36 sioner of mental health, hospital emergency services licensed pursuant
37 to article twenty-eight of the public health law shall be authorized to
38 exchange information concerning patients or clients electronically or
39 otherwise with other hospital emergency services licensed pursuant to
40 article twenty-eight of the public health law and/or hospitals licensed
41 or operated by the office of mental health; provided that such exchange
42 of information is consistent with standards, developed by the commis-
43 sioner of mental health, which are designed to ensure confidentiality of
44 such information. Additionally, information so exchanged shall be kept
45 confidential and any limitations on the release of such information
46 imposed on the party giving the information shall apply to the party
47 receiving the information.
48 § 2. Subdivision (d) of section 33.13 of the mental hygiene law, as
49 amended by section 4 of part E of chapter 111 of the laws of 2010, is
50 amended to read as follows:
51 (d) Nothing in this section shall prevent the exchange of information
52 concerning patients or clients, including identification, between (i)
53 facilities or others providing services for such patients or clients
54 pursuant to an approved local services plan, as defined in article

1 forty-one, or pursuant to agreement with the department and (ii) the
2 department or any of its facilities. Neither shall anything in this
3 section prevent the exchange of information concerning patients or
4 clients, including identification, between facilities and managed care
5 organizations, behavioral health organizations, health homes or other
6 entities authorized by the department or the department of health to
7 provide, arrange for or coordinate health care services for such
8 patients or clients who are enrolled in or receiving services from such
9 organizations or entities. Provided however, written patient or client
10 consent shall be obtained prior to the exchange of information where
11 required by 42 USC 290dd-2 as amended, and any regulations promulgated
12 thereunder. Information so exchanged shall be kept confidential and any
13 limitations on the release of such information imposed on the party
14 giving the information shall apply to the party receiving the informa-
15 tion.
16 § 3. Subdivision (f) of section 33.13 of the mental hygiene law, as
17 amended by chapter 330 of the laws of 1993, is amended to read as
18 follows:
19 (f) All records of identity, diagnosis, prognosis, treatment, care
20 coordination or any other information contained in a patient or client's
21 record shall be confidential unless disclosure is permitted under subdi-
22 vision (c) of this section. Any disclosure made pursuant to this section
23 shall be limited to that information necessary and required in light of
24 the reason for disclosure. Information so disclosed shall be kept confi-
25 dential by the party receiving such information and the limitations on
26 disclosure in this section shall apply to such party. Except for disclo-
27 sures made to the mental hygiene legal service, to persons reviewing
28 information or records in the ordinary course of insuring that a facili-
29 ty is in compliance with applicable quality of care standards, or to
30 governmental agents requiring information necessary for payments to be
31 made to or on behalf of patients or clients pursuant to contract or in
32 accordance with law, a notation of all such disclosures shall be placed
33 in the clinical record of that individual who shall be informed of all
34 such disclosures upon request; provided, however, that for disclosures
35 made to insurance companies licensed pursuant to the insurance law, such
36 a notation need only be entered at the time the disclosure is first
37 made.
38 § 4. This act shall take effect immediately; provided that the amend-
39 ments to subdivision (d) of section 33.13 of the mental hygiene law made
40 by section one of this act shall be subject to the expiration and rever-
41 sion of such subdivision pursuant to section 18 of chapter 408 of the
42 laws of 1999, as amended, when upon such date the provisions of section
43 two of this act shall take effect.

44 PART N

45 Section 1. Subdivision 10 of section 3 of section 1 of chapter 359 of
46 the laws of 1968, constituting the facilities development corporation
47 act, as amended by chapter 723 of the laws of 1993, is amended to read
48 as follows:
49 10. "Mental hygiene facility" shall mean a building, a unit within a
50 building, a laboratory, a classroom, a housing unit, a dining hall, an
51 activities center, a library, real property of any kind or description,
52 or any structure on or improvement to real property, or an interest in
53 real property, of any kind or description, owned by or under the juris-
54 diction of the corporation, including fixtures and equipment which are

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1 an integral part of any such building, unit, structure or improvement, a
2 walkway, a roadway or a parking lot, and improvements and connections
3 for water, sewer, gas, electrical, telephone, heating, air conditioning
4 and other utility services, or a combination of any of the foregoing,
5 whether for patient care and treatment or staff, staff family or service
6 use, located at or related to any psychiatric center, any developmental
7 center, or any state psychiatric or research institute or other facility
8 now or hereafter established under the department. A mental hygiene
9 facility shall also mean and include a residential care center for
10 adults, a "community mental health and retardation facility" and a
11 treatment facility for use in the conduct of an alcoholism or substance
12 abuse treatment program as defined in the mental hygiene law unless such
13 residential care center for adults, community mental health and retarda-
14 tion facility or alcoholism or substance abuse facility is expressly
15 excepted, or the context clearly requires otherwise, and shall also mean
16 and include any treatment facility for use in the conduct of an alcohol-
17 ism or substance abuse treatment program that is also operated as an
18 associated health care facility. The definition contained in this subdi-
19 vision shall not be construed to exclude therefrom a facility owned or
20 leased by one or more voluntary agencies that is to be financed, refi-
21 nanced, designed, constructed, acquired, reconstructed, rehabilitated or
22 improved under any lease, sublease, loan or other financing agreement
23 entered into with such voluntary agencies, and shall not be construed to
24 exclude therefrom a facility to be made available from the corporation
25 to a voluntary agency at the request of the commissioners of the offices
26 of the department having jurisdiction thereof. The definition contained
27 in this subdivision shall not be construed to exclude therefrom a facil-
28 ity with respect to which a voluntary agency has an ownership interest
29 in, and proprietary lease from, an organization formed for the purpose
30 of the cooperative ownership of real estate.
31 § 2. Section 3 of section 1 of chapter 359 of the laws of 1968,
32 constituting the facilities development corporation act, is amended by
33 adding a new subdivision 20 to read as follows:
34 20. "Associated health care facility" shall mean a facility licensed
35 under and operated pursuant to article 28 of the public health law or
36 any health care facility licensed under and operated in accordance with
37 any other provisions of the public health law or the mental hygiene law
38 that provides health care services and/or treatment to all persons,
39 regardless of whether such persons are persons receiving treatment or
40 services for alcohol, substance abuse, or chemical dependency.
41 § 3. This act shall take effect immediately.

42 PART O

43 Section 1. On or before October 1, 2016, the commissioner of develop-
44 mental disabilities shall issue a report to the temporary president of
45 the senate and the speaker of the assembly to include the following:
46 (a) Progress the office has made in meeting the housing needs of indi-
47 viduals with developmental disabilities, including through:
48 (1) its ongoing review of the residential registration list, including
49 information regarding services currently provided to individuals on the
50 list and any available information on priority placement approaches and
51 housing needs for such individuals;
52 (2) increasing access to rental housing, supportive housing, and other
53 independent living options;

1 (3) building understanding and awareness of housing options for inde-
2 pendent living among people with developmental disabilities, families,
3 public and private organizations, developers and direct support profes-
4 sionals; and
5 (4) assisting with the creation of a sustainable living environment
6 through funding for home modifications, down payment assistance and home
7 repairs; and
8 (b) An update on the implementation of the report and recommendations
9 of the transformation panel, including implementation of the panel's
10 recommendations to:
11 (1) increase and support access to self-directed models of care;
12 (2) enhance opportunities for individuals to access community inte-
13 grated housing;
14 (3) increase integrated employment opportunities; and
15 (4) examine the program design and fiscal model for managed care to
16 appropriately address the needs of individuals with developmental disa-
17 bilities.
18 § 2. This act shall take effect immediately; provided, however, that
19 this act shall be subject to appropriations made specifically available
20 for this purpose and shall expire and be deemed repealed April 1, 2017.

21 PART P

22 Section 1. Section 13.41 of the mental hygiene law, as added by
23 section 1 of part E of chapter 60 of the laws of 2014, is amended by
24 adding two new subdivisions (d) and (e) to read as follows:
25 (d) Individuals with developmental disabilities who were employed in
26 sheltered workshops on or after July first, two thousand thirteen who
27 are not interested in working or who are not able to work in a provi-
28 der-owned business or private business in the community shall, to the
29 extent practicable and in accordance with the principles of person-cen-
30 tered planning, be afforded the option of receiving other services of
31 the office, including, but not limited to pathway to employment, commu-
32 nity prevocational, day habilitation, community habilitation and self-
33 directed services. The provision of such services shall consider, but
34 not be limited to, the following factors:
35 (1) assessment of the individual's skills, including social behavior,
36 ability to handle stress, ability to work with others, job performance,
37 communication skills, work ethic, and interests;
38 (2) assessment of the individual's situation, including transportation
39 needs, family supports, and physical and mental health; and
40 (3) creation of opportunities to explore different community and
41 volunteer experiences to obtain information that will be used to create
42 a person-centered plan.
43 (e) For individuals with developmental disabilities who were employed
44 in sheltered workshops on or after July first, two thousand thirteen
45 interested in retirement, office services shall focus on connecting
46 individuals to retirement-related activities, including participating in
47 senior and community center activities, and other local activities for
48 retirees.
49 § 2. This act shall take effect immediately.

50 PART Q

51 Section 1. Section 13.17 of the mental hygiene law is amended by
52 adding a new subdivision (d) to read as follows:

1 (d) In the event of a closure or transfer of a state-operated individ-
2 ualized residential alternative (IRA), the commissioner shall:
3 1. provide appropriate and timely notification to the temporary presi-
4 dent of the senate, and the speaker of the assembly, and to appropriate
5 representatives of impacted labor organizations. Such notification to
6 the representatives of impacted labor organizations shall be made as
7 soon as practicable, but no less than forty-five days prior to such
8 closure or transfer except in the case of exigent circumstances impact-
9 ing the health, safety, or welfare of the residents of the IRA as deter-
10 mined by the office. Provided, however, that nothing herein shall limit
11 the ability of the office to effectuate such closure or transfer; and
12 2. make reasonable efforts to confer with the affected workforce and
13 any other party he or she deems appropriate to inform such affected
14 workforce, the residents of the IRA, and their family members, where
15 appropriate, of the proposed closure or transfer plan.
16 § 2. This act shall take effect immediately and shall expire and be
17 deemed repealed March 31, 2018.

18 PART R

19 Section 1. Section 281 of the public health law is amended by adding a
20 new subdivision 7 to read as follows:
21 7. Notwithstanding any other provision of this section or any other
22 law to the contrary, a practitioner shall not be required to issue
23 prescriptions electronically if he or she certifies to the department,
24 in a manner specified by the department, that he or she will not issue
25 more than twenty-five prescriptions during a twelve month period.
26 Prescriptions in both oral and written form for both controlled
27 substances and non-controlled substances shall be included in determin-
28 ing whether the practitioner will reach the limit of twenty-five
29 prescriptions.
30 (a) A certification shall be submitted in advance of the twelve-month
31 certification period, except that a twelve-month certification submitted
32 on or before July first, two thousand sixteen, may begin March twenty-
33 seven, two thousand sixteen.
34 (b) A practitioner who has made a certification under this subdivision
35 may submit an additional certification on or before the expiration of
36 the current twelve-month certification period, for a maximum of three
37 twelve-month certifications.
38 (c) A practitioner may make a certification under this subdivision
39 regardless of whether he or she has previously received a waiver under
40 paragraph (c) of subdivision three of this section.
41 § 2. Section 6810 of the education law is amended by adding a new
42 subdivisions 15 to read as follows:
43 15. Notwithstanding any other provisions of this section or any other
44 law to the contrary, a practitioner shall not be required to issue
45 prescriptions electronically if he or she certifies to the department of
46 health, in a manner specified by the department of health, that he or
47 she will not issue more than twenty-five prescriptions during a twelve
48 month period. Prescriptions in both oral and written form for both
49 controlled substances and non-controlled substances shall be included in
50 determining whether the practitioner will reach the limit of twenty-five
51 prescriptions.
52 (a) A certification shall be submitted in advance of the twelve-month
53 certification period, except that a twelve-month certification submitted

1 on or before on July first,two thousand sixteen, may begin March twen-
2 ty-seventh, two thousand sixteen.
3 (b) A practitioner who has made a certification under this subdivision
4 may submit an additional certification on or before the expiration of
5 the current twelve-month certification period, for a maximum of three
6 twelve-month certifications.
7 (c) A practitioner may make a certification under this subdivision
8 regardless of whether he or she has previously received a waiver under
9 paragraphs (c) of subdivision ten of this section.
10 § 3. Section 2807-m of the public health law is amended by adding a
11 new subdivision 12 to read as follows:
12 12. Notwithstanding any provision of law to the contrary, applications
13 submitted on or after April first, two thousand sixteen, for the physi-
14 cian loan repayment program pursuant to paragraph (d) of subdivision
15 five-a of this section and subdivision ten of this section or the physi-
16 cian practice support program pursuant to paragraph (e) of subdivision
17 five-a of this section, shall be subject to the following changes:
18 (a) Awards shall be made from the total funding available for new
19 awards under the physician loan repayment program and the physician
20 practice support program, with neither program limited to a specific
21 funding amount within such total funding available;
22 (b) An applicant may apply for an award for either physician loan
23 repayment or physician practice support, but not both;
24 (c) An applicant shall agree to practice for three years in an under-
25 served area and each award shall provide up to forty thousand dollars
26 for each of the three years; and
27 (d) To the extent practicable, awards shall be timed to be of use for
28 job offers made to applicants.
29 § 4. Subdivisions 1 and 4 of section 461-s of the social services law,
30 subdivision 1 as added by section 21 of part D of chapter 56 of the laws
31 of 2012 and subdivision 4 as added by section 6 of part A of chapter 57
32 of the laws of 2015, are amended to read as follows:
33 1. The commissioner of health shall establish the enhanced quality of
34 adult living program (referred to in this section as the "EQUAL program"
35 or the "program") for adult care facilities. The program shall be
36 targeted at improving the quality of life for adult care facility resi-
37 dents by means of grants to facilities for specified purposes. The
38 department of health, subject to the approval of the director of the
39 budget, shall develop an allocation methodology taking into account the
40 financial status and size of the facility as well as resident needs. On
41 or before June first of each year, the department shall make available
42 the application for EQUAL program funds.
43 4. EQUAL program funds shall not be expended for a facility's daily
44 operating expenses, including employee salaries or benefits, or for
45 expenses incurred retrospectively, except that expenditures may be
46 incurred prior to the approval of the facility's application for such
47 fiscal year, provided that: (a) consistent with subdivision three of
48 this section, the residents' council approves such expenditure prior to
49 the expenditure being incurred, and the facility provides with its
50 application documentation of such approval and the date thereof; and (b)
51 the expenditure meets all applicable requirements pursuant to this
52 section and is subsequently approved by the department. EQUAL program
53 funds may be used for expenditures related to corrective action as
54 required by an inspection report, provided such expenditure is consist-
55 ent with subdivision three of this section.

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1 § 5. Section 616 of the public health law is amended by adding a new
2 subdivision 3 to read as follows:
3 3. Administrative policy changes relating to state aid shall not be
4 implemented without reasonable and statewide advance written notice to
5 municipalities.
6 § 6. Subdivision 2 of section 2802 of the public health law, as
7 amended by section 58 of part A of chapter 58 of the laws of 2010, is
8 amended to read as follows:
9 2. The commissioner shall not act upon an application for construction
10 of a hospital until the public health and health planning council and
11 the health systems agency have had a reasonable time to submit their
12 recommendations, and unless (a) the applicant has obtained all approvals
13 and consents required by law for its incorporation or establishment
14 (including the approval of the public health and health planning council
15 pursuant to the provisions of this article) provided, however, that the
16 commissioner may act upon an application for construction by an appli-
17 cant possessing a valid operating certificate when the application qual-
18 ifies for review without the recommendation of the council pursuant to
19 regulations adopted by the council and approved by the commissioner, or
20 as otherwise authorized by this section; and (b) the commissioner is
21 satisfied as to the public need for the construction, at the time and
22 place and under the circumstances proposed, provided however that, in
23 the case of an application by a hospital established or operated by an
24 organization defined in subdivision one of section four hundred eighty-
25 two-b of the social services law, the needs of the members of the reli-
26 gious denomination concerned, for care or treatment in accordance with
27 their religious or ethical convictions, shall be deemed to be public
28 need.
29 § 7. Section 2802 of the public health law is amended by adding a new
30 subdivision 2-c to read as follows:
31 2-c. An application for the relocation of long-term ventilator beds
32 from one residential health care facility to another residential health
33 care facility with common ownership shall be subject, as determined by
34 the commissioner, to either an administrative or limited review by the
35 department. Common ownership shall be found when the ownership or
36 controlling interest in the operator of each residential health care
37 facility is the same, provided the percentage of ownership interest of
38 each owner may vary between the two facilities but must meet the whole
39 in common ownership. For purposes of this subdivision, the commissioner,
40 when making a determination of public need, may consider access to long-
41 term ventilator beds in the affected portions of the health systems
42 region, and the quality of care provided at the facilities with common
43 ownership. At no time shall an application submitted pursuant to this
44 subdivision result in a change in the total combined number of long-term
45 ventilator and residential health care facility beds, including residen-
46 tial health care facility beds converted from transferred long-term
47 ventilator beds, operated by the two facilities with common ownership.
48 § 8. Subdivision 4 of section 28 of part H of chapter 60 of the laws
49 of 2014, amending the insurance law, the public health law and the
50 financial services law relating to establishing protections to prevent
51 surprise medical bills including network adequacy requirements, claim
52 submission requirements, access to out-of-network care and prohibition
53 of excessive emergency charges, is amended to read as follows:
54 4. The workgroup shall report its findings and make recommendations
55 for legislation and regulations to the governor, the speaker of the
56 assembly, the senate majority leader, the chairs of the insurance and

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1 health committees in both the assembly and the senate, and the super-
2 intendent of the department of financial services no later than [Janu-
3 ary] October 1, 2016.
4 § 9. This act shall take effect immediately; provided however, that
5 sections one and two of this act shall take effect on the first of June
6 next succeeding the date on which it shall have become a law and shall
7 expire and be deemed repealed four years after such effective date.

8 PART S

9 Section 1. Section 209 of the elder law, as amended by section 41 of
10 part A of chapter 58 of the laws of 2010, paragraph (b) of subdivision 1
11 as separately amended by chapter 348 of the laws of 2010, paragraph (d)
12 of subdivision 1 as amended by chapter 271 of the laws of 2014, para-
13 graph (d) of subdivision 4 as separately amended by chapter 410 of the
14 laws of 2010, and paragraph (k) of subdivision 4, subparagraph (6) of
15 paragraph (c) of subdivision 5-a, and subdivision 6 as amended by chap-
16 ter 320 of the laws of 2011, is amended to read as follows:
17 § 209. Naturally occurring retirement community supportive service
18 program. 1. As used in this section:
19 (a) ["Advisory committee" or "committee" shall mean the advisory
20 committee convened by the director for the purposes specified in this
21 section. Such committee shall be broadly representative of housing and
22 senior citizen groups, and all geographic areas of the state.
23 (b)] "Older adults" shall mean persons who are sixty years of age or
24 older.
25 [(c)] (b) "Eligible applicant" shall mean a not-for-profit agency
26 specializing in housing, health or other human services which serves or
27 would serve the community within which a naturally occurring retirement
28 community is located.
29 (c) "Health indicators/performance improvement" shall mean a survey
30 tool, database, and process that provides grantees with performance
31 outcomes data.
32 (d) "Eligible services" shall mean the following services provided by
33 a classic or neighborhood NORC program, or in coordination with other
34 entities, including, but not limited to: [case management, care coordi-
35 nation, counseling, health assessment and monitoring, transportation,
36 socialization activities, home care facilitation and monitoring, educa-
37 tion regarding the signs of elder abuse and exploitation and available
38 resources for a senior who is a suspected victim of elder abuse or
39 exploitation, chemical dependence counseling provided by credentialed
40 alcoholism and substance abuse counselors as defined in paragraph three
41 of subdivision (d) of section 19.07 of the mental hygiene law and refer-
42 rals to appropriate chemical dependence counseling providers, and other
43 services designed to address the needs of residents of naturally occur-
44 ring retirement communities by helping them extend their independence,
45 improve their quality of life, and avoid unnecessary hospital and nurs-
46 ing home stays.
47 (e) "Government assistance" shall mean and be broadly interpreted to
48 mean any monetary assistance provided by the federal, the state or a
49 local government, or any agency thereof, or any authority or public
50 benefit corporation, in any form, including loans or loan subsidies, for
51 the construction of an apartment building or housing complex for low and
52 moderate income persons, as such term is defined by the United States
53 Department of Housing and Urban Development.

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1 (f)] person centered planning, case assistance, care coordination,
2 information and assistance, application and benefit assistance, health
3 care management and assistance, volunteer services, health promotion and
4 linkages to prevention services and screenings, linkages to in-home
5 services, health indicators/performance improvement, housekeeping/chore,
6 personal care, counseling, shopping and/or meal preparation assistance,
7 escort, telephone reassurance, transportation, friendly visiting,
8 support groups, personal emergency response systems (PERS), meals,
9 recreation, bill paying assistance, education regarding the signs of
10 elder abuse or exploitation and available resources for a senior who is
11 a suspected victim of elder abuse or exploitation, chemical dependance
12 counseling provided by credentialed alcoholism and substance abuse coun-
13 selors as defined in paragraph three of subdivision (d) of section 19.07
14 of the mental hygiene law and referrals to appropriate chemical depend-
15 ence counseling providers, and other services designed to address the
16 needs of residents of classic and neighborhood NORCS by helping them
17 extend their independence, improve their quality of life, and maximize
18 their well-being.
19 (e) "Naturally occurring retirement community", "classic naturally
20 occurring retirement community" or "classic NORC" shall mean an apart-
21 ment building or housing complex which:
22 (1) [was constructed with government assistance;
23 (2)] was not [originally] predominantly built for older adults;
24 [(3)] (2) does not restrict admissions solely to older adults;
25 [(4)] (3) (A) at least [fifty] forty percent of the units have an
26 occupant who is an older adult [or]; and
27 (B) in which at least [twenty-five hundred] two hundred fifty of the
28 residents of an apartment building are older adults or five hundred
29 residents of a housing complex are older adults; and
30 [(5)] (4) a majority of the older adults to be served are low or
31 moderate income, as defined by the United States Department of Housing
32 and Urban Development.
33 (f) "Neighborhood naturally occurring retirement community" or "neigh-
34 borhood NORC" shall mean a residential dwelling or group of residential
35 dwellings in a geographically defined neighborhood or group of contig-
36 uous neighborhoods which:
37 (1) was not predominantly developed for older adults;
38 (2) does not predominantly restrict admission to older adults;
39 (3) (A) in a non-rural area, has at least thirty percent of the resi-
40 dents who are older adults or the units have an occupant who is an older
41 adult; (B) in a rural area, has at least twenty percent of the residents
42 who are older adults or the units have an occupant who is an older
43 adult; and
44 (4) is made up of low-rise buildings six stories or less and/or single
45 and multi-family homes, provided, however, that apartment buildings and
46 housing complexes may be included in rural areas.
47 (g) "Rural areas" shall mean counties within the state having a popu-
48 lation of less than two hundred thousand persons including the munici-
49 palities, individuals, institutions, communities, programs, and such
50 other entities or resources as are found therein; or, in counties with a
51 population of two hundred thousand or more, towns with a population
52 density of less than one hundred and fifty persons per square mile
53 including the villages, individuals, institutions, communities,
54 programs, and such other entities or resources as are found therein.

1 (h) "Non-rural areas" shall mean any county, city, or town that has a
2 population or population density greater than that which defines a rural
3 area pursuant to this subdivision.
4 2. A naturally occurring retirement community supportive service
5 program is established as a [demonstration] program to be administered
6 by the director.
7 3. The director shall [be assisted by the advisory committee in the
8 development of] develop appropriate criteria for the selection of gran-
9 tees of funds provided pursuant to this section [and programmatic issues
10 as deemed appropriate by the director].
11 4. The criteria [recommended by the committee and adopted by the
12 director] for the award of grants shall be consistent with the
13 provisions of this section and shall include, at a minimum:
14 (a) the number, size, type and location of the projects to be served,
15 including the number, size, type and location of residential dwellings
16 or group of residential dwellings selected as candidates for inclusion
17 in a neighborhood naturally occurring retirement community; provided,
18 that the [committee and] director shall make reasonable efforts to
19 assure that geographic balance in the distribution of such projects is
20 maintained, consistent with the needs to be addressed, funding avail-
21 able, applications for eligible applicants, ability to coordinate
22 services, other requirements of this section, and other criteria devel-
23 oped by the [committee and] director;
24 (b) the appropriate number and concentration of older adult residents
25 to be served by an individual project; provided, that such criteria need
26 not specify, in the case of a project which includes several buildings,
27 the number of older adults to be served in any individual building;
28 (c) the demographic characteristics of the residents to be served;
29 (d) a requirement that the applicant demonstrate community wide
30 support from residents, neighborhood associations, community groups,
31 nonprofit organizations and others;
32 (e) in the case of neighborhood naturally occurring retirement commu-
33 nities, a requirement that the boundaries of the geographic area to be
34 served are clear and coherent and create an identifiable program and
35 supportive community;
36 (f) the financial or in-kind support required to be provided to the
37 project by the owners, managers and residents of the housing development
38 or geographically defined area; provided, however, that such criteria
39 need not address whether the funding is public or private, or the source
40 of such support;
41 [(e)] (g) the scope and intensity of the services to be provided, and
42 their appropriateness for the residents proposed to be served. The
43 applicant shall have conducted a needs assessment on the basis of which
44 such applicant shall establish the nature and extent of services to be
45 provided; and further that such services shall provide a mix of appro-
46 priate services that provide active and meaningful participation for
47 residents. The criteria shall not require that the applicant agency be
48 the sole provider of such services, but shall require that the applicant
49 at a minimum actively manage the provision of such services. Such
50 services may be the same as services provided by the local municipality
51 or other community-based organization provided that those services are
52 not available to or do not entirely meet the needs of the residents of
53 the classic or neighborhood naturally occurring retirement community;
54 [(f)] (h) the experience and financial stability of the applicant
55 agency, [provided that the criteria shall require that priority be given
56 to programs already in operation, including those projects participating

1 in the resident advisor program administered by the office, and enriched
2 housing programs which meet the requirements of this section and which
3 have demonstrated] who shall demonstrate to the satisfaction of the
4 director [and the committee] their fiscal and managerial stability and
5 programmatic success in serving residents;
6 [(g)] (i) the [nature and extent of requirements proposed to be estab-
7 lished] plan for active, meaningful participation for residents proposed
8 to be served in project design, implementation, monitoring, evaluation,
9 and governance;
10 [(h)] (j) an agreement by the applicant to participate in [the] data
11 collection and evaluation [project] necessary to implement performance
12 measures for health indicators/performance improvement and complete the
13 report required by this section;
14 [(i)] (k) the policy and program roles of the applicant agency and any
15 other agencies involved in the provision of services or the management
16 of the project, including community-based organizations, the housing
17 development governing body, or other owners or managers of the apartment
18 buildings and housing complexes and the residents of such apartment
19 buildings and housing complexes. The criteria shall require a clear
20 delineation of such policy and program roles;
21 [(j)] (l) a requirement that each eligible agency document the need
22 for the project and financial commitments to it from such sources as
23 [the committee and] the director shall deem appropriate given the char-
24 acter and nature of the proposed project, and written evidence of
25 support from the appropriate housing development governing body or other
26 owners or managers of the apartment buildings and housing complexes in
27 the case of classic naturally occurring retirement communities, or the
28 geographically defined neighborhood in the case of neighborhood
29 naturally occurring retirement communities. The purpose of such documen-
30 tation shall be to demonstrate the need for the project, support for it
31 in the areas to be served, and the financial and managerial ability to
32 sustain the project;
33 [(k)] (m) a requirement that any aid provided pursuant to this section
34 be matched by an equal amount, in-kind support of equal value, or some
35 combination thereof from other sources, provided that such in-kind
36 support [to] be utilized only upon approval from the director and only
37 to the extent matching funds are not available, and that at least twen-
38 ty-five percent of such amount be contributed by the housing development
39 governing body or other owners or managers and residents of the apart-
40 ment buildings and housing complexes, or geographically defined area, in
41 which the project is proposed, or, upon approval by the director, sourc-
42 es in neighborhoods contiguous to the boundaries of the geographic areas
43 served where services may also be provided pursuant to subdivision six
44 of this section; [and]
45 [(l)] (n) the circumstances under which the director may waive all or
46 part of the requirement for provision of an equal amount of funding from
47 other sources required pursuant to paragraph [(k)] (m) of this subdivi-
48 sion, provided that such criteria shall include provision for waiver at
49 the discretion of the director upon a finding by the director that the
50 program will serve a low income or hardship community, and that such
51 waiver is required to assure that such community receive a fair share of
52 the funding available. The committee shall develop appropriate criteria
53 for determining whether a community is a low income or hardship communi-
54 ty[.];
55 (o) the policy and program roles of the applicant agency and any other
56 agencies involved in the provision of services or the management of the

1 neighborhood naturally occurring retirement community, provided that the
2 criteria shall require a clear delineation of such policy and program
3 roles; and
4 (p) a plan for coordination with the designated area agency on aging
5 to leverage additional services for classic or neighborhood NORC partic-
6 ipants.
7 4-a. The director shall develop a list of priority and optional
8 services from the eligible services listed in paragraph (d) of subdivi-
9 sion one of this section which may be used in the selection of grantees
10 pursuant to this section.
11 4-b. Notwithstanding any provision of law to the contrary, priority
12 shall be given in any competitive bidding or request for proposals proc-
13 ess conducted for the naturally occurring retirement community support-
14 ive services program to applicants that propose to serve a building,
15 housing complex, or catchment area that is being served at the time of
16 the competitive bidding or request for proposals process.
17 5. Within amounts specifically appropriated therefor and consistent
18 with the criteria developed and required pursuant to this section the
19 director shall approve grants to eligible applicants [in amounts not to
20 exceed one hundred fifty thousand dollars for a project in any twelve
21 month period. The director shall not approve more than ten grants in the
22 first twelve month period after the effective date of this section.
23 5-a. The director may, in addition recognize neighborhood naturally
24 occurring retirement communities, or Neighborhood NORCs, and provide
25 program support within amounts specifically available by appropriation
26 therefor, which shall be subject to the requirements, rules and regu-
27 lations of this section, provided however that:
28 (a) the term Neighborhood NORC as used in this subdivision shall mean
29 and refer to a residential dwelling or group of residential dwellings in
30 a geographically defined neighborhood of a municipality containing not
31 more than two thousand persons who are older adults reside in at least
32 forty percent of the units and which is made up of low-rise buildings
33 six stories or less in height and/or single and multi-family homes and
34 which area was not originally developed for older adults, and which does
35 not restrict admission strictly to older adults;
36 (b) grants to an eligible Neighborhood NORC shall be no less than
37 sixty thousand dollars for any twelve-month period;
38 (c) the director shall be assisted by the advisory committee in the
39 development of criteria for the selection of grants provided pursuant to
40 this section and programmatic issues as deemed appropriate by the direc-
41 tor. The criteria recommended by the committee and adopted by the direc-
42 tor for the award of grants shall be consistent with the provisions of
43 this subdivision and shall include, at a minimum, the following require-
44 ments or items of information using such criteria as the advisory
45 committee and the director shall approve:
46 (1) the number, size, type and location of residential dwellings or
47 group of residential dwellings selected as candidates for neighborhood
48 NORCs funding. The director shall make reasonable efforts to assure that
49 geographic balance in the distribution of such grants is maintained,
50 consistent with the needs to be addressed, funding available, applica-
51 tions from eligible applicants, ability to coordinate services and other
52 requirements of this section;
53 (2) the appropriate number and concentration of older adult residents
54 to be served by an individual Neighborhood NORC. The criteria need not
55 specify the number of older adults to be served in any individual build-
56 ing;

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1 (3) the demographic characteristics of the residents to be served;
2 (4) a requirement that the applicant demonstrate the development or
3 intent to develop community wide support from residents, neighborhood
4 associations, community groups, nonprofit organizations and others;
5 (5) a requirement that the boundaries of the geographic area to be
6 served are clear and coherent and create an identifiable program and
7 supportive community;
8 (6) a requirement that the applicant commit to raising matching funds,
9 in-kind support, or some combination thereof from non-state sources,
10 provided that such in-kind support be utilized only upon approval from
11 the director and only to the extent matching funds are not available,
12 equal to fifteen percent of the state grant in the second year after the
13 program is approved, twenty-five percent in the third year, forty
14 percent in the fourth year, and fifty percent in the fifth year, and
15 further commit that in each year, twenty-five percent of such required
16 matching funds, in-kind support, or combination thereof be raised within
17 the community served and, upon approval by the director, in neighbor-
18 hoods contiguous to the boundaries of the geographic areas served where
19 services may also be provided pursuant to subdivision six of this
20 section. Such local community matching funds, in-kind support, or combi-
21 nation thereof shall include but not be limited to: dues, fees for
22 service, individual and community contributions, and such other funds as
23 the advisory committee and the director shall deem appropriate;
24 (7) a requirement that the applicant demonstrate experience and finan-
25 cial stability;
26 (8) a requirement that priority in selection be given to programs in
27 existence prior to the effective date of this subdivision which, except
28 for designation and funding requirements established herein, would have
29 otherwise generally qualified as a Neighborhood NORC;
30 (9) a requirement that the applicant conduct or have conducted a needs
31 assessment on the basis of which such applicant shall establish the
32 nature and extent of services to be provided; and further that such
33 services shall provide a mix of appropriate services that provide active
34 and meaningful participation for residents;
35 (10) a requirement that residents to be served shall be involved in
36 design, implementation, monitoring, evaluation and governance of the
37 Neighborhood NORC;
38 (11) an agreement by the applicant that it will participate in the
39 data collection and evaluation necessary to complete the reporting
40 requirements as established by the director;
41 (12) the policy and program roles of the applicant agency and any
42 other agencies involved in the provision of services or the management
43 of the Neighborhood NORC, provided that the criteria shall require a
44 clear delineation of such policy and program roles;
45 (13) a requirement that each applicant document the need for the grant
46 and financial commitments to it from such sources as the advisory
47 committee and the director shall deem appropriate given the character
48 and nature of the proposed Neighborhood NORC and written evidence of
49 support from the community;
50 (14) the circumstances under which the director may waive all or part
51 of the requirement for provision of an equal amount of funding from
52 other sources required pursuant to this subdivision, provided that such
53 criteria shall include provision for waiver at the discretion of the
54 director upon a finding by the director that the Neighborhood NORC will
55 serve a low income or hardship community, and that such waiver is
56 required to assure that such community receive a fair share of the fund-

1 ing available. For purposes of this paragraph, a hardship community may
2 be one that has developed a successful model but which needs additional
3 time to raise matching funds required herein. An applicant applying for
4 a hardship exception shall submit a written plan in a form and manner
5 determined by the director detailing its plans to meet the matching
6 funds requirement in the succeeding year;
7 (15) a requirement that any proposed Neighborhood NORC in a geograph-
8 ically defined neighborhood of a municipality containing more than two
9 thousand older adults shall require the review and recommendation by the
10 advisory committee before being approved by the director;
11 (d) on or before March first, two thousand eight, the director shall
12 report to the governor and the fiscal and aging committees of the senate
13 and the assembly concerning the effectiveness of Neighborhood NORCs in
14 achieving the objectives set forth by this subdivision. Such report
15 shall address each of the items required for Neighborhood NORCs in
16 achieving the objectives set forth in this section and such other items
17 of information as the director shall deem appropriate, including recom-
18 mendations concerning continuation or modification of the program, and
19 any recommendations from the advisory committee.
20 (e) in providing program support for Neighborhood NORCs as authorized
21 by this subdivision, the director shall in no event divert or transfer
22 funding for grants or program support from any naturally occurring
23 retirement community supportive service programs authorized pursuant to
24 other provisions of this section]. Individual grants awarded for classic
25 NORC programs shall be in amounts not to exceed two hundred thousand
26 ($200,000) dollars and for neighborhood NORCs not less than sixty thou-
27 sand ($60,000) dollars in any twelve month period.
28 6. The director may allow services provided by a naturally occurring
29 retirement community supportive service program or by a neighborhood
30 naturally occurring retirement community to also include services to
31 residents who live in neighborhoods contiguous to the boundaries of the
32 geographic area served by such programs if: (a) the persons served are
33 older adults; (b) the services affect the health and welfare of such
34 persons; and (c) the services are provided on a one-time basis in the
35 year in which they are provided, and not in a manner which is said or
36 intended to be continuous. The director may also consent to the
37 provision of such services by such program if the program has received a
38 grant which requires services to be provided beyond the geographic boun-
39 daries of the program. The director shall establish procedures under
40 which a program may request the ability to provide such services. The
41 provision of such services shall not affect the funding provided to the
42 program by the department pursuant to this section.
43 7. The director shall promulgate rules and regulations as necessary to
44 carry out the provisions of this section.
45 8. On or before March first, two thousand [five] nineteen, and every
46 five years thereafter, the director shall report to the governor and the
47 finance committee of the senate and the ways and means committee of the
48 assembly concerning the effectiveness of the naturally occurring retire-
49 ment community supportive services program[, other than Neighborhood
50 NORCs, as defined in subdivision five-a of this section,] in achieving
51 the objectives set forth by this section, which include helping to
52 address the needs of residents in such classic and neighborhood
53 naturally occurring retirement communities, assuring access to a contin-
54 uum of necessary services, increasing private, philanthropic and other
55 public funding for programs, and preventing unnecessary hospital and
56 nursing home stays. The report shall also include recommendations

1 concerning continuation or modification of the program from the director
2 [and the committee, and shall note any divergence between the recommen-
3 dations of the director and the committee]. The director shall provide
4 the required information and any other information deemed appropriate to
5 the report in such form and detail as will be helpful to the legislature
6 and the governor in determining to extend, eliminate or modify the
7 program including, but not limited to, the following:
8 (a) the number, size, type and location of the projects developed and
9 funded, including the number, kinds and functions of staff in each
10 program;
11 (b) [the number, size, type and location of the projects proposed but
12 not funded, and the reasons for denial of funding for such projects;
13 (c)] the age, sex, religion and other appropriate demographic informa-
14 tion concerning the residents served;
15 [(d)] (c) the services provided to residents, reported in such manner
16 as to allow comparison of services by demographic group and region;
17 [(e)] (d) a listing of the services provided by eligible applicants,
18 including the number, kind and intensity of such services; and
19 [(f)] (e) a listing of [other] partner organizations providing
20 services, the number, kind and intensity of such services, [the number
21 of referrals to such organizations] and, to the extent practicable, the
22 outcomes of such referrals.
23 § 2. Paragraph (f) of subdivision 1 of section 209 of the elder law is
24 amended by adding a new subparagraph 6 to read as follows:
25 (6) Notwithstanding the requirements set forth in subparagraph four of
26 this paragraph, in order to prevent the disruption of services through
27 December thirty-first, two thousand seventeen, programs established and
28 providing services as of March first, two thousand sixteen shall be
29 allowed to have fewer than fifty percent of the units occupied by an
30 older adult and/or fewer than twenty-five hundred residents who are
31 older adults.
32 § 3. Subdivision 5-a of section 209 of the elder law is amended by
33 adding a new paragraph (f) to read as follows:
34 (f) Notwithstanding the requirements set forth in paragraph (a) of
35 this subdivision, in order to prevent the disruption of services through
36 December thirty-first, two thousand seventeen, programs established and
37 providing services as of March first, two thousand sixteen shall be
38 allowed to have more than two thousand persons who are older adults
39 residing in the geographically defined area and/or fewer than forty
40 percent of units with older adults residing therein.
41 § 4. This act shall take effect immediately; provided that section one
42 of this act shall take effect January 1, 2018; and provided further that
43 sections two and three of this act shall expire and be deemed repealed
44 on and after December 31, 2017.
45 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
46 sion, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.
54 § 3. This act shall take effect immediately provided, however, that
55 the applicable effective date of Parts A through S of this act shall be
56 as specifically set forth in the last section of such Parts.

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