

STATE OF NEW YORK

3007--B

IN ASSEMBLY

January 20, 2021

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

AN ACT to repeal sections 91 and 92 of part H of chapter 59 of the laws of 2011 relating to the year to year rate of growth of Department of Health state funds and Medicaid funding, relating to the state Medicaid spending cap and related processes (Part A); intentionally omitted (Part B); to amend part FFF of chapter 56 of the laws of 2020, amending the public health law relating to extending and enhancing the Medicaid drug cap and to reduce unnecessary pharmacy benefit manager costs to the Medicaid program, in relation to temporarily exempting covered entities under the federal 340B program and comprehensive HIV special needs plans (Part C); intentionally omitted (Part D); intentionally omitted (Part E); to amend the public health law in relation to the definition of originating sites in regards to telehealth services (Part F); to amend the public health law, in relation to authorizing the implementation of medical respite pilot programs (Part G); to amend the social services law, in relation to eliminating consumer-paid premium payments in the basic health program; and providing for the repeal of certain provisions of such law upon expiration thereof (Part H); intentionally omitted (Part I); intentionally omitted (Part J); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the physicians medical malpractice program; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part K); intentionally omitted

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

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(Part L); intentionally omitted (Part M); intentionally omitted (Part N); intentionally omitted (Part O); intentionally omitted (Part P); intentionally omitted (Part Q); intentionally omitted (Part R); to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to extending the provisions thereof; to amend chapter 109 of the laws of 2010, amending the social services law relating to transportation costs, in relation to the effectiveness thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to the effectiveness thereof; to amend 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, in relation to extending government rates for behavioral services and adding an alternative payment methodology requirement; to amend chapter 517 of the laws of 2016, amending the public health law relating to payments from the New York state medical indemnity fund, in relation to the effectiveness thereof; to amend the public health law, in relation to improved integration of health care and financing; to amend chapter 56 of the laws of 2014, amending the education law relating to the nurse practitioners modernization act, in relation to extending the provisions thereof; and to amend chapter 66 of the laws of 2016, amending the public health law relating to reporting of opioid overdose data, in relation to the effectiveness thereof (Part S); to amend part A of chapter 111 of the laws of 2010 amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part T); intentionally omitted (Part U); to amend part NN of chapter 58 of the laws of 2015, amending the mental hygiene law relating to clarifying the authority of the commissioners in the department of mental hygiene to design and implement time-limited demonstration programs in relation to the effectiveness thereof; and to amend the mental hygiene law, in relation to requiring certain evaluations, assessments and recommendations to be included in the commissioners statewide comprehensive plan (Part V); to amend chapter 62 of the laws of 2003, amending the mental hygiene law and the state finance law relating to the community mental health support and workforce reinvestment program, the membership of subcommittees for mental health of community services boards and the duties of such subcommittees and creating the community mental health and workforce reinvestment account, in relation to extending such provisions relating thereto; and to amend the mental hygiene law, in relation to the appropriation of funds for the community mental health support and workforce reinvestment program (Part W); intentionally omitted (Part X); intentionally omitted (Part Y); to amend the mental hygiene law, in relation to imposing sanctions due to a provider's failure to comply with the terms of their operating certificate or applicable law and to charge an application processing fee for the issuance of operating certificates (Part Z); to amend the mental hygiene law and the social services law, in relation to crisis stabilization services (Subpart A); intentionally omitted (Subpart B); intentionally omitted (Subpart C) (Part AA); intentionally omitted (Part BB); intentionally omitted (Part CC); intentionally omitted (Part DD); intentionally omitted (Part EE); intentionally omitted (Part FF); intentionally



omitted (Part GG); intentionally omitted (Part HH); to amend 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 (Part II); to amend the social services law, in relation to school-based health centers for purposes of managed care programs under medicaid (Part JJ); to amend the social services law, in relation to extending the Medicaid coverage period for pregnancy (Part KK); to amend the public health law, in relation to the adult cystic fibrosis assistance program (Part LL); in relation to requiring the commissioner of health to review rates of reimbursement made through the Medicaid program for ambulette transportation for rate adequacy (Part MM); to amend the public health law, in relation to requiring the commissioner of health to review the rates of reimbursement and adequacy of the early intervention program (Part NN); to amend chapter 495 of the laws of 2004, amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness thereof (Part OO); to amend the public health law, in relation to prohibiting program-wide service limitations (Part PP); to amend the social services law, in relation to eligibility for medical assistance (Part QQ); to amend the mental hygiene law, in relation to suicide prevention for high risk groups (Part RR); to amend the mental hygiene law, in relation to suicide prevention for law enforcement, veterans, first responders, and correction officers (Part SS); to amend the public health law, in relation to funds for the New York state area health education center program for certain programs (Part TT); to amend part C of chapter 57 of the laws of 2006 relating to establishing a cost of living adjustment for designated human services programs, in relation to extending COLA provisions for the purpose of establishing rates of payments and in relation to the effectiveness thereof (Part UU); to amend the public health law, in relation to funding early intervention services; and to repeal certain provisions of the public health law and the insurance law relating thereto (Part VV); to amend part KKK of chapter 56 of the laws of 2020 amending the social services law and other laws relating to managed care encounter data, authorizing electronic notifications, and establishing regional demonstration projects, in relation to the regional demonstration program (Part WW); and to amend the public health law and the insurance law, in relation to enhancing coverage and care for medically fragile children (Part XX)

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

1 Section 1. This act enacts into law major components of legislation
2 necessary to implement the state health and mental hygiene budget for
3 the 2021-2022 state fiscal year. Each component is wholly contained
4 within a Part identified as Parts A through XX. The effective date for
5 each particular provision contained within such Part is set forth in the
6 last section of such Part. Any provision in any section contained within
7 a Part, including the effective date of the Part, which makes a refer-
8 ence to a section "of this act", when used in connection with that
9 particular component, shall be deemed to mean and refer to the corre-
10 sponding section of the Part in which it is found. Section three of this
11 act sets forth the general effective date of this act.

1

PART A

2 Section 1. Sections 91 and 92 of part H of chapter 59 of the laws of
3 2011 relating to the year to year rate of growth of Department of Health
4 state funds and Medicaid funding are REPEALED.

5 § 2. This act shall take effect immediately.

6

PART B

7

Intentionally Omitted

8

PART C

9 Section 1. Part FFF of chapter 56 of the laws of 2020, amending the
10 public health law relating to extending and enhancing the Medicaid drug
11 cap and to reduce unnecessary pharmacy benefit manager costs to the
12 Medicaid program, is amended by adding a new section 1-b to read as
13 follows:

14 § 1-b. Notwithstanding any provision of this part or other law, no
15 action shall be taken by the commissioner of health or the department of
16 health to remove the pharmacy benefit from the managed care benefit
17 package under medical assistance (Medicaid) before April 1, 2024 for the
18 following entities: (a) an eligible provider under section 340B of the
19 federal Public Health Service Act and (b) a comprehensive HIV special
20 needs plan under section 4403-c of the public health law.

21 § 2. This act shall take effect immediately.

22

PART D

23

Intentionally Omitted

24

PART E

25

Intentionally Omitted

26

PART F

27 Section 1. Subdivision 3 of section 2999-cc of the public health law,
28 as amended by section 2 of subpart C of part S of chapter 57 of the laws
29 of 2018, is amended to read as follows:

30 3. "Originating site" means a site at which a patient is located at
31 the time health care services are delivered to him or her by means of
32 telehealth. [Originating sites shall be limited to: (a) facilities
33 licensed under articles twenty-eight and forty of this chapter; (b)
34 facilities as defined in subdivision six of section 1.03 of the mental
35 hygiene law; (c) certified and non-certified day and residential
36 programs funded or operated by the office for people with developmental
37 disabilities; (d) private physician's or dentist's offices located with-
38 in the state of New York; (e) any type of adult care facility licensed
39 under title two of article seven of the social services law; (f) public,
40 private and charter elementary and secondary schools, school age child
41 care programs, and child day care centers within the state of New York;
42 and (g) the patient's place of residence located within the state of New
43 York or other temporary location located within or outside the state of
44 New York.]

45 § 2. Intentionally omitted.

- 1 § 3. Intentionally omitted.
- 2 § 4. Intentionally omitted.
- 3 § 5. Intentionally omitted.
- 4 § 6. Intentionally omitted.
- 5 § 7. Intentionally omitted.
- 6 § 8. Intentionally omitted.

7 § 9. This act shall take effect April 1, 2021; provided, however, if
 8 this act shall have become a law after such date it shall take effect
 9 immediately and shall be deemed to have been in full force and effect on
 10 and after April 1, 2021.

11 PART G

12 Section 1. The public health law is amended by adding a new article
 13 29-J to read as follows:

14 ARTICLE 29-J
 15 MEDICAL RESPITE PROGRAM

16 Section 2999-hh. Medical respite program.

17 § 2999-hh. Medical respite program. 1. Definitions. As used in this
 18 article, the following terms shall have the following meanings, unless
 19 the context clearly otherwise requires:

20 (a) "Medical respite program" means a not-for-profit corporation
 21 certified pursuant to subdivision two of this section to serve recipi-
 22 ents whose prognosis or diagnosis necessitates the receipt of:

23 (i) Temporary room and board with appropriate kitchen and bathroom
 24 facilities for the recipient, and where applicable, family members
 25 and/or dependents; and

26 (ii) The provision or arrangement of the provision of health care and
 27 support services; provided, however, that the operation of a medical
 28 respite program shall be separate and distinct from any housing programs
 29 offered to individuals who do not qualify as recipients, unless such
 30 individuals are the recipient's family member and/or dependent.

31 (b) "Recipient" means an individual who:

32 (i) Has a qualifying health condition that requires treatment or care;

33 (ii) Does not require hospital inpatient, observation unit, or emer-
 34 gency room level of care, or a medically indicated emergency department
 35 or observation visit; and

36 (iii) Is experiencing homelessness or at imminent risk of homeless-
 37 ness. A person shall be deemed "homeless" if they lack a fixed, regular
 38 and adequate nighttime residence in a location ordinarily used as a
 39 regular sleeping accommodation for people.

40 2. Certification. (a) Notwithstanding any inconsistent provision of
 41 law, the commissioner may certify a not-for-profit corporation as an
 42 operator of a medical respite program.

43 (b) The commissioner may make regulations to establish procedures to
 44 review and approve applications for a certification pursuant to this
 45 article, which shall, at a minimum, specify standards for: recipient
 46 eligibility; medical respite program services that shall be provided;
 47 physical environment; staffing; and policies and procedures governing
 48 health and safety, length of stay, referrals, discharge, and coordi-
 49 nation of care.

50 3. Operating standards; responsibility for standards. (a) Medical
 51 respite programs certified pursuant to this article shall:

52 (i) Provide recipients and where applicable, their family members with
 53 temporary room and board with appropriate kitchen and bathroom facili-
 54 ties; and

1 (ii) Provide, or arrange for the provision of, health care and support
2 services to recipients.

3 (b) Nothing in this article shall affect the application, qualifica-
4 tion, or requirements that may apply to an operator with respect to any
5 other licenses or operating certificates that such operator may hold,
6 including, without limitation, under article twenty-eight of this chap-
7 ter or article seven of the social services law.

8 4. Temporary accommodation. A medical respite program shall be consid-
9 ered a form of emergency shelter or temporary shelter for purposes of
10 determining a recipient's eligibility for housing programs or benefits
11 administered by the state or by a local social services district,
12 including programs or benefits that support access to accommodations of
13 a temporary, transitional, or permanent nature. No claim of recovery
14 shall accrue against a recipient to recover the cost of care and
15 services provided under this article. Care and services provided under
16 this article shall not be deemed public benefits that would affect a
17 recipient's immigration status under federal law.

18 5. Inspections and compliance. The commissioner shall have the author-
19 ity to inquire into the operation of any medical respite program and to
20 conduct periodic inspections of facilities with respect to the fitness
21 and adequacy of the premises, equipment, personnel, rules and by-laws,
22 standards of medical care and services, system of accounts, records, and
23 the adequacy of financial resources and sources of future revenues.

24 6. Suspension or revocation of certification. (a) A certification for
25 a medical respite program may be revoked, suspended, limited, annulled
26 or denied by the commissioner, in consultation with either the commis-
27 sioners of the office of mental health, the office of temporary and
28 disability assistance, or the office of addiction services and supports,
29 as appropriate based on a determination of the department depending on
30 the diagnosis or stated needs of the individuals being served or
31 proposed to be served in the medical respite program, if an operator is
32 determined to have failed to comply with this article. No action taken
33 against an operator under this subdivision shall affect an operator's
34 other licenses or certifications; provided however, that the facts that
35 gave rise to the revocation, suspension, limitation, annulment or denial
36 of certification may also form the basis of a limitation, suspension of
37 revocation of such other licenses or certifications.

38 (b) No medical respite program certification shall be revoked,
39 suspended, limited, annulled or denied without a hearing; provided that
40 a certification may be temporarily suspended or limited without a hear-
41 ing for a period not in excess of thirty days upon written notice that
42 the continuation of the medical respite program places the health or
43 safety of the recipients in imminent danger, and that the action is in
44 the interest of the recipients. However, the department shall not make
45 a determination until the program has had a reasonable opportunity,
46 following the initial determination that the program places the health
47 or safety of the recipients in imminent danger, to correct its deficien-
48 cies and following this period, has been given written notice and oppor-
49 tunity for hearing.

50 (c) Nothing in this section shall prevent the commissioner from impos-
51 ing sanctions or penalties on a medical respite program that are author-
52 ized under any other law or regulation.

53 7. The commissioner shall promulgate regulations to implement this
54 article.

55 § 2. This act shall take effect immediately and shall be deemed to
56 have been in full force and effect on and after April 1, 2021.

1

PART H

2 Section 1. The title heading of title 11-D of article 5 of the social
3 services law, as added by chapter 1 of the laws of 1999, is amended to
4 read as follows:

5 [FAMILY] BASIC HEALTH [PLUS] PROGRAM

6 § 2. Paragraph (d) of subdivision 3, subdivision 5 and subdivision 7
7 of section 369-gg of the social services law, as added by section 51 of
8 part C of chapter 60 of the laws of 2014 and subdivision 7 as renumbered
9 by section 28 of part B of chapter 57 of the laws of 2015, are amended
10 to read as follows:

11 (d) (i) has household income at or below two hundred percent of the
12 federal poverty line defined and annually revised by the United States
13 department of health and human services for a household of the same
14 size; and (ii) has household income that exceeds one hundred thirty-
15 three percent of the federal poverty line defined and annually revised
16 by the United States department of health and human services for a
17 household of the same size; however, MAGI eligible aliens lawfully pres-
18 ent in the United States with household incomes at or below one hundred
19 thirty-three percent of the federal poverty line shall be eligible to
20 receive coverage for health care services pursuant to the provisions of
21 this title if such alien would be ineligible for medical assistance
22 under title eleven of this article due to his or her immigration status.

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

27 5. Premiums and cost sharing. (a) Subject to federal approval, the
28 commissioner shall establish premium payments enrollees shall pay to
29 approved organizations for coverage of health care services pursuant to
30 this title. [Such premium payments shall be established in the following
31 manner:

32 (i) up to twenty dollars monthly for an individual with a household
33 income above one hundred and fifty percent of the federal poverty line
34 but at or below two hundred percent of the federal poverty line defined
35 and annually revised by the United States department of health and human
36 services for a household of the same size; and

37 (ii) no] No payment is required for individuals with a household
38 income at or below [one hundred and fifty] two hundred percent of the
39 federal poverty line defined and annually revised by the United States
40 department of health and human services for a household of the same
41 size.

42 (b) [The commissioner shall establish cost sharing obligations for
43 enrollees, subject to federal approval] There shall be no cost sharing
44 obligations for enrollees, including for dental and vision services.

45 7. Any funds transferred by the secretary of health and human services
46 to the state pursuant to 42 U.S.C. 18051(d) shall be deposited in trust.
47 Funds from the trust shall be used for providing health benefits through
48 an approved organization, which, at a minimum, shall include essential
49 health benefits as defined in 42 U.S.C. 18022(b); to reduce the
50 premiums, if any, and cost sharing of participants in the basic health
51 program; or for such other purposes as may be allowed by the secretary
52 of health and human services. Health benefits available through the
53 basic health program shall be provided by one or more approved organiza-
54 tions pursuant to an agreement with the department of health and shall

1 meet the requirements of applicable federal and state laws and regu-
2 lations.

3 § 2-a. Section 369-gg of the social services law is amended by adding
4 a new subdivision 3-a to read as follows:

5 3-a. Novel coronavirus, COVID-19 eligibility. A person shall also be
6 eligible to receive coverage for health care services under this title,
7 without regard to federal financial participation, if he or she is a
8 resident of the state, has or has had a confirmed or suspected case of
9 novel coronavirus, COVID-19, household income below two hundred percent
10 of the federal poverty line as defined and annually revised by the
11 United States department of health and human services for a household of
12 the same size, and is ineligible for federal financial participation in
13 the basic health program under 42 U.S.C. section 18051 on the basis of
14 immigration status, but otherwise meets the eligibility requirements in
15 paragraphs (b) and (c) of subdivision three of this section. An appli-
16 cant who fails to make an applicable premium payment shall lose eligi-
17 bility to receive coverage for health care services in accordance with
18 the time frames and procedures determined by the commissioner.

19 § 3. This act shall take effect immediately; provided, however, that
20 sections one and two of this act shall take effect June 1, 2021;
21 provided further, however, that section two-a of this act shall expire
22 and be deemed repealed sixty days following the conclusion of the state
23 disaster emergency declared pursuant to executive order 202, provided
24 that the commissioner of health shall notify the legislative bill draft-
25 ing commission upon the occurrence of the conclusion of such executive
26 order in order that the commission may maintain an accurate and timely
27 effective data base of the official text of the laws of the state of New
28 York in furtherance of effectuating the provisions of section 44 of the
29 legislative law and section 70-b of the public officers law.

30 PART I

31 Intentionally Omitted

32 PART J

33 Intentionally Omitted

34 PART K

35 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266
36 of the laws of 1986, amending the civil practice law and rules and other
37 laws relating to malpractice and professional medical conduct, as
38 amended by section 1 of part AAA of chapter 56 of the laws of 2020, is
39 amended to read as follows:

40 (a) The superintendent of financial services and the commissioner of
41 health or their designee shall, from funds available in the hospital
42 excess liability pool created pursuant to subdivision 5 of this section,
43 purchase a policy or policies for excess insurance coverage, as author-
44 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
45 law; or from an insurer, other than an insurer described in section 5502
46 of the insurance law, duly authorized to write such coverage and actual-
47 ly writing medical malpractice insurance in this state; or shall
48 purchase equivalent excess coverage in a form previously approved by the
49 superintendent of financial services for purposes of providing equiv-
50 alent excess coverage in accordance with section 19 of chapter 294 of

1 the laws of 1985, for medical or dental malpractice occurrences between
2 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
3 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
4 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
5 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
6 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
7 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
8 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
9 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
10 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
11 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
12 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
13 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
14 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
15 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
16 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
17 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
18 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
19 between July 1, 2016 and June 30, 2017, between July 1, 2017 and June
20 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019
21 and June 30, 2020, [and] between July 1, 2020 and June 30, 2021, and
22 between July 1, 2021 and June 30, 2022 or reimburse the hospital where
23 the hospital purchases equivalent excess coverage as defined in subpara-
24 graph (i) of paragraph (a) of subdivision 1-a of this section for
25 medical or dental malpractice occurrences between July 1, 1987 and June
26 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
27 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
28 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
29 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
30 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
31 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
32 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
33 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
34 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
35 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
36 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
37 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
38 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
39 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
40 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
41 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
42 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017
43 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
44 1, 2019 and June 30, 2020, [and] between July 1, 2020 and June 30, 2021, and
45 between July 1, 2021 and June 30, 2022 for physicians or dentists
46 certified as eligible for each such period or periods pursuant to subdi-
47 vision 2 of this section by a general hospital licensed pursuant to
48 article 28 of the public health law; provided that no single insurer
49 shall write more than fifty percent of the total excess premium for a
50 given policy year; and provided, however, that such eligible physicians
51 or dentists must have in force an individual policy, from an insurer
52 licensed in this state of primary malpractice insurance coverage in
53 amounts of no less than one million three hundred thousand dollars for
54 each claimant and three million nine hundred thousand dollars for all
55 claimants under that policy during the period of such excess coverage
56 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 § 2. 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 AAA of chapter 56 of the laws of 2020, is amended to read as
34 follows:

35 (3)(a) The superintendent of financial services shall determine and
36 certify to each general hospital and to the commissioner of health the
37 cost of excess malpractice insurance for medical or dental malpractice
38 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
39 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
40 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
41 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
42 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
43 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
44 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
45 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
46 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
47 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
48 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
49 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
50 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
51 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
52 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, [and]
53 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
54 30, 2015, between July 1, 2015 and June 30, 2016, [and] between July 1,
55 2016 and June 30, 2017, between July 1, 2017 and June 30, 2018, between
56 July 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020,

1 [and] between July 1, 2020 and June 30, 2021, and between July 1, 2021
2 and June 30, 2022 allocable to each general hospital for physicians or
3 dentists certified as eligible for purchase of a policy for excess
4 insurance coverage by such general hospital in accordance with subdivi-
5 sion 2 of this section, and may amend such determination and certif-
6 ication as necessary.

7 (b) The superintendent of financial services shall determine and
8 certify to each general hospital and to the commissioner of health the
9 cost of excess malpractice insurance or equivalent excess coverage for
10 medical or dental malpractice occurrences between July 1, 1987 and June
11 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
12 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
13 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
14 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
15 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
16 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
17 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
18 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
19 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
20 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
21 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
22 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
23 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
24 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
25 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
26 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
27 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017
28 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July
29 1, 2019 and June 30, 2020, [and] between July 1, 2020 and June 30, 2021,
30 and between July 1, 2021 and June 30, 2022 allocable to each general
31 hospital for physicians or dentists certified as eligible for purchase
32 of a policy for excess insurance coverage or equivalent excess coverage
33 by such general hospital in accordance with subdivision 2 of this
34 section, and may amend such determination and certification as neces-
35 sary. The superintendent of financial services shall determine and
36 certify to each general hospital and to the commissioner of health the
37 ratable share of such cost allocable to the period July 1, 1987 to
38 December 31, 1987, to the period January 1, 1988 to June 30, 1988, to
39 the period July 1, 1988 to December 31, 1988, to the period January 1,
40 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989,
41 to the period January 1, 1990 to June 30, 1990, to the period July 1,
42 1990 to December 31, 1990, to the period January 1, 1991 to June 30,
43 1991, to the period July 1, 1991 to December 31, 1991, to the period
44 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December
45 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period
46 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June
47 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period
48 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December
49 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period
50 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June
51 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period
52 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December
53 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period
54 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June
55 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period
56 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,

1 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,
2 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to
3 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006
4 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the
5 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and
6 June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the
7 period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and
8 June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the
9 period July 1, 2014 and June 30, 2015, to the period July 1, 2015 and
10 June 30, 2016, to the period July 1, 2016 and June 30, 2017, to the
11 period July 1, 2017 to June 30, 2018, to the period July 1, 2018 to June
12 30, 2019, to the period July 1, 2019 to June 30, 2020, [and] to the
13 period July 1, 2020 to June 30, 2021, and to the period July 1, 2021 to
14 June 30, 2022.

15 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
16 18 of chapter 266 of the laws of 1986, amending the civil practice law
17 and rules and other laws relating to malpractice and professional
18 medical conduct, as amended by section 3 of part AAA of chapter 56 of
19 the laws of 2020, are amended to read as follows:

20 (a) To the extent funds available to the hospital excess liability
21 pool pursuant to subdivision 5 of this section as amended, and pursuant
22 to section 6 of part J of chapter 63 of the laws of 2001, as may from
23 time to time be amended, which amended this subdivision, are insuffi-
24 cient to meet the costs of excess insurance coverage or equivalent
25 excess coverage for coverage periods during the period July 1, 1992 to
26 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
27 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
28 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
29 during the period July 1, 1997 to June 30, 1998, during the period July
30 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
31 2000, during the period July 1, 2000 to June 30, 2001, during the period
32 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
33 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
34 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
35 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
36 during the period July 1, 2006 to June 30, 2007, during the period July
37 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
38 2009, during the period July 1, 2009 to June 30, 2010, during the period
39 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
40 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
41 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
42 June 30, 2015, during the period July 1, 2015 to June 30, 2016, during
43 the period July 1, 2016 to June 30, 2017, during the period July 1, 2017
44 to June 30, 2018, during the period July 1, 2018 to June 30, 2019,
45 during the period July 1, 2019 to June 30, 2020, [and] during the period
46 July 1, 2020 to June 30, 2021, and during the period July 1, 2021 to
47 June 30, 2022 allocated or reallocated in accordance with paragraph (a)
48 of subdivision 4-a of this section to rates of payment applicable to
49 state governmental agencies, each physician or dentist for whom a policy
50 for excess insurance coverage or equivalent excess coverage is purchased
51 for such period shall be responsible for payment to the provider of
52 excess insurance coverage or equivalent excess coverage of an allocable
53 share of such insufficiency, based on the ratio of the total cost of
54 such coverage for such physician to the sum of the total cost of such
55 coverage for all physicians applied to such insufficiency.



1 (b) Each provider of excess insurance coverage or equivalent excess
2 coverage covering the period July 1, 1992 to June 30, 1993, or covering
3 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
4 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
5 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
6 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
7 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
8 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
9 the period July 1, 2001 to October 29, 2001, or covering the period
10 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
11 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
12 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
13 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
14 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
15 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
16 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
17 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
18 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
19 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
20 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
21 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
22 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
23 June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or
24 covering the period July 1, 2020 to June 30, 2021, or covering the peri-
25 od July 1, 2021 to June 30, 2022 shall notify a covered physician or
26 dentist by mail, mailed to the address shown on the last application for
27 excess insurance coverage or equivalent excess coverage, of the amount
28 due to such provider from such physician or dentist for such coverage
29 period determined in accordance with paragraph (a) of this subdivision.
30 Such amount shall be due from such physician or dentist to such provider
31 of excess insurance coverage or equivalent excess coverage in a time and
32 manner determined by the superintendent of financial services.

33 (c) If a physician or dentist liable for payment of a portion of the
34 costs of excess insurance coverage or equivalent excess coverage cover-
35 ing the period July 1, 1992 to June 30, 1993, or covering the period
36 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
37 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
38 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
39 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
40 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
41 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
42 od July 1, 2001 to October 29, 2001, or covering the period April 1,
43 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
44 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
45 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
46 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
47 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
48 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
49 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
50 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
51 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
52 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
53 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
54 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
55 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
56 2019, or covering the period July 1, 2019 to June 30, 2020, or covering

1 the period July 1, 2020 to June 30, 2021, or covering the period July 1,
2 2021 to June 30, 2022 determined in accordance with paragraph (a) of
3 this subdivision fails, refuses or neglects to make payment to the
4 provider of excess insurance coverage or equivalent excess coverage in
5 such time and manner as determined by the superintendent of financial
6 services pursuant to paragraph (b) of this subdivision, excess insurance
7 coverage or equivalent excess coverage purchased for such physician or
8 dentist in accordance with this section for such coverage period shall
9 be cancelled and shall be null and void as of the first day on or after
10 the commencement of a policy period where the liability for payment
11 pursuant to this subdivision has not been met.

12 (d) Each provider of excess insurance coverage or equivalent excess
13 coverage shall notify the superintendent of financial services and the
14 commissioner of health or their designee of each physician and dentist
15 eligible for purchase of a policy for excess insurance coverage or
16 equivalent excess coverage covering the period July 1, 1992 to June 30,
17 1993, or covering the period July 1, 1993 to June 30, 1994, or covering
18 the period July 1, 1994 to June 30, 1995, or covering the period July 1,
19 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,
20 1997, or covering the period July 1, 1997 to June 30, 1998, or covering
21 the period July 1, 1998 to June 30, 1999, or covering the period July 1,
22 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,
23 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-
24 ing the period April 1, 2002 to June 30, 2002, or covering the period
25 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to
26 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or
27 covering the period July 1, 2005 to June 30, 2006, or covering the peri-
28 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to
29 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or
30 covering the period July 1, 2009 to June 30, 2010, or covering the peri-
31 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to
32 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or
33 covering the period July 1, 2013 to June 30, 2014, or covering the peri-
34 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to
35 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or
36 covering the period July 1, 2017 to June 30, 2018, or covering the peri-
37 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to
38 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or
39 covering the period July 1, 2021 to June 30, 2022 that has made payment
40 to such provider of excess insurance coverage or equivalent excess
41 coverage in accordance with paragraph (b) of this subdivision and of
42 each physician and dentist who has failed, refused or neglected to make
43 such payment.

44 (e) A provider of excess insurance coverage or equivalent excess
45 coverage shall refund to the hospital excess liability pool any amount
46 allocable to the period July 1, 1992 to June 30, 1993, and to the period
47 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
48 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
49 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
50 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
51 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
52 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
53 and to the period April 1, 2002 to June 30, 2002, and to the period July
54 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
55 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
56 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June

1 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
2 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
3 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
4 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
5 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
6 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
7 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
8 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
9 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,
10 and to the period July 1, 2020 to June 30, 2021, and to the period July
11 1, 2021 to June 30, 2022 received from the hospital excess liability
12 pool for purchase of excess insurance coverage or equivalent excess
13 coverage covering the period July 1, 1992 to June 30, 1993, and covering
14 the period July 1, 1993 to June 30, 1994, and covering the period July
15 1, 1994 to June 30, 1995, and covering the period July 1, 1995 to June
16 30, 1996, and covering the period July 1, 1996 to June 30, 1997, and
17 covering the period July 1, 1997 to June 30, 1998, and covering the
18 period July 1, 1998 to June 30, 1999, and covering the period July 1,
19 1999 to June 30, 2000, and covering the period July 1, 2000 to June 30,
20 2001, and covering the period July 1, 2001 to October 29, 2001, and
21 covering the period April 1, 2002 to June 30, 2002, and covering the
22 period July 1, 2002 to June 30, 2003, and covering the period July 1,
23 2003 to June 30, 2004, and covering the period July 1, 2004 to June 30,
24 2005, and covering the period July 1, 2005 to June 30, 2006, and cover-
25 ing the period July 1, 2006 to June 30, 2007, and covering the period
26 July 1, 2007 to June 30, 2008, and covering the period July 1, 2008 to
27 June 30, 2009, and covering the period July 1, 2009 to June 30, 2010,
28 and covering the period July 1, 2010 to June 30, 2011, and covering the
29 period July 1, 2011 to June 30, 2012, and covering the period July 1,
30 2012 to June 30, 2013, and covering the period July 1, 2013 to June 30,
31 2014, and covering the period July 1, 2014 to June 30, 2015, and cover-
32 ing the period July 1, 2015 to June 30, 2016, and covering the period
33 July 1, 2016 to June 30, 2017, and covering the period July 1, 2017 to
34 June 30, 2018, and covering the period July 1, 2018 to June 30, 2019,
35 and covering the period July 1, 2019 to June 30, 2020, and covering the
36 period July 1, 2020 to June 30, 2021, and covering the period July 1,
37 2021 to June 30, 2022 for a physician or dentist where such excess
38 insurance coverage or equivalent excess coverage is cancelled in accord-
39 ance with paragraph (c) of this subdivision.

40 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
41 practice law and rules and other laws relating to malpractice and
42 professional medical conduct, as amended by section 5 of part AAA of
43 chapter 56 of the laws of 2020, is amended to read as follows:

44 § 40. The superintendent of financial services shall establish rates
45 for policies providing coverage for physicians and surgeons medical
46 malpractice for the periods commencing July 1, 1985 and ending June 30,
47 [2021] 2022; provided, however, that notwithstanding any other provision
48 of law, the superintendent shall not establish or approve any increase
49 in rates for the period commencing July 1, 2009 and ending June 30,
50 2010. The superintendent shall direct insurers to establish segregated
51 accounts for premiums, payments, reserves and investment income attrib-
52 utable to such premium periods and shall require periodic reports by the
53 insurers regarding claims and expenses attributable to such periods to
54 monitor whether such accounts will be sufficient to meet incurred claims
55 and expenses. On or after July 1, 1989, the superintendent shall impose
56 a surcharge on premiums to satisfy a projected deficiency that is

1 attributable to the premium levels established pursuant to this section
2 for such periods; provided, however, that such annual surcharge shall
3 not exceed eight percent of the established rate until July 1, [2021]
4 2022, at which time and thereafter such surcharge shall not exceed twen-
5 ty-five percent of the approved adequate rate, and that such annual
6 surcharges shall continue for such period of time as shall be sufficient
7 to satisfy such deficiency. The superintendent shall not impose such
8 surcharge during the period commencing July 1, 2009 and ending June 30,
9 2010. On and after July 1, 1989, the surcharge prescribed by this
10 section shall be retained by insurers to the extent that they insured
11 physicians and surgeons during the July 1, 1985 through June 30, [2021]
12 2022 policy periods; in the event and to the extent physicians and
13 surgeons were insured by another insurer during such periods, all or a
14 pro rata share of the surcharge, as the case may be, shall be remitted
15 to such other insurer in accordance with rules and regulations to be
16 promulgated by the superintendent. Surcharges collected from physicians
17 and surgeons who were not insured during such policy periods shall be
18 apportioned among all insurers in proportion to the premium written by
19 each insurer during such policy periods; if a physician or surgeon was
20 insured by an insurer subject to rates established by the superintendent
21 during such policy periods, and at any time thereafter a hospital,
22 health maintenance organization, employer or institution is responsible
23 for responding in damages for liability arising out of such physician's
24 or surgeon's practice of medicine, such responsible entity shall also
25 remit to such prior insurer the equivalent amount that would then be
26 collected as a surcharge if the physician or surgeon had continued to
27 remain insured by such prior insurer. In the event any insurer that
28 provided coverage during such policy periods is in liquidation, the
29 property/casualty insurance security fund shall receive the portion of
30 surcharges to which the insurer in liquidation would have been entitled.
31 The surcharges authorized herein shall be deemed to be income earned for
32 the purposes of section 2303 of the insurance law. The superintendent,
33 in establishing adequate rates and in determining any projected defi-
34 ciency pursuant to the requirements of this section and the insurance
35 law, shall give substantial weight, determined in his discretion and
36 judgment, to the prospective anticipated effect of any regulations
37 promulgated and laws enacted and the public benefit of stabilizing
38 malpractice rates and minimizing rate level fluctuation during the peri-
39 od of time necessary for the development of more reliable statistical
40 experience as to the efficacy of such laws and regulations affecting
41 medical, dental or podiatric malpractice enacted or promulgated in 1985,
42 1986, by this act and at any other time. Notwithstanding any provision
43 of the insurance law, rates already established and to be established by
44 the superintendent pursuant to this section are deemed adequate if such
45 rates would be adequate when taken together with the maximum authorized
46 annual surcharges to be imposed for a reasonable period of time whether
47 or not any such annual surcharge has been actually imposed as of the
48 establishment of such rates.

49 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
50 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
51 1986, amending the civil practice law and rules and other laws relating
52 to malpractice and professional medical conduct, as amended by section 6
53 of part AAA of chapter 56 of the laws of 2020, are amended to read as
54 follows:

55 § 5. The superintendent of financial services and the commissioner of
56 health shall determine, no later than June 15, 2002, June 15, 2003, June

1 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
2 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
3 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June
4 15, 2018, June 15, 2019, June 15, 2020, [and] June 15, 2021, and June
5 15, 2022 the amount of funds available in the hospital excess liability
6 pool, created pursuant to section 18 of chapter 266 of the laws of 1986,
7 and whether such funds are sufficient for purposes of purchasing excess
8 insurance coverage for eligible participating physicians and dentists
9 during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June
10 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
11 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
12 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,
13 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,
14 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,
15 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
16 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30,
17 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30,
18 2019, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30,
19 2021, or July 1, 2021 to June 30, 2022 as applicable.

20 (a) This section shall be effective only upon a determination, pursu-
21 ant to section five of this act, by the superintendent of financial
22 services and the commissioner of health, and a certification of such
23 determination to the state director of the budget, the chair of the
24 senate committee on finance and the chair of the assembly committee on
25 ways and means, that the amount of funds in the hospital excess liabil-
26 ity pool, created pursuant to section 18 of chapter 266 of the laws of
27 1986, is insufficient for purposes of purchasing excess insurance cover-
28 age for eligible participating physicians and dentists during the period
29 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
30 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
31 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
32 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
33 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
34 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
35 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
36 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
37 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,
38 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30, 2022
39 as applicable.

40 (e) The commissioner of health shall transfer for deposit to the
41 hospital excess liability pool created pursuant to section 18 of chapter
42 266 of the laws of 1986 such amounts as directed by the superintendent
43 of financial services for the purchase of excess liability insurance
44 coverage for eligible participating physicians and dentists for the
45 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
46 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
47 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
48 2007, as applicable, and the cost of administering the hospital excess
49 liability pool for such applicable policy year, pursuant to the program
50 established in chapter 266 of the laws of 1986, as amended, no later
51 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
52 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
53 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
54 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June
55 15, 2020, [and] June 15, 2021, and June 15, 2022 as applicable.



1 § 6. Section 20 of part H of chapter 57 of the laws of 2017, amending
2 the New York Health Care Reform Act of 1996 and other laws relating to
3 extending certain provisions thereto, as amended by section 7 of part
4 AAA of chapter 56 of the laws of 2020, is amended to read as follows:

5 § 20. Notwithstanding any law, rule or regulation to the contrary,
6 only physicians or dentists who were eligible, and for whom the super-
7 intendent of financial services and the commissioner of health, or their
8 designee, purchased, with funds available in the hospital excess liabil-
9 ity pool, a full or partial policy for excess coverage or equivalent
10 excess coverage for the coverage period ending the thirtieth of June,
11 two thousand [twenty] twenty-one, shall be eligible to apply for such
12 coverage for the coverage period beginning the first of July, two thou-
13 sand [twenty] twenty-one; provided, however, if the total number of
14 physicians or dentists for whom such excess coverage or equivalent
15 excess coverage was purchased for the policy year ending the thirtieth
16 of June, two thousand [twenty] twenty-one exceeds the total number of
17 physicians or dentists certified as eligible for the coverage period
18 beginning the first of July, two thousand [twenty] twenty-one, then the
19 general hospitals may certify additional eligible physicians or dentists
20 in a number equal to such general hospital's proportional share of the
21 total number of physicians or dentists for whom excess coverage or
22 equivalent excess coverage was purchased with funds available in the
23 hospital excess liability pool as of the thirtieth of June, two thousand
24 [twenty] twenty-one, as applied to the difference between the number of
25 eligible physicians or dentists for whom a policy for excess coverage or
26 equivalent excess coverage was purchased for the coverage period ending
27 the thirtieth of June, two thousand [twenty] twenty-one and the number
28 of such eligible physicians or dentists who have applied for excess
29 coverage or equivalent excess coverage for the coverage period beginning
30 the first of July, two thousand [twenty] twenty-one.

31 § 7. This act shall take effect immediately and shall be deemed to
32 have been in full force and effect on and after April 1, 2021.

33 PART L

34 Intentionally Omitted

35 PART M

36 Intentionally Omitted

37 PART N

38 Intentionally Omitted

39 PART O

40 Intentionally Omitted

41 PART P

42 Intentionally Omitted

43 PART Q

44 Intentionally Omitted

1

PART R

2

Intentionally Omitted

3

PART S

4 Section 1. Section 11 of chapter 884 of the laws of 1990, amending the
5 public health law relating to authorizing bad debt and charity care
6 allowances for certified home health agencies, as amended by section 3
7 of part E of chapter 57 of the laws of 2019, is amended to read as
8 follows:

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

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

11 (b) sections four through ten shall expire on June 30, [2021] 2023,
12 and

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

17 § 2. Subdivision (a) of section 40 of part B of chapter 109 of the
18 laws of 2010, amending the social services law relating to transporta-
19 tion costs, as amended by section 5 of part E of chapter 57 of the laws
20 of 2019, is amended to read as follows:

21 (a) sections two, three, three-a, three-b, three-c, three-d, three-e
22 and twenty-one of this act shall take effect July 1, 2010; sections
23 fifteen, sixteen, seventeen, eighteen and nineteen of this act shall
24 take effect January 1, 2011; and provided further that section twenty of
25 this act shall be deemed repealed [ten] twelve years after the date the
26 contract entered into pursuant to section 365-h of the social services
27 law, as amended by section twenty of this act, is executed; provided
28 that the commissioner of health shall notify the legislative bill draft-
29 ing commission upon the execution of the contract entered into pursuant
30 to section 367-h of the social services law in order that the commission
31 may maintain an accurate and timely effective data base of the official
32 text of the laws of the state of New York in furtherance of effectuating
33 the provisions of section 44 of the legislative law and section 70-b of
34 the public officers law;

35 § 3. Subdivision 5-a of section 246 of chapter 81 of the laws of 1995,
36 amending the public health law and other laws relating to medical
37 reimbursement and welfare reform, as amended by section 12 of part E of
38 chapter 57 of the laws of 2019, is amended to read as follows:

39 5-a. Section sixty-four-a of this act shall be deemed to have been in
40 full force and effect on and after April 1, 1995 through March 31, 1999
41 and on and after July 1, 1999 through March 31, 2000 and on and after
42 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
43 through March 31, 2007, and on and after April 1, 2007 through March 31,
44 2009, and on and after April 1, 2009 through March 31, 2011, and on and
45 after April 1, 2011 through March 31, 2013, and on and after April 1,
46 2013 through March 31, 2015, and on and after April 1, 2015 through
47 March 31, 2017 and on and after April 1, 2017 through March 31, 2019,
48 and on and after April 1, 2019 through March 31, 2021, and on and after
49 April 1, 2021 through March 31, 2022;

50 § 4. Section 64-b of chapter 81 of the laws of 1995, amending the
51 public health law and other laws relating to medical reimbursement and
52 welfare reform, as amended by section 13 of part E of chapter 57 of the
53 laws of 2019, is amended to read as follows:

1 § 64-b. Notwithstanding any inconsistent provision of law, the
2 provisions of subdivision 7 of section 3614 of the public health law, as
3 amended, shall remain and be in full force and effect on April 1, 1995
4 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
5 and after April 1, 2000 through March 31, 2003 and on and after April 1,
6 2003 through March 31, 2007, and on and after April 1, 2007 through
7 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
8 and on and after April 1, 2011 through March 31, 2013, and on and after
9 April 1, 2013 through March 31, 2015, and on and after April 1, 2015
10 through March 31, 2017 and on and after April 1, 2017 through March 31,
11 2019, and on and after April 1, 2019 through March 31, 2021, and on and
12 after April 1, 2021 through March 31, 2022.

13 § 5. Section 4-a of part A of chapter 56 of the laws of 2013, amending
14 chapter 59 of the laws of 2011 amending the public health law and other
15 laws relating to general hospital reimbursement for annual rates, as
16 amended by section 14 of part E of chapter 57 of the laws of 2019, is
17 amended to read as follows:

18 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section
19 2807-c of the public health law, section 21 of chapter 1 of the laws of
20 1999, or any other contrary provision of law, in determining rates of
21 payments by state governmental agencies effective for services provided
22 on and after January 1, 2017 through March 31, [2021] 2022, for inpa-
23 tient and outpatient services provided by general hospitals, for inpa-
24 tient services and adult day health care outpatient services provided by
25 residential health care facilities pursuant to article 28 of the public
26 health law, except for residential health care facilities or units of
27 such facilities providing services primarily to children under twenty-
28 one years of age, for home health care services provided pursuant to
29 article 36 of the public health law by certified home health agencies,
30 long term home health care programs and AIDS home care programs, and for
31 personal care services provided pursuant to section 365-a of the social
32 services law, the commissioner of health shall apply no greater than
33 zero trend factors attributable to the 2017, 2018, 2019, 2020, [and]
34 2021 and 2022 calendar years in accordance with paragraph (c) of subdi-
35 vision 10 of section 2807-c of the public health law, provided, however,
36 that such no greater than zero trend factors attributable to such 2017,
37 2018, 2019, 2020, [and] 2021 and 2022 calendar years shall also be
38 applied to rates of payment provided on and after January 1, 2017
39 through March 31, [2021] 2022 for personal care services provided in
40 those local social services districts, including New York city, whose
41 rates of payment for such services are established by such local social
42 services districts pursuant to a rate-setting exemption issued by the
43 commissioner of health to such local social services districts in
44 accordance with applicable regulations; and provided further, however,
45 that for rates of payment for assisted living program services provided
46 on and after January 1, 2017 through March 31, [2021] 2022, such trend
47 factors attributable to the 2017, 2018, 2019, 2020, [and] 2021 and 2022
48 calendar years shall be established at no greater than zero percent.

49 § 6. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
50 amending the public health law and other laws relating to medical
51 reimbursement and welfare reform, as amended by section 17 of part E of
52 chapter 57 of the laws of 2019, is amended to read as follows:

53 2. Sections five, seven through nine, twelve through fourteen, and
54 eighteen of this act shall be deemed to have been in full force and
55 effect on and after April 1, 1995 through March 31, 1999 and on and
56 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000

1 through March 31, 2003 and on and after April 1, 2003 through March 31,
2 2006 and on and after April 1, 2006 through March 31, 2007 and on and
3 after April 1, 2007 through March 31, 2009 and on and after April 1,
4 2009 through March 31, 2011 and sections twelve, thirteen and fourteen
5 of this act shall be deemed to be in full force and effect on and after
6 April 1, 2011 through March 31, 2015 and on and after April 1, 2015
7 through March 31, 2017 and on and after April 1, 2017 through March 31,
8 2019, and on and after April 1, 2019 through March 31, 2021, and on and
9 after April 1, 2021 through March 31, 2022;

10 § 7. Intentionally omitted.

11 § 8. Section 5 of chapter 517 of the laws of 2016, amending the public
12 health law relating to payments from the New York state medical indem-
13 nity fund, as amended by section 18 of part Y of chapter 56 of the laws
14 of 2020, is amended to read as follows:

15 § 5. This act shall take effect on the forty-fifth day after it shall
16 have become a law, provided that the amendments to subdivision 4 of
17 section 2999-j of the public health law made by section two of this act
18 shall take effect on June 30, 2017 and shall expire and be deemed
19 repealed December 31, [2021] 2022.

20 § 9. Subdivision 1 of section 2999-aa of the public health law, as
21 amended by chapter 80 of the laws of 2017, is amended to read as
22 follows:

23 1. In order to promote improved quality and efficiency of, and access
24 to, health care services and to promote improved clinical outcomes to
25 the residents of New York, it shall be the policy of the state to
26 encourage, where appropriate, cooperative, collaborative and integrative
27 arrangements including but not limited to, mergers and acquisitions
28 among health care providers or among others who might otherwise be
29 competitors, under the active supervision of the commissioner. To the
30 extent such arrangements, or the planning and negotiations that precede
31 them, might be anti-competitive within the meaning and intent of the
32 state and federal antitrust laws, the intent of the state is to supplant
33 competition with such arrangements under the active supervision and
34 related administrative actions of the commissioner as necessary to
35 accomplish the purposes of this article, and to provide state action
36 immunity under the state and federal antitrust laws with respect to
37 activities undertaken by health care providers and others pursuant to
38 this article, where the benefits of such active supervision, arrange-
39 ments and actions of the commissioner outweigh any disadvantages likely
40 to result from a reduction of competition. The commissioner shall not
41 approve an arrangement for which state action immunity is sought under
42 this article without first consulting with, and receiving a recommenda-
43 tion from, the public health and health planning council. No arrangement
44 under this article shall be approved after December thirty-first, two
45 thousand [twenty] twenty-four.

46 § 10. Section 3 of part D of chapter 56 of the laws of 2014, amending
47 the education law relating to the nurse practitioners modernization act,
48 is amended to read as follows:

49 § 3. This act shall take effect on the first of January after it shall
50 have become a law and shall expire June 30 of the [sixth] twelfth year
51 after it shall have become a law, when upon such date the provisions of
52 this act shall be deemed repealed; provided, however, that effective
53 immediately, the addition, amendment and/or repeal of any rule or regu-
54 lation necessary for the implementation of this act on its effective
55 date is authorized and directed to be made and completed on or before
56 such effective date.

1 § 11. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
2 2807-d of the public health law, as amended by section 9 of part E of
3 chapter 57 of the laws of 2019, is amended to read as follows:

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

38 § 11-a. Section 2 of chapter 66 of the laws of 2016, amending the
39 public health law, relating to reporting of opioid overdose data, is
40 amended to read as follows:

41 § 2. This act shall take effect immediately, provided that subdivision
42 6 of section 3309 of the public health law, as added by section one of
43 this act, shall expire and be deemed repealed March 31, [2021] 2026.

44 § 12. This act shall take effect immediately and shall be deemed to
45 have been in full force and effect on and after April 1, 2021.

46

PART T

47 Section 1. Section 3 of part A of chapter 111 of the laws of 2010
48 amending the mental hygiene law relating to the receipt of federal and
49 state benefits received by individuals receiving care in facilities
50 operated by an office of the department of mental hygiene, as amended by
51 section 1 of part X of chapter 57 of the laws of 2018, is amended to
52 read as follows:

53 § 3. This act shall take effect immediately; and shall expire and be
54 deemed repealed June 30, [2021] 2024.

1 § 2. This act shall take effect immediately.

2 PART U

3 Intentionally Omitted

4 PART V

5 Section 1. Section 2 of part NN of chapter 58 of the laws of 2015,
6 amending the mental hygiene law relating to clarifying the authority of
7 the commissioners in the department of mental hygiene to design and
8 implement time-limited demonstration programs, as amended by section 1
9 of part U of chapter 57 of the laws of 2018, is amended to read as
10 follows:

11 § 2. This act shall take effect immediately and shall expire and be
12 deemed repealed March 31, [2021] 2024.

13 § 1-a. Subdivision (d) of section 41.35 of the mental hygiene law, as
14 amended by chapter 658 of the laws of 1977, is amended to read as
15 follows:

16 (d) Quarterly reviews and evaluations of the program shall be under-
17 taken and a final report shall be developed by representatives of the
18 commissioner or commissioners having jurisdiction over the services and
19 the local governmental unit assessing the program, indicating its poten-
20 tial for continuation or use elsewhere, and making any further recommen-
21 dations related to the program. Copies of such quarterly evaluations and
22 final reports shall be sent no later than November fifteenth to the
23 director of the division of the budget, and the chairmen of the senate
24 finance committee and the assembly committee on ways and means and shall
25 be included in the relevant commissioner or commissioners statewide
26 comprehensive plan pursuant to section 5.07 of this chapter.

27 § 1-b. Subparagraphs f and g of paragraph 1 of subdivision (b) of
28 section 5.07 of the mental hygiene law, as amended by section 3 of part
29 N of chapter 56 of the laws of 2012, are amended and a new subparagraph
30 h is added to read as follows:

31 f. encourage and promote person-centered, culturally and linguis-
32 tically competent community-based programs, services, and supports that
33 reflect the partnership between state and local governmental units;
34 [and]

35 g. include progress reports on the implementation of both short-term
36 and long-term recommendations of the children's plan required pursuant
37 to section four hundred eighty-three-f of the social services law[.];
38 and

39 h. include quarterly evaluations, assessments, and recommendations for
40 time limited demonstration programs pursuant to subdivision (d) of
41 section 41.53 of this chapter.

42 § 2. This act shall take effect immediately.

43 PART W

44 Section 1. Section 7 of part R2 of chapter 62 of the laws of 2003,
45 amending the mental hygiene law and the state finance law relating to
46 the community mental health support and workforce reinvestment program,
47 the membership of subcommittees for mental health of community services
48 boards and the duties of such subcommittees and creating the community
49 mental health and workforce reinvestment account, as amended by section

1 1 of part V of chapter 57 of the laws of 2018, is amended to read as
2 follows:

3 § 7. This act shall take effect immediately and shall expire March 31,
4 [2021] 2024 when upon such date the provisions of this act shall be
5 deemed repealed.

6 § 1-a. Subdivision (h) of section 41.55 of the mental hygiene law, as
7 added by section 2 of part R2 of chapter 62 of the laws of 2003 and as
8 relettered by section 4 of part C of chapter 111 of the laws of 2010, is
9 amended to read as follows:

10 (h) Amounts made available to the community mental health support and
11 workforce reinvestment program of the office of mental health shall be
12 subject to annual appropriations therefor[. Up]:

13 (1) up to fifteen percent of the amounts so appropriated shall be made
14 available for staffing at state mental health facilities;

15 (2) no less than twenty percent of the amounts so appropriated shall
16 be made available for workforce recruitment and retention at mental
17 health programs certified under article thirty-one of this chapter; and

18 (3) at least seven percent of the remaining funds may be allocated for
19 state operated community services pursuant to this section.

20 § 2. This act shall take effect immediately, provided, however, that
21 the amendments to subdivision (h) of section 41.55 of the mental hygiene
22 law made by section one-a of this act shall not affect the repeal of
23 such section and shall be deemed to be repealed therewith.

24 PART X

25 Intentionally Omitted

26 PART Y

27 Intentionally Omitted

28 PART Z

29 Section 1. Intentionally omitted.

30 § 2. Subdivision (a) of section 31.04 of the mental hygiene law is
31 amended by adding a new paragraph 8 to read as follows:

32 8. establishing a schedule of fees for the purpose of processing
33 applications for the issuance of operating certificates. All fees pursu-
34 ant to this section shall be payable to the mental illness anti-stigma
35 fund under section 95-h of the state finance law.

36 § 3. This act shall take effect on the one hundred eightieth day
37 after it shall have become a law. Effective immediately, the commis-
38 sioner of mental health is authorized to promulgate any and all rules
39 and regulations and take any other measures necessary to implement this
40 act on its effective date or before such date.

41 PART AA

42 Section 1. This Part enacts into law legislation relating to crisis
43 stabilization services, Kendra's law and assisted outpatient treatment
44 and involuntary commitment. Each component is wholly contained within a
45 Subpart identified as Subparts A through C. The effective date for each
46 particular provision contained within each Subpart is set forth in the
47 last section of such Subpart. Any provision in any section contained
48 within a Subpart, including the effective date of the Subpart, which

1 makes a reference to a section "of this act", when used in connection
2 with that particular component, shall be deemed to mean and refer to the
3 corresponding section of the Subpart in which it is found. Section three
4 of this Part sets forth the general effective date of this Part.

5

SUBPART A

6 Section 1. The mental hygiene law is amended by adding a new section
7 31.36 to read as follows:

8 § 31.36 Crisis stabilization services.

9 The commissioner is authorized, in conjunction with the commissioner
10 of the office of addiction services and supports, to create crisis
11 stabilization centers within New York state in accordance with article
12 thirty-six of this title, including the promulgation of joint regu-
13 lations and implementation of a financing mechanism to allow for the
14 sustainable operation of such programs.

15 § 2. The mental hygiene law is amended by adding a new section 32.36
16 to read as follows:

17 § 32.36 Crisis stabilization services.

18 The commissioner is authorized, in conjunction with the commissioner
19 of the office of mental health, to create crisis stabilization centers
20 within New York state in accordance with article thirty-six of this
21 title, including the promulgation of joint regulations and implementa-
22 tion of a financing mechanism to allow for the sustainable operation of
23 such programs.

24 § 3. The mental hygiene law is amended by adding a new article 36 to
25 read as follows:

26 ARTICLE XXXVI

27 ADDICTION AND MENTAL HEALTH SERVICES AND SUPPORTS

28 Section 36.01 Crisis stabilization centers.

29 36.02 Referral to crisis stabilization centers.

30 § 36.01 Crisis stabilization centers.

31 (a) (1) The commissioners are authorized to jointly license crisis
32 stabilization centers subject to the availability of state and federal
33 funding.

34 (2) A crisis stabilization center shall serve as a voluntary and
35 urgent care service provider for persons at risk of a mental health or
36 substance use crisis or are experiencing a crisis related to a psychiat-
37 ric and/or substance use disorder that are in need of crisis stabiliza-
38 tion services. Each crisis stabilization center shall provide or
39 contract to provide person centered and patient driven crisis stabiliza-
40 tion services for mental health or substance use twenty-four hours per
41 day, seven days per week, including but not limited to:

42 (i) Engagement, triage and assessment;

43 (ii) Continuous observation;

44 (iii) Mild to moderate detoxification;

45 (iv) Sobering services;

46 (v) Therapeutic interventions;

47 (vi) Discharge and after care planning;

48 (vii) Telemedicine;

49 (viii) Peer support services; and

50 (ix) Medication assisted treatment.

51 (3) The commissioners shall require each crisis stabilization center
52 to submit a plan. The plan shall be approved by the commissioners prior
53 to the issuance of an operating certificate pursuant to this article.
54 Each plan shall include:



- 1 (i) a description of the center's catchment area,
2 (ii) a description of the center's crisis stabilization services,
3 (iii) agreements or affiliations with hospitals as defined in section
4 1.03 of this chapter,
5 (iv) agreements or affiliations with general hospitals or law enforce-
6 ment to receive persons,
7 (v) a description of local resources available to the center to
8 prevent unnecessary hospitalizations of persons,
9 (vi) a description of the center's linkages with local police agen-
10 cies, emergency medical services, ambulance services and other transpor-
11 tation agencies,
12 (vii) a description of local resources available to the center to
13 provide appropriate community mental health and substance use disorder
14 services upon release,
15 (viii) written criteria and guidelines for the development of appro-
16 priate planning for persons in need of post community treatment or
17 services,
18 (ix) a statement indicating that the center has been included in an
19 approved local services plan developed pursuant to article forty-one of
20 this chapter for each local government located within the center's
21 catchment area; and
22 (x) any other information or agreements required by the commissioners.
23 (4) Crisis stabilization centers shall participate in county and
24 community planning activities annually, and as additionally needed, in
25 order to participate in local community service planning processes to
26 ensure, maintain, improve or develop community services that demonstrate
27 recovery outcomes. These outcomes include, but are not limited to, qual-
28 ity of life, socio-economic status, entitlement status, social network-
29 ing, coping skills and reduction in use of crisis services.
30 (b) Each crisis stabilization center shall be staffed with a multidis-
31 ciplinary team capable of meeting the needs of individuals experiencing
32 all levels of crisis in the community which shall include, but not be
33 limited to, at least one psychiatrist or psychiatric nurse practitioner,
34 a credentialed alcoholism and substance abuse counselor and one peer
35 support specialist on duty and available at all times, provided, howev-
36 er, the commissioners may promulgate regulations to permit the issuance
37 of a waiver of this requirement when the volume of service of a center
38 does not require such level of staff coverage. A waiver may be issued
39 to a crisis stabilization center, which has been established prior to
40 the effective date of this article, that has demonstrated the ability to
41 effectively operate crisis stabilization centers under an effective
42 model of care which may be replicated throughout the state.
43 (c) The commissioners shall promulgate regulations necessary to the
44 operation of such crisis stabilization centers.
45 (d) For the purpose of addressing unique rural service delivery needs
46 and conditions, the commissioners shall provide technical assistance for
47 the establishment of crisis stabilization centers otherwise approved
48 under the provisions of this section, including technical assistance to
49 promote and facilitate the establishment of such centers in rural areas
50 in the state or combinations of rural counties.
51 (e) The commissioners shall develop or use existing educational mate-
52 rials and provide the materials to crisis stabilization centers who
53 shall disseminate them to local practitioners, community mental health
54 and substance use programs, hospitals, law enforcement, the local judi-
55 cial system, and peers. The materials shall include appropriate educa-
56 tion relating to de-escalation techniques, cultural competency, the



1 recovery process, mental health, substance use, and avoidance of aggres-
2 sive confrontation.

3 (f) Within the amounts appropriated, the commissioners shall ensure
4 that the appropriate training is provided to each law enforcement enti-
5 ty, first responders, and any other entities deemed appropriate by the
6 commissioners, located within the catchment area of a crisis stabiliza-
7 tion center. The training shall include but not be limited to: (1)
8 crisis intervention team training; (2) mental health first aid; and (3)
9 implicit bias training. Such training may be provided in an electronic
10 format or other format as deemed appropriate by the commissioners. The
11 commissioners shall contract with an organization with the knowledge and
12 expertise in providing the training required under this subdivision.
13 § 36.02 Referral to crisis stabilization centers.

14 (a) An authorized referral to crisis stabilization center may include
15 but not be limited to: (1) walk-ins or self-referrals; (2) family
16 members; (3) schools; (4) hospitals; (5) community-based providers; (6)
17 mobile mental health crisis teams; (7) crisis call centers; (8) primary
18 care doctors; (9) law enforcement; and (10) private practitioners.

19 (b) All services provided in crisis stabilization centers shall be
20 voluntary. No crisis stabilization center shall accept involuntary
21 referrals, and no person shall be forced or coerced to participate in
22 services or treatment. A crisis stabilization center may at any time
23 refer a person in their care to a higher level of treatment if deemed
24 appropriate.

25 (c) For a person who is need of emergency observation under section
26 9.41, 9.43, 9.45, or 9.58 of this chapter, the appropriate police offi-
27 cer, peace officer, court, community services director or mobile crisis
28 team must inform the person of the availability of crisis stabilization
29 center services. A crisis stabilization center may conduct an assess-
30 ment prior to accepting a referral. A crisis stabilization center may
31 direct or make a referral to a hospital or comprehensive psychiatric
32 emergency program if an assessment determines that they are unable to
33 meet the service needs of a person and such person voluntarily consents
34 to go.

35 § 4. Section 9.41 of the mental hygiene law, as amended by chapter 723
36 of the laws of 1989, is amended to read as follows:

37 § 9.41 Emergency [admissions] assessment for immediate observation,
38 care, and treatment; powers of certain peace officers and
39 police officers.

40 (a) Any peace officer, when acting pursuant to his or her special
41 duties, or police officer who is a member of the state police or of an
42 authorized police department or force or of a sheriff's department may
43 take into custody any person who appears to be mentally ill and is
44 conducting himself or herself in a manner which is likely to result in
45 serious harm to the person or others. Such officer may direct the
46 removal of such person or remove him or her to: (a) any hospital speci-
47 fied in subdivision (a) of section 9.39 of this article, or (b) any
48 comprehensive psychiatric emergency program specified in subdivision (a)
49 of section 9.40 of this article, or, (c) pending his or her examination
50 or admission to any such hospital or, program, temporarily detain any
51 such person in another safe and comfortable place, in which event, such
52 officer shall immediately notify the director of community services or,
53 if there be none, the health officer of the city or county of such
54 action.

55 (b) As an alternative to an emergency admission, a person otherwise
56 determined to meet the criteria for an emergency admission pursuant to

1 this section, may voluntarily agree to be transported to a crisis
2 stabilization center under section 36.01 of this chapter for care and
3 treatment, and in accordance with this article, an assessment by the
4 crisis stabilization center determines that they are able to meet the
5 service needs of the person in need of treatment.

6 § 5. Section 9.43 of the mental hygiene law, as amended by chapter 723
7 of the laws of 1989, is amended to read as follows:

8 § 9.43 Emergency [admissions] assessment for immediate observation,
9 care, and treatment; powers of courts.

10 (a) Whenever any court of inferior or general jurisdiction is informed
11 by verified statement that a person is apparently mentally ill and is
12 conducting himself or herself in a manner which in a person who is not
13 mentally ill would be deemed disorderly conduct or which is likely to
14 result in serious harm to himself or herself, such court shall issue a
15 warrant directing that such person be brought before it. If, when said
16 person is brought before the court, it appears to the court, on the
17 basis of evidence presented to it, that such person has or may have a
18 mental illness which is likely to result in serious harm to himself or
19 herself or others, the court shall issue a civil order directing his or
20 her removal to any hospital specified in subdivision (a) of section 9.39
21 of this article or any comprehensive psychiatric emergency program spec-
22 ified in subdivision (a) of section 9.40 of this article, that is will-
23 ing to receive such person for a determination by the director of such
24 hospital or program whether such person should be [retained] received
25 therein pursuant to such section.

26 (b) Whenever a person before a court in a criminal action appears to
27 have a mental illness which is likely to result in serious harm to
28 himself or herself or others and the court determines either that the
29 crime has not been committed or that there is not sufficient cause to
30 believe that such person is guilty thereof, the court may issue a civil
31 order as above provided, and in such cases the criminal action shall
32 terminate.

33 (c) As an alternative to an emergency admission, a person otherwise
34 determined to meet the criteria for an emergency admission pursuant to
35 this section, may voluntarily agree to be transported to a crisis
36 stabilization center under section 36.01 of this chapter for care and
37 treatment, and in accordance with this article, an assessment by the
38 crisis stabilization center determines that they are able to meet the
39 service needs of the person in need of treatment.

40 § 6. Section 9.45 of the mental hygiene law, as amended by chapter 723
41 of the laws of 1989 and the opening paragraph as amended by chapter 192
42 of the laws of 2005, is amended to read as follows:

43 § 9.45 Emergency [admissions] assessment for immediate observation,
44 care, and treatment; powers of directors of community
45 services.

46 (a) The director of community services or the director's designee
47 shall have the power to direct the removal of any person, within his or
48 her jurisdiction, to a hospital approved by the commissioner pursuant to
49 subdivision (a) of section 9.39 of this article, or to a comprehensive
50 psychiatric emergency program pursuant to subdivision (a) of section
51 9.40 of this article, if the parent, adult sibling, spouse or child of
52 the person, the committee or legal guardian of the person, a licensed
53 psychologist, registered professional nurse or certified social worker
54 currently responsible for providing treatment services to the person, a
55 supportive or intensive case manager currently assigned to the person by
56 a case management program which program is approved by the office of

1 mental health for the purpose of reporting under this section, a
2 licensed physician, health officer, peace officer or police officer
3 reports to him or her that such person has a mental illness for which
4 immediate care and treatment [in a hospital] is appropriate and which is
5 likely to result in serious harm to himself or herself or others. It
6 shall be the duty of peace officers, when acting pursuant to their
7 special duties, or police officers, who are members of an authorized
8 police department or force or of a sheriff's department to assist repre-
9 sentatives of such director to take into custody and transport any such
10 person. Upon the request of a director of community services or the
11 director's designee an ambulance service, as defined in subdivision two
12 of section three thousand one of the public health law, is authorized to
13 transport any such person. Such person may then be retained in a hospi-
14 tal pursuant to the provisions of section 9.39 of this article or in a
15 comprehensive psychiatric emergency program pursuant to the provisions
16 of section 9.40 of this article.

17 (b) As an alternative to an emergency admission, a person otherwise
18 determined to meet the criteria for an emergency admission pursuant to
19 this section, may voluntarily agree to be transported to a crisis
20 stabilization center under section 36.01 of this chapter for care and
21 treatment, and in accordance with this article, an assessment by the
22 crisis stabilization center determines that they are able to meet the
23 service needs of the person in need of treatment.

24 § 7. Subdivision (a) of section 9.58 of the mental hygiene law, as
25 added by chapter 678 of the laws of 1994, is amended to read as follows:

26 (a) A physician or qualified mental health professional who is a
27 member of an approved mobile crisis outreach team shall have the power
28 to remove, or pursuant to subdivision (b) of this section, to direct the
29 removal of any person who appears to be mentally ill and is conducting
30 themselves in a manner which is likely to result in serious harm to
31 themselves or others, to a hospital approved by the commissioner pursu-
32 ant to subdivision (a) of section 9.39 or section 31.27 of this chapter
33 [for the purpose of evaluation for admission if such person appears to
34 be mentally ill and is conducting himself or herself in a manner which
35 is likely to result in serious harm to the person or others].

36 (b) As an alternative to an emergency admission, a person otherwise
37 determined to meet the criteria for an emergency assessment pursuant to
38 this section, may voluntarily agree to be transported to a crisis
39 stabilization center under section 36.01 of this chapter for care and
40 treatment, and in accordance with this article, an assessment by the
41 crisis stabilization center determines that they are able to meet the
42 service needs of the person in need of treatment.

43 § 8. Subdivision 2 of section 365-a of the social services law is
44 amended by adding a new paragraph (gg) to read as follows:

45 (gg) addiction and mental health services and supports provided by
46 facilities licensed pursuant to article thirty-six of the mental hygiene
47 law.

48 § 9. Paragraph 5 of subdivision (a) of section 22.09 of the mental
49 hygiene law, as amended by section 1 of part D of chapter 69 of the laws
50 of 2016, is amended to read as follows:

51 5. "Treatment facility" means a facility designated by the commission-
52 er which may only include a general hospital as defined in article twen-
53 ty-eight of the public health law, or a medically managed or medically
54 supervised withdrawal, inpatient rehabilitation, or residential stabili-
55 zation treatment program that has been certified by the commissioner to
56 have appropriate medical staff available on-site at all times to provide

1 emergency services and continued evaluation of capacity of individuals
2 retained under this section or a crisis stabilization center licensed
3 pursuant to article 36.01 of this chapter.

4 § 10. The commissioner of health, in consultation with the office of
5 mental health and the office of addiction services and supports, shall
6 seek Medicaid federal financial participation from the federal centers
7 for Medicare and Medicaid services for the federal share of payments for
8 the services authorized pursuant to this Subpart.

9 § 11. This act shall take effect October 1, 2021; provided, however,
10 that the amendments to sections 9.41, 9.43 and 9.45 of the mental
11 hygiene law made by sections four, five and six of this act shall not
12 affect the expiration of such sections and shall expire therewith.
13 Effective immediately, the addition, amendment and/or repeal of any rule
14 or regulation necessary for the implementation of this act on its effec-
15 tive date are authorized to be made and completed on or before such
16 effective date.

17 SUBPART B

18 Intentionally Omitted

19 SUBPART C

20 Intentionally Omitted

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

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

33 PART BB

34 Intentionally Omitted

35 PART CC

36 Intentionally Omitted

37 PART DD

38 Intentionally Omitted

39 PART EE

40 Intentionally Omitted

41 PART FF

42 Intentionally Omitted

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PART GG

Intentionally Omitted

PART HH

Intentionally Omitted

PART II

Section 1. Paragraph (d-2) of subdivision 3 of section 364-j of the social services law, as amended by section 10 of part B of chapter 57 of the laws of 2018, is amended to read as follows:

(d-2) Services provided pursuant to waivers, granted pursuant to subsection (c) of section 1915 of the federal social security act, to persons suffering from traumatic brain injuries or qualifying for nursing home diversion and transition services, shall not be provided to medical assistance recipients through managed care programs [until at least January first, two thousand twenty-two] established pursuant to this section; provided, further that the commissioner of health is hereby directed to take any action required, including but not limited to filing waivers and waiver extensions as necessary with the federal government, to continue the provision of such services.

§ 2. This act shall take effect immediately, provided that the amendments to section 364-j of the social services law, made by section one of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith.

PART JJ

Section 1. Subdivision 1 of section 364-j of the social services law is amended by adding two new paragraphs (w) and (w-1) to read as follows:

(w) "School-based health center". A clinic licensed under article twenty-eight of the public health law or sponsored either fully or partially by a facility licensed under article twenty-eight of the public health law or where such sponsorship is dually shared with a facility licensed under article thirty-one of the mental hygiene law which provides primary and preventive care which may include but is not limited to health maintenance, well-child care, diagnosis and treatment of injury and acute illness, diagnosis and management of chronic disease, behavioral services, vision care, dental care, and nutritional or other enhanced services to children and adolescents, any of which may be provided by referral, within an elementary, secondary or prekindergarten public school setting.

(w-1) "Sponsoring organization". A facility licensed under article twenty-eight of the public health law which acts as the sponsor for a school-based health center, which such sponsorship may be dually shared with a facility licensed under article thirty-one of the mental hygiene law.

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

4-a. (a) Medical assistance services and supplies provided by a school-based health center may be provided and paid for other than by a managed care provider. In such case, the services and supplies shall be

1 paid in accordance with applicable reimbursement methodologies, which
2 shall mean:

3 (i) for a school-based health center that is sponsored by a federally
4 qualified health center, rates of reimbursement and requirements in
5 accordance with those mandated by 42 U.S.C. Secs. 1396a(bb),
6 1396b(m) (2) (A) (ix) and 1396a(a) (13) (C); and

7 (ii) for a school-based health center that is sponsored by an entity
8 licensed pursuant to article twenty-eight of the public health law that
9 is not a federally qualified health center or is a federally qualified
10 health center that chooses not to receive reimbursement pursuant to
11 subparagraph (i) of this paragraph, rates of reimbursement at the fee
12 for service rate for such services and supplies in effect on the effec-
13 tive date of this subparagraph for the ambulatory patient group rate for
14 the applicable service and supply and in accordance with any future
15 adjustments made to such rates by the department of health.

16 (b) This subdivision shall not preclude a school-based health center
17 or sponsoring organization from choosing to provide medical assistance
18 services and supplies through managed care providers.

19 (c) This paragraph applies where a managed care provider includes as
20 an enrollee a student who is eligible to be served by a school-based
21 health center, regardless of whether the school-based health center or
22 sponsoring organization chooses to provide medical assistance services
23 and supplies through the managed care provider. The school-based health
24 center or sponsoring organization and the managed care provider shall
25 enter into a standard memorandum of understanding, which shall be devel-
26 oped by the commissioner for the purpose of promoting the delivery of
27 coordinated health care and participation in quality improvement initi-
28 atives. The commissioner shall periodically share enrollment, encounter,
29 and any other data the commissioner determines necessary with each
30 enrolled participant's medicaid managed care provider to allow the
31 exchange of such data between medicaid managed care providers and
32 school-based health centers for the purpose of this paragraph and facil-
33 itating enrollee access to services and improving coordination and qual-
34 ity of care.

35 § 3. This act shall take effect on the one hundred eightieth day after
36 it shall have become a law; provided that the amendments to section
37 364-j of the social services law made by sections one and two of this
38 act shall not affect the repeal of such section and shall expire and be
39 deemed repealed therewith. Effective immediately, the commissioner of
40 health shall make regulations and take other actions reasonably neces-
41 sary to implement this act on its effective date.

42

PART KK

43 Section 1. Subparagraph 3 of paragraph (d) of subdivision 1 of section
44 366 of the social services law, as added by section 1 of part D of chap-
45 ter 56 of the laws of 2013, is amended to read as follows:

46 (3) cooperates with the appropriate social services official or the
47 department in establishing paternity or in establishing, modifying, or
48 enforcing a support order with respect to his or her child; provided,
49 however, that nothing herein contained shall be construed to require a
50 payment under this title for care or services, the cost of which may be
51 met in whole or in part by a third party; notwithstanding the foregoing,
52 a social services official shall not require such cooperation if the
53 social services official or the department determines that such actions
54 would be detrimental to the best interest of the child, applicant, or

1 recipient, or with respect to pregnant women during pregnancy and during
 2 the [sixty-day] one year period beginning on the last day of pregnancy,
 3 in accordance with procedures and criteria established by regulations of
 4 the department consistent with federal law; and

5 § 2. Subparagraph 1 of paragraph (b) of subdivision 4 of section 366
 6 of the social services law, as added by section 2 of part D of chapter
 7 56 of the laws of 2013, is amended to read as follows:

8 (1) A pregnant woman eligible for medical assistance under subpara-
 9 graph two or four of paragraph (b) of subdivision one of this section on
 10 any day of her pregnancy will continue to be eligible for such care and
 11 services [through the end of the month in which the sixtieth day follow-
 12 ing the end of the pregnancy occurs] for a period of one year following
 13 the end of the pregnancy, without regard to any change in the income of
 14 the family that includes the pregnant woman, even if such change other-
 15 wise would have rendered her ineligible for medical assistance.

16 § 3. This act shall take effect on the one hundred eightieth day after
 17 it shall have become a law. The commissioner of health shall immediately
 18 take all steps necessary and shall use best efforts to secure federal
 19 financial participation for eligible beneficiaries under title XIX of
 20 the social security act, for the purposes of this act, including the
 21 prompt submission of appropriate amendments to the title XIX state plan.

22

PART LL

23 Section 1. The public health law is amended by adding a new article
 24 27-g to read as follows:

ARTICLE 27-GADULT CYSTIC FIBROSIS ASSISTANCE PROGRAM

25
 26 Section 2795. Adult cystic fibrosis assistance program.

27
 28 § 2795. Adult cystic fibrosis assistance program. 1. The commissioner
 29 shall establish a program to reimburse the cost of providing health care
 30 or health insurance to eligible individuals who have cystic fibrosis.

31 2. To be a fully eligible individual for whom health care will be
 32 provided under this section, such individual:

33 (a) shall be at least twenty-one years old;

34 (b) shall have been diagnosed as having cystic fibrosis;

35 (c) shall have resided in the state for a minimum of twelve continuous
 36 months immediately prior to application for services under this section;

37 (d) shall not be eligible for medical benefits under any group or
 38 individual health insurance policy; and

39 (e) shall not be eligible for medical assistance pursuant to title
 40 eleven of article five of the social services law solely due to earned
 41 income.

42 3. To be a partially eligible individual for whom health care will be
 43 provided under this section, such individual shall meet all the criteria
 44 of a fully eligible individual except that a partially eligible individ-
 45 ual shall be an individual who is eligible for medical benefits under
 46 any group or individual health insurance policy but which does not cover
 47 all services necessary for the care and treatment of cystic fibrosis.

48 4. The commissioner shall require each fully eligible individual, upon
 49 determination of eligibility, to make application to a private health
 50 insurance provider as prescribed by the commissioner for an individual
 51 health insurance policy. If and when such policy is granted, the commis-
 52 sioner shall approve payment for the associated premium.

53 5. The commissioner shall authorize payment for services related to
 54 the care and treatment of cystic fibrosis not otherwise covered by a

1 health insurance policy. Providers of such services shall be reimbursed
2 at the same rate and claims for payment shall be made as if such indi-
3 vidual was eligible for benefits pursuant to title eleven of article
4 five of the social services law.

5 6. All eligible individuals shall be required to contribute seven
6 percent of their net annual income toward the cost of care and/or the
7 cost of the annual health insurance premium.

8 7. The commissioner shall, in consultation with the commissioner of
9 social services, promulgate rules and regulations necessary to implement
10 the provisions of this article.

11 § 2. This act shall take effect immediately.

12

PART MM

13 Section 1. Ambulette transportation rate adequacy review. The commis-
14 sioner of health shall review the rates of reimbursement made through
15 the Medicaid program for ambulette transportation for rate adequacy. By
16 December 31, 2021, the commissioner of health shall report such findings
17 of the rate adequacy review to the temporary president of the senate and
18 the speaker of the assembly.

19 § 2. This act shall take effect immediately.

20

PART NN

21 Section 1. The public health law is amended by adding a new section
22 2559-c to read as follows:

23 § 2559-c. Early intervention rate adequacy review. 1. The commissioner
24 shall review the rates of reimbursement made through the early inter-
25 vention program for rate adequacy. The review shall include:

26 (a) comprehensive assessment of the existing methodology used to
27 determine payment for early intervention screenings, evaluations,
28 services and service coordination, including but not limited to:

29 (i) Analysis of early intervention rules, regulations, and policies,
30 including policies, processes, and revenue sources;

31 (ii) Analysis of costs to providers of participating in the early
32 intervention program, including time and cost of travel, service
33 provision, and administrative activities;

34 (iii) Analysis by discipline and labor region of salary levels for
35 individuals providing early intervention services compared to the salary
36 levels for individuals in the same disciplines and labor regions provid-
37 ing services other than in the early intervention program.

38 (b) recommendations for maintaining or changing reimbursement method-
39 ologies. Recommendations under this paragraph shall be consistent with
40 federal law and shall include recommendations for appropriate changes in
41 state law and regulations. The recommendations shall consider appropri-
42 ate payment methodologies and rates for in-person and telehealth early
43 intervention evaluations and services to address barriers in timely
44 service provision, as well as racial and socioeconomic disparities in
45 access, with consideration of factors including, but not limited to,
46 payment for bilingual services, travel time, geographic variability,
47 access to and cost of technology, cost of living, and other barriers to
48 timely service provision.

49 (c) the projected number of children who will need early intervention
50 services in the next five years disaggregated by county.

1 (d) the workforce needed to provide services in the next five years to
2 all children eligible for early intervention services, disaggregated by
3 county.

4 (e) opportunities for stakeholder input on current rate methodologies.

5 2. Within one year after the effective date of this section, the
6 commissioner shall submit a report of the findings and recommendations
7 under this section to the governor, the temporary president of the
8 senate, the speaker of the assembly, and the chairs of the senate and
9 assembly committees on health, and shall post the report on the depart-
10 ment's website.

11 § 2. This act shall take effect immediately.

12 PART OO

13 Section 1. Section 4 of chapter 495 of the laws of 2004, amending the
14 insurance law and the public health law relating to the New York state
15 health insurance continuation assistance demonstration project, as
16 amended by section 17 of part BB of chapter 56 of the laws of 2020, is
17 amended to read as follows:

18 § 4. This act shall take effect on the sixtieth day after it shall
19 have become a law; provided, however, that this act shall remain in
20 effect until July 1, [2021] 2022 when upon such date the provisions of
21 this act shall expire and be deemed repealed; provided, further, that a
22 displaced worker shall be eligible for continuation assistance retroac-
23 tive to July 1, 2004.

24 § 2. This act shall take effect immediately; provided, however, that
25 the amendments to part BB of chapter 56 of the laws of 2020 made by
26 section one of this act shall not affect the expiration and repeal of
27 such part and shall be deemed to expire and repeal therewith.

28 PART PP

29 Section 1. The public health law is amended by adding a new section
30 2559-c to read as follows:

31 § 2559-c. Blanket service limits prohibited. The commissioner shall
32 not impose predetermined limitations, including limitations on the
33 length, duration, frequency, intensity, method of delivery, group size,
34 or staff ratios, on authorized services under this title. The commis-
35 sioner shall not impose program-wide service limitations that restrict
36 the ability of an IFSP team to create an individualized plan of early
37 intervention services most appropriate to accommodate the needs of each
38 child and family.

39 § 2. This act shall take effect immediately.

40 PART QQ

41 Section 1. Subdivision 14 of section 366 of the social services law,
42 as amended by section 71 of part A of chapter 56 of the laws of 2013, is
43 amended to read as follows:

44 14. The commissioner of health may make any available amendments to
45 the state plan for medical assistance submitted pursuant to section
46 three hundred sixty-three-a of this title, or, if an amendment is not
47 possible, develop and submit an application for any waiver or approval
48 under the federal social security act that may be necessary to disregard
49 or exempt an amount of income, for the purpose of assisting with housing
50 costs, for individuals receiving coverage of nursing facility services

1 under this title, other than short-term rehabilitation services, and for
2 individuals in receipt of medical assistance while in an adult home, as
3 defined in subdivision twenty-five of section two of this chapter,
4 who[:] are either (i) discharged to the community[;] and [(ii)] if
5 eligible, enrolled in a plan certified pursuant to section forty-four
6 hundred three-f of the public health law or (ii) discharged to the
7 community and upon discharge will receive personal care or consumer-di-
8 rected personal assistance services based on a determination that they
9 are in immediate need of such services under subdivision twelve of
10 section three hundred sixty-six-a of this title; and (iii) do not meet
11 the criteria to be considered an "institutionalized spouse" for purposes
12 of section three hundred sixty-six-c of this title.

13 § 2. This act shall take effect immediately.

14

PART RR

15 Section 1. Subdivision (g) of section 7.07 of the mental hygiene law,
16 as amended by chapter 626 of the laws of 2019, is amended to read as
17 follows:

18 (g) 1. The office of mental health shall have the responsibility for
19 assuring the development of plans, programs, and services in the areas
20 of research and prevention of suicide, to reduce suicidal behavior and
21 suicide through consultation, training, implementation of evidence-based
22 practices, and use of suicide surveillance data. Such plans, programs,
23 and services shall consider the unique needs of differing demographic
24 groups and the impact of gender, race and ethnicity, and cultural and
25 language needs. Such plans, programs, and services shall be developed in
26 cooperation with other agencies and departments of the state, local
27 governments, community organizations and entities, or other organiza-
28 tions and individuals. The office shall prepare and submit a written
29 report to the governor, the speaker of the assembly, and temporary pres-
30 ident of the senate that sets forth the progress of the office in the
31 development of such plans, programs, and services by December first, two
32 thousand nineteen, and biennially thereafter. In addition to delineating
33 the progress the office has made, such report shall also include infor-
34 mation on specific suicide prevention services and program initiatives
35 developed and implemented to address the needs of high risk minority
36 groups or special populations, including but not limited to latina and
37 latino adolescents, black youth, individuals residing in rural communi-
38 ties, veterans, members of the lesbian, gay, bisexual and transgender
39 community, and any other group deemed high risk or underserved by the
40 office.

41 2. (a) Within amounts appropriated, the office shall establish a
42 suicide prevention program which shall provide grants to organizations
43 engaged in activities which provide culturally competent suicide
44 prevention services to high-risk populations. The program shall be
45 administered by the office in cooperation with other state agencies
46 necessary for the operation of the program as determined by the commis-
47 sioner.

48 (b) For the purposes of this subdivision "high-risk population" shall
49 include Latina adolescents, black youth, members of the lesbian, gay,
50 bi-sexual, transgender, and queer community, and rural communities.

51 3. (a) The commissioner shall issue a request for proposals and estab-
52 lish criteria to determine the eligibility of applicants for the grants
53 authorized herein. The commissioner shall receive on appropriate forms,
54 information necessary and relevant in establishing eligibility, as



1 determined by the commissioner. The application, shall at a minimum
2 include: (i) projected goals and outcomes of the program; (ii) range
3 and type of services offered; (iii) community partnerships with local
4 organizations or public institutions, for the purpose of facilitating
5 prevention and treatment referral services in community based settings;
6 (iv) methods and strategies to develop culturally and linguistically
7 competent programs, reduce barriers and promote access to prevention and
8 treatment services for high-risk populations; and (v) the overall oper-
9 ating costs of the program.

10 (b) Grants shall be awarded no later than September first, two thou-
11 sand twenty-one. Upon approval of each grant, the commissioner shall
12 contract with each grantee for a period of time not to exceed one year,
13 but may extend the contract for additional one year periods when appro-
14 priate.

15 4. The commissioner may consider applicants that have established
16 effective suicide prevention programs for high-risk populations and that
17 may be expanded in other geographic areas of the state which are in need
18 of suicide prevention services for high-risk populations, provided
19 however, preference may be given to requests for proposals which identi-
20 fy local communities with a high prevalence of death by suicide or
21 suicide attempts for one or more high-risk populations and have a demon-
22 strated need for suicide prevention services.

23 5. The commissioner shall provide a summary of each grantee's suicide
24 prevention program and its fulfillment of the criteria under subpara-
25 graph (a) of paragraph three of this subdivision and include this summa-
26 ry in the report required under this paragraph.

27 § 2. This act shall take effect take effect on April 1, 2021.

28 PART SS

29 Section 1. Subdivision (g) of section 7.07 of the mental hygiene law,
30 as amended by chapter 626 of the laws of 2019, is amended to read as
31 follows:

32 (g) (1) (A) (i) Within amounts appropriated, the office of mental
33 health shall establish a suicide prevention program which shall provide
34 grants to organizations engaged in activities which provide culturally
35 competent suicide prevention services to high-risk populations. Such
36 program shall be administered by the office in cooperation with other
37 state agencies necessary for the operation of the program as determined
38 by the commissioner.

39 (ii) For the purposes of this paragraph "high-risk population" shall
40 include law enforcement, veterans, first responders, and correction
41 officers.

42 (B) (i) The commissioner shall issue a request for proposals and
43 establish criteria to determine the eligibility of applicants for the
44 grants authorized herein. The commissioner shall receive on appropriate
45 forms, information necessary and relevant in establishing eligibility,
46 as determined by the commissioner. The application shall include, but
47 not be limited to: (a) projected goals and outcomes of the program; (b)
48 range and type of services offered; (c) community partnerships with
49 local organizations or public institutions, for the purpose of facili-
50 tating prevention and treatment referral services in community based
51 settings; (d) methods and strategies to develop culturally and linguis-
52 tically competent programs, reduce barriers and promote access to
53 prevention and treatment services for high-risk populations; and (e)
54 the overall operating costs of the program.

1 (ii) Grants shall be awarded no later than September first, two thou-
2 sand twenty-one. Upon approval of each grant, the commissioner shall
3 contract with each grantee for a period of time not to exceed one year,
4 but may extend the contract for one year periods when appropriate.

5 (C) The commissioner may consider applicants that have established
6 effective suicide prevention programs for high-risk populations and that
7 may be expanded in other geographic areas of the state which are in need
8 of suicide prevention services for high-risk populations, provided
9 however, preference may be given to requests for proposals which identi-
10 fy local communities with a high prevalence of death by suicide or
11 suicide attempts for one or more high-risk populations and have a demon-
12 strated need for suicide prevention services.

13 (D) The commissioner shall provide a summary of each grantee's suicide
14 prevention program and its fulfillment of the criteria under clause (i)
15 of subparagraph (B) of this paragraph and include this summary in the
16 report required under paragraph two of this subdivision.

17 (2) The office of mental health shall have the responsibility for
18 assuring the development of plans, programs, and services in the areas
19 of research and prevention of suicide, to reduce suicidal behavior and
20 suicide through consultation, training, implementation of evidence-based
21 practices, and use of suicide surveillance data. Such plans, programs,
22 and services shall consider the unique needs of differing demographic
23 groups and the impact of gender, race and ethnicity, and cultural and
24 language needs. Such plans, programs, and services shall be developed in
25 cooperation with other agencies and departments of the state, local
26 governments, community organizations and entities, or other organiza-
27 tions and individuals. The office shall prepare and submit a written
28 report to the governor, the speaker of the assembly, and temporary pres-
29 ident of the senate that sets forth the progress of the office in the
30 development of such plans, programs, and services by December first, two
31 thousand nineteen, and biennially thereafter. In addition to delineating
32 the progress the office has made, such report shall also include infor-
33 mation on specific suicide prevention services and program initiatives
34 developed and implemented to address the needs of high risk minority
35 groups or special populations, including but not limited to latina and
36 latino adolescents, black youth, individuals residing in rural communi-
37 ties, veterans, members of the lesbian, gay, bisexual and transgender
38 community, and any other group deemed high risk or underserved by the
39 office.

40 § 2. This act shall take effect April 1, 2021.

41 PART TT

42 Section 1. Section 2807-m of the public health law is amended by
43 adding a new subdivision 7 to read as follows:

44 7. Notwithstanding any inconsistent provisions of section one hundred
45 twelve or one hundred sixty-three of the state finance law or any other
46 law to the contrary, for the period beginning on April first, two thou-
47 sand twenty-one and annually thereafter an amount of one million one
48 hundred thousand dollars shall be set aside and reserved by the commis-
49 sioner from the regional pools established under subdivision two of this
50 section and shall be available for distributions to the New York state
51 area health education center program for the purpose of expanding commu-
52 nity-based training of medical students. In addition, for the period
53 beginning on April first, two thousand twenty-one and annualy thereaft-
54 er, an amount of one million one hundred thousand dollars shall be set

1 aside and reserved by the commissioner from the regional pools estab-
2 lished under subdivision two of this section and shall be available for
3 distributions to the New York state area health education center program
4 for the purpose of post-secondary training of health care professionals
5 who will achieve specific program outcomes within the New York state
6 area health education center program. The New York state area health
7 education center program shall report to the commissioner on an annual
8 basis regarding the use of funds for each purpose in any form and manner
9 as specified by the commissioner.

10 § 2. This act shall take effect April 1, 2021.

11 PART UU

12 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
13 57 of the laws of 2006, relating to establishing a cost of living
14 adjustment for designated human services programs, as amended by section
15 1 of part Y of chapter 57 of the laws of 2019, are amended to read as
16 follows:

17 3-b. Notwithstanding any inconsistent provision of law, beginning
18 April 1, 2009 and ending March 31, 2016 and beginning April 1, 2017 and
19 ending March 31, [2020] 2021, the commissioners shall not include a COLA
20 for the purpose of establishing rates of payments, contracts or any
21 other form of reimbursement, provided that the commissioners of the
22 office for people with developmental disabilities, the office of mental
23 health, and the office of [alcoholism and substance abuse services]
24 addiction services and supports shall not include a COLA beginning April
25 1, 2017 and ending March 31, 2021.

26 3-c. Notwithstanding any inconsistent provision of law, beginning
27 April 1, [2020] 2021 and [ending March 31, 2023] every year thereafter,
28 the commissioners shall develop the COLA under this section using the
29 actual U.S. consumer price index for all urban consumers (CPI-U)
30 published by the United States department of labor, bureau of labor
31 statistics for the twelve month period ending in July of the budget year
32 prior to such state fiscal year, for the purpose of establishing rates
33 of payments, contracts or any other form of reimbursement.

34 § 2. Section 1 of part C of chapter 57 of the laws of 2006, relating
35 to establishing a cost of living adjustment for designated human
36 services programs, is amended by adding a new subdivision 3-g to read as
37 follows:

38 3-g. Notwithstanding any other provision of law to the contrary, and
39 subject to available appropriations therefore, for all eligible programs
40 as determined pursuant to subdivision four of this section, the commis-
41 sioners shall provide funding to support a one percent (1.0%) cost of
42 living adjustment, as determined pursuant to subdivision three-c of this
43 section, beginning April 1, 2021. Such cost of living adjustment shall
44 continue to be provided every year thereafter in an amount determined
45 pursuant to subdivision three-c of this section.

46 § 3. Section 4 of part C of chapter 57 of the laws of 2006, relating
47 to establishing a cost of living adjustment for designated human
48 services programs, as amended by section 1 of part I of chapter 60 of
49 the laws of 2014, is amended to read as follows:

50 § 4. This act shall take effect immediately and shall be deemed to
51 have been in full force and effect on and after April 1, 2006; provided
52 section one of this act shall expire and be deemed repealed April 1,
53 [2019] 2024; provided, further, that sections two and three of this act
54 shall expire and be deemed repealed December 31, 2009.

1 § 4. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2019; provided,
3 however, that the amendments to section 1 of part C of chapter 57 of the
4 laws of 2006, relating to establishing a cost of living adjustment for
5 designated human services programs made by sections one and two of this
6 act shall not affect the repeal of such section and shall be deemed
7 repealed therewith.

8

PART VV

9 Section 1. The public health law is amended by adding a new section
10 2807-o to read as follows:

11 § 2807-o. Early intervention services pool. 1. Definitions. The
12 following words or phrases as used in this section shall have the
13 following meanings:

14 (a) "Early intervention services" shall mean services delivered to an
15 eligible child, pursuant to an individualized family service plan under
16 the early intervention program.

17 (b) "Early intervention program" shall mean the early intervention
18 program for toddlers with disabilities and their families as created by
19 title two-A of article twenty-five of this chapter.

20 (c) "Municipality" shall mean any county outside of the city of New
21 York or the city of New York.

22 2. Payments for early intervention services. (a) The commissioner
23 shall, from funds allocated for such purpose under paragraph (g) of
24 subdivision six of section twenty-eight hundred seven-s of this article,
25 make payments to municipalities and the state for the delivery of early
26 intervention services.

27 (b) Payments under this subdivision shall be made to municipalities
28 and the state by the commissioner. Each municipality and the state of
29 New York shall receive a share of such payments equal to its propor-
30 tionate share of the total approved statewide dollars not reimbursable
31 by the medical assistance program paid to providers of early inter-
32 vention services by the state and municipalities on account of early
33 intervention services in the last complete state fiscal year for which
34 such data is available.

35 § 2. Subdivision 6 of section 2807-s of the public health law is
36 amended by adding two new paragraphs (g) and (h) to read as follows:

37 (g) A further gross statewide amount for the state fiscal year two
38 thousand twenty-two and each state fiscal year thereafter shall be forty
39 million dollars.

40 (h) The amount specified in paragraph (g) of this subdivision shall be
41 allocated under section twenty-eight hundred seven-o of this article
42 among the municipalities and the state of New York based on each muni-
43 city's share and the state's share of early intervention program
44 expenditures not reimbursable by the medical assistance program for the
45 latest twelve month period for which such data is available.

46 § 3. Subdivision 7 of section 2807-s of the public health law is
47 amended by adding a new paragraph (d) to read as follows:

48 (d) funds shall be added to the funds collected by the commissioner
49 for distribution in accordance with section twenty-eight hundred seven-o
50 of this article, in the following amount: forty million dollars for the
51 period beginning April first, two thousand twenty-two, and continuing
52 each state fiscal year thereafter.

1 § 4. Subdivision 1 of section 2557 of the public health law, as
2 amended by section 4 of part C of chapter 1 of the laws of 2002, is
3 amended to read as follows:

4 1. The approved costs for an eligible child who receives an evaluation
5 and early intervention services pursuant to this title shall be a charge
6 upon the municipality wherein the eligible child resides or, where the
7 services are covered by the medical assistance program, upon the social
8 services district of fiscal responsibility with respect to those eligi-
9 ble children who are also eligible for medical assistance. All approved
10 costs shall be paid in the first instance and at least quarterly by the
11 appropriate governing body or officer of the municipality upon vouchers
12 presented and audited in the same manner as the case of other claims
13 against the municipality. Notwithstanding the insurance law or regu-
14 lations thereunder relating to the permissible exclusion of payments for
15 services under governmental programs, no such exclusion shall apply with
16 respect to payments made pursuant to this title. Notwithstanding the
17 insurance law or any other law or agreement to the contrary, benefits
18 under this title shall be considered secondary to [any plan of insurance
19 or state government benefit] the medical assistance program under which
20 an eligible child may have coverage. [Nothing in this section shall
21 increase or enhance coverages provided for within an insurance contract
22 subject to the provisions of this title.]

23 § 5. Subdivision 2 of section 2557 of the public health law, as
24 amended by section 9-a of part A of chapter 56 of the laws of 2012, is
25 amended to read as follows:

26 2. The department shall reimburse the approved costs paid by a munici-
27 pality for the purposes of this title, other than those reimbursable by
28 the medical assistance program [or by third party payors], in an amount
29 of fifty percent of the amount expended in accordance with the rules and
30 regulations of the commissioner; provided, however, that in the
31 discretion of the department and with the approval of the director of
32 the division of the budget, the department may reimburse municipalities
33 in an amount greater than fifty percent of the amount expended. Such
34 state reimbursement to the municipality shall not be paid prior to April
35 first of the year in which the approved costs are paid by the munici-
36 pality, provided, however that, subject to the approval of the director
37 of the budget, the department may pay such state aid reimbursement to
38 the municipality prior to such date.

39 § 6. The section heading of section 2559 of the public health law, as
40 added by chapter 428 of the laws of 1992, is amended to read as follows:
41 [Third party insurance and medical] Medical assistance program
42 payments.

43 § 7. Subdivision 3 of section 2559 of the public health law, as added
44 by chapter 428 of the laws of 1992, paragraphs (a), (c) and (d) as
45 amended by section 11 of part A of chapter 56 of the laws of 2012 and
46 paragraph (b) as further amended by section 104 of part A of chapter 62
47 of the laws of 2011, is amended to read as follows:

48 3. (a) [Providers of evaluations and early intervention services,
49 hereinafter collectively referred to in this subdivision as "provider"
50 or "providers", shall in the first instance and where applicable, seek
51 payment from all third party payors including governmental agencies
52 prior to claiming payment from a given municipality for evaluations
53 conducted under the program and for services rendered to eligible chil-
54 dren, provided that, the obligation to seek payment shall not apply to a
55 payment from a third party payor who is not prohibited from applying

1 such payment, and will apply such payment, to an annual or lifetime
2 limit specified in the insured's policy.

3 (i) Parents shall provide the municipality and service coordinator
4 information on any insurance policy, plan or contract under which an
5 eligible child has coverage.

6 (ii) Parents shall provide the municipality and the service coordina-
7 tor with a written referral from a primary care provider as documenta-
8 tion, for eligible children, of the medical necessity of early inter-
9 vention services.

10 [(iii) providers] (b) Providers shall utilize the department's fiscal
11 agent and data system for claiming payment for evaluations and services
12 rendered under the early intervention program.

13 [(b) The commissioner, in consultation with the director of budget and
14 the superintendent of financial services, shall promulgate regulations
15 providing public reimbursement for deductibles and copayments which are
16 imposed under an insurance policy or health benefit plan to the extent
17 that such deductibles and copayments are applicable to early inter-
18 vention services.

19 (c) Payments made for early intervention services under an insurance
20 policy or health benefit plan, including payments made by the medical
21 assistance program or other governmental third party payor, which are
22 provided as part of an IFSP pursuant to section twenty-five hundred
23 forty-five of this title shall not be applied by the insurer or plan
24 administrator against any maximum lifetime or annual limits specified in
25 the policy or health benefits plan, pursuant to section eleven of the
26 chapter of the laws of nineteen hundred ninety-two which added this
27 title.

28 (d) (c) A municipality, or its designee, and a provider shall be
29 subrogated, to the extent of the expenditures by such municipality or
30 for early intervention services furnished to persons eligible for bene-
31 fits under this title, to any rights such person may have or be entitled
32 to from [third party reimbursement] the medical assistance program. The
33 provider shall submit notice to the insurer or plan administrator of his
34 or her exercise of such right of subrogation upon the provider's assign-
35 ment as the early intervention service provider for the child. The right
36 of subrogation does not attach to benefits paid or provided [under any
37 health insurance policy or health benefits plan] prior to receipt of
38 written notice of the exercise of subrogation rights [by the insurer or
39 plan administrator providing such benefits]. Notwithstanding any incon-
40 sistent provision of this title, except as provided for herein, no third
41 party payor other than the medical assistance program shall be required
42 to reimburse for early intervention services provided under this title.

43 § 8. Subdivision 3 of section 2543 of the public health law is
44 REPEALED.

45 § 9. Section 3235-a of the insurance law is REPEALED.

46 § 10. Subparagraph (F) of paragraph 25 of subsection (i) of section
47 3216 of the insurance law is REPEALED.

48 § 11. Subparagraph (F) of paragraph 17 of subsection (1) of section
49 3221 of the insurance law is REPEALED.

50 § 12. Paragraph 6 of subsection (ee) of section 4303 of the insurance
51 law is REPEALED.

52 § 13. This act shall take effect January 1, 2022; provided, however,
53 that the amendments to section 2807-s of the public health law made by
54 sections two and three of this act shall not affect the expiration of
55 such section and shall be deemed to expire therewith. Effective imme-
56 diately, the addition, amendment and/or repeal of any rule or regulation

1 necessary for the implementation of this act on its effective date are
2 authorized to be made and completed by the commissioner of health, on or
3 before such effective date.

4

PART WW

5 Section 1. Section 10 of part KKK of chapter 56 of the laws of 2020
6 amending the social services law and other laws relating to managed care
7 encounter data, authorizing electronic notifications, and establishing
8 regional demonstration projects, is amended to read as follows:

9 § 10. Contingent upon the availability of federal financial partic-
10 ipation or other federal authorization from the centers of medicare and
11 medicaid services, the commissioner of health, in consultation with the
12 superintendent of the department of financial services, is authorized to
13 implement one or more five-year regional demonstration programs that
14 would be designed to improve health outcomes and reduce costs, using a
15 value based model that pays providers an actuarially sound global, pre-
16 paid and fully capitated amount for individuals in the designated region
17 who are enrolled in the state's plan for medical assistance established
18 pursuant to title XIX, or any successor title, of the federal social
19 security act; the Medicare program established pursuant to title XVIII,
20 or any successor title, of the federal social security act; and insur-
21 ers, corporations, and health care plans authorized pursuant to the
22 insurance law or public health law. The demonstration program may offer
23 funding and incentives designed to improve health outcomes for attri-
24 buted individual beneficiaries designed to improve health outcomes,
25 develop necessary infrastructure and systems; and connect individuals to
26 community based organizations that address the social determinants of
27 health. At least one regional demonstration program shall be in the
28 western, central, southern tier, or capital regions of the state.
29 Notwithstanding any provision of law to the contrary, the commissioner
30 or the superintendent of the department of financial services may waive
31 any regulatory requirements as are necessary to implement the demon-
32 stration program; provided however, that regulations pertaining to
33 patient safety, patient autonomy, patient privacy, patient rights, due
34 process, scope of practice, professional licensure, environmental
35 protections, provider reimbursement methodologies, or occupational stan-
36 dards and employee rights may not be waived, nor shall any regulations
37 be waived if such waiver would risk patient safety. Participation in
38 such program shall be voluntary. One year after this section shall take
39 effect and annually thereafter the commissioner of health shall provide
40 a report detailing the activities and outcomes of such program, includ-
41 ing any regulatory requirements that are waived, to the speaker of the
42 assembly and the temporary president of the senate.

43 § 2. This act shall take effect immediately.

44

PART XX

45 Section 1. Subparagraph (iv) of paragraph (a) of subdivision 2 of
46 section 4900 of the public health law, as added by section 42 of subpart
47 A of part BB of chapter 57 of the laws of 2019, is amended and a new
48 subparagraph (v) is added to read as follows:

49 (iv) for purposes of a determination involving treatment for a mental
50 health condition:

51 (A) a physician who possesses a current and valid non-restricted
52 license to practice medicine and who specializes in behavioral health

1 and has experience in the delivery of mental health courses of treat-
2 ment; or

3 (B) a health care professional other than a licensed physician who
4 specializes in behavioral health and has experience in the delivery of a
5 mental health courses of treatment and, where applicable, possesses a
6 current and valid non-restricted license, certificate, or registration
7 or, where no provision for a license, certificate or registration
8 exists, is credentialed by the national accrediting body appropriate to
9 the profession; [and] or

10 (v) for purposes of a determination involving treatment of a medically
11 fragile child:

12 (A) a physician who possesses a current and valid non-restricted
13 license to practice medicine and who is board certified or board eligi-
14 ble in pediatric rehabilitation, pediatric critical care, or neonatolo-
15 gy; or

16 (B) a physician who possesses a current and valid non-restricted
17 license to practice medicine and is board certified in a pediatric
18 subspecialty directly relevant to the patient's medical condition; and

19 § 2. Paragraph (b) of subdivision 2 of section 4900 of the public
20 health law, as amended by chapter 586 of the laws of 1998, is amended to
21 read as follows:

22 (b) for purposes of title two of this article:

23 (i) a physician who:

24 (A) possesses a current and valid non-restricted license to practice
25 medicine;

26 (B) where applicable, is board certified or board eligible in the same
27 or similar specialty as the health care provider who typically manages
28 the medical condition or disease or provides the health care service or
29 treatment under appeal;

30 (C) has been practicing in such area of specialty for a period of at
31 least five years; and

32 (D) is knowledgeable about the health care service or treatment under
33 appeal; or

34 (ii) a health care professional other than a licensed physician who:

35 (A) where applicable, possesses a current and valid non-restricted
36 license, certificate or registration;

37 (B) where applicable, is credentialed by the national accrediting body
38 appropriate to the profession in the same profession and same or similar
39 specialty as the health care provider who typically manages the medical
40 condition or disease or provides the health care service or treatment
41 under appeal;

42 (C) has been practicing in such area of specialty for a period of at
43 least five years;

44 (D) is knowledgeable about the health care service or treatment under
45 appeal; and

46 (E) where applicable to such health care professional's scope of prac-
47 tice, is clinically supported by a physician who possesses a current and
48 valid non-restricted license to practice medicine; or

49 (iii) for purposes of a determination involving treatment of a
50 medically fragile child:

51 (A) a physician who possesses a current and valid non-restricted
52 license to practice medicine and who is board certified or board eligi-
53 ble in pediatric rehabilitation, pediatric critical care, or neonatolo-
54 gy, or

1 (B) a physician who possesses a current and valid non-restricted
2 license to practice medicine and is board certified in a pediatric
3 subspecialty directly relevant to the patient's medical condition.

4 § 3. Subdivision 2-a of section 4900 of the public health law, as
5 added by chapter 586 of the laws of 1998, is amended to read as follows:

6 2-a. "Clinical standards" means those guidelines and standards set
7 forth in the utilization review plan by the utilization review agent
8 whose adverse determination is under appeal or, in the case of medically
9 fragile children, those guidelines and standards as required by section
10 forty-nine hundred three-a of this article.

11 § 4. Paragraph (c) of subdivision 10 of section 4900 of the public
12 health law, as added by chapter 705 of the laws of 1996, is amended to
13 read as follows:

14 (c) a description of practice guidelines and standards used by a
15 utilization review agent in carrying out a determination of medical
16 necessity, which in the case of medically fragile children shall incor-
17 porate the standards required by section forty-nine hundred three-a of
18 this article;

19 § 5. Section 4900 of the public health law is amended by adding a new
20 subdivision 11 to read as follows:

21 11. "Medically fragile child" means an individual who is under twen-
22 ty-one years of age and has a chronic debilitating condition or condi-
23 tions, who may or may not be hospitalized or institutionalized, and
24 meets one or more of the following criteria (a) is technologically
25 dependent for life or health sustaining functions, (b) requires a
26 complex medication regimen or medical interventions to maintain or to
27 improve their health status, or (c) is in need of ongoing assessment or
28 intervention to prevent serious deterioration of their health status or
29 medical complications that place their life, health or development at
30 risk. Chronic debilitating conditions include, but are not limited to,
31 bronchopulmonary dysplasia, cerebral palsy, congenital heart disease,
32 microcephaly, pulmonary hypertension, and muscular dystrophy. The term
33 "medically fragile child" shall also include severe conditions, includ-
34 ing but not limited to traumatic brain injury, which typically require
35 care in a specialty care center for medically fragile children, even
36 though the child does not have a chronic debilitating condition or also
37 meet one of the three conditions of this subdivision. In order to facil-
38 itate the prompt and convenient identification of particular patient
39 care situations meeting the definitions of this subdivision, the commis-
40 sioner may issue written guidance listing (by diagnosis codes, utiliza-
41 tion thresholds, or other available coding or commonly used medical
42 classifications) the types of patient care needs which are deemed to
43 meet this definition. Notwithstanding the definitions set forth in this
44 subdivision, any patient which has received prior approval from a utili-
45 zation review agent for admission to a specialty care facility for
46 medically fragile children shall be considered a medically fragile child
47 at least until discharge from that facility occurs.

48 § 6. The public health law is amended by adding a new section 4903-a
49 to read as follows:

50 § 4903-a. Utilization review determinations for medically fragile
51 children. 1. Notwithstanding any inconsistent provision of the utiliza-
52 tion review agent's clinical standards, the utilization review agent
53 shall administer and apply the clinical standards (and make determi-
54 nations of medical necessity) regarding medically fragile children in
55 accordance with the requirements of this section. If the utilization
56 review agent is a separate entity from the health maintenance organiza-

1 tion certified under article forty-four of this chapter, the health
2 maintenance organization shall make contractual or other arrangements in
3 order to facilitate the utilization review agent's compliance with this
4 section.

5 2. In the case of a medically fragile child, the term "medically
6 necessary" shall mean health care and services that are necessary to
7 promote normal growth and development and prevent, diagnose, treat,
8 ameliorate or palliate the effects of a physical, mental, behavioral,
9 genetic, or congenital condition, injury or disability. When applied to
10 the circumstances of any particular medically fragile child, the term
11 "medically necessary" shall include (a) the care or services that are
12 essential to prevent, diagnose, prevent the worsening of, alleviate or
13 ameliorate the effects of an illness, injury, disability, disorder or
14 condition, (b) the care or services that are essential to the overall
15 physical, cognitive and mental growth and developmental needs of the
16 child, and (c) the care or services that will assist the child to
17 achieve or maintain maximum functional capacity in performing daily
18 activities, taking into account both the functional capacity of the
19 child and those functional capacities that are appropriate for individ-
20 uals of the same age as the child. The utilization review agent shall
21 base its determination on medical and other relevant information
22 provided by the child's primary care provider, other health care provid-
23 ers, school, local social services, and/or local public health officials
24 that have evaluated the child, and the utilization review agent will
25 ensure the care and services are provided in sufficient amount, duration
26 and scope to reasonably be expected to produce the intended results and
27 to have the expected benefits that outweigh the potential harmful
28 effects.

29 3. Utilization review agents shall undertake the following with
30 respect to medically fragile children:

31 (a) Consider as medically necessary all covered services that assist
32 medically fragile children in reaching their maximum functional capaci-
33 ty, taking into account the appropriate functional capacities of chil-
34 dren of the same age. Health maintenance organizations must continue to
35 cover services until that child achieves age-appropriate functional
36 capacity. A managed care provider, authorized by section three hundred
37 sixty-four-j of the social services law, shall also be required to make
38 payment for covered services required to comply with federal Early Peri-
39 odic Screening, Diagnosis, and Treatment ("EPSDT") standards, as speci-
40 fied by the commissioner of health.

41 (b) Shall not base determinations solely upon review standards appli-
42 cable to (or designed for) adults to medically fragile children. Adult
43 standards include, but are not limited to, Medicare rehabilitation stan-
44 dards and the "Medicare 3 hour rule." Determinations have to take into
45 consideration the specific needs of the child and the circumstances
46 pertaining to their growth and development.

47 (c) Accommodate unusual stabilization and prolonged discharge plans
48 for medically fragile children, as appropriate. Issues utilization
49 review agents must consider when developing and approving discharge
50 plans include, but are not limited to: sudden reversals of condition or
51 progress, which may make discharge decisions uncertain or more prolonged
52 than for other children or adults; necessary training of parents or
53 other adults to care for medically fragile children at home; unusual
54 discharge delays encountered if parents or other responsible adults
55 decline or are slow to assume full responsibility for caring for
56 medically fragile children; the need to await an appropriate home or

1 home-like environment rather than discharge to a housing shelter or
2 other inappropriate setting for medically fragile children, the need to
3 await construction adaptations to the home (such as the installation of
4 generators or other equipment); and lack of available suitable special-
5 ized care (such as unavailability of pediatric nursing home beds, pedia-
6 tric ventilator units, pediatric private duty nursing in the home, or
7 specialized pediatric home care services). Utilization review agents
8 must develop a person centered discharge plan for the child taking the
9 above situations into consideration.

10 (d) It is the utilization review agent's network management responsi-
11 bility to identify an available provider of needed covered services, as
12 determined through a person centered care plan, to effect safe discharge
13 from a hospital or other facility; payments shall not be denied to a
14 discharging hospital or other facility due to lack of an available post-
15 discharge provider as long as they have worked with the utilization
16 review agent to identify an appropriate provider. Utilization review
17 agents are required to approve the use of out-of-network providers if
18 the health maintenance organization does not have a participating
19 provider to address the needs of the child.

20 (e) This section does not limit any other rights the medically fragile
21 child may have, including the right to appeal the denial of out of
22 network coverage at in-network cost sharing levels where an appropriate
23 in-network provider is not available pursuant to subdivision one-b of
24 section forty-nine hundred four of this title.

25 (f) Utilization review agents must ensure that medically fragile chil-
26 dren receive services from appropriate providers that have the expertise
27 to effectively treat the child and must contract with providers with
28 demonstrated expertise in caring for the medically fragile children.
29 Network providers shall refer to appropriate network community and
30 facility providers to meet the needs of the child or seek authorization
31 from the utilization review agent for out-of-network providers when
32 participating providers cannot meet the child's needs. The utilization
33 review agent must authorize services as fast as the enrollee's condition
34 requires and in accordance with established timeframes in the contracts
35 or policy forms.

36 4. A health maintenance organization shall have a procedure by which
37 an enrollee who is a medically fragile child who requires specialized
38 medical care over a prolonged period of time, may receive a referral to
39 a specialty care center for medically fragile children. If the health
40 maintenance organization, or the primary care provider or the specialist
41 treating the patient, in consultation with a medical director of the
42 utilization review agent, determines that the enrollee's care would most
43 appropriately be provided by such a specialty care center, the organiza-
44 tion shall refer the enrollee to such center. In no event shall a health
45 maintenance organization be required to permit an enrollee to elect to
46 have a non-participating specialty care center, unless the organization
47 does not have an appropriate specialty care center to treat the
48 enrollee's disease or condition within its network. Such referral shall
49 be pursuant to a treatment plan developed by the specialty care center
50 and approved by the health maintenance organization, in consultation
51 with the primary care provider, if any, or a specialist treating the
52 patient, and the enrollee or the enrollee's designee. If an organization
53 refers an enrollee to a specialty care center that does not participate
54 in the organization's network, services provided pursuant to the
55 approved treatment plan shall be provided at no additional cost to the
56 enrollee beyond what the enrollee would otherwise pay for services

1 received within the network. For purposes of this section, a specialty
2 care center for medically fragile children shall mean a children's
3 hospital as defined pursuant to subparagraph (iv) of paragraph (e-2) of
4 subdivision four of section twenty-eight hundred seven-c of this chap-
5 ter, a residential health care facility affiliated with such a chil-
6 dren's hospital, any residential health care facility with a specialty
7 pediatric bed average daily census during two thousand seventeen of
8 fifty or more patients, or a facility which satisfies such other crite-
9 ria as the commissioner may designate.

10 5. When rendering or arranging for care or payment, both the provider
11 and the health maintenance organization shall inquire of, and shall
12 consider the desires of the family of a medically fragile child includ-
13 ing, but not limited to, the availability and capacity of the family,
14 the need for the family to simultaneously care for the family's other
15 children, and the need for parents to continue employment.

16 6. The health maintenance organization must pay at least eighty-five
17 percent (unless a different percentage or method has been mutually
18 agreed to) of the facility's negotiated acute care rate for all days of
19 inpatient hospital care at a specialty care center for medically fragile
20 children when the health maintenance organization and the specialty care
21 facility mutually agree the patient is ready for discharge from the
22 specialty care center to the patient's home but requires specialized
23 home services that are not available or in place, or the patient is
24 awaiting discharge to a residential health care facility when no resi-
25 dential health care facility bed is available given the specialized
26 needs of the medically fragile child. The health maintenance organiza-
27 tion must pay at least the facility's Medicaid skilled nursing facility
28 rate, unless a different rate has been mutually negotiated, for all days
29 of residential health care facility care at a specialty care center for
30 medically fragile children when the health maintenance organization and
31 the specialty care facility mutually agree the patient is ready for
32 discharge from the specialty care center to the patient's home but
33 requires specialized home services that are not available or in place.
34 Such requirements shall apply until the health plan can identify and
35 secure admission to an alternate provider rendering the necessary level
36 of services. The specialty care center must cooperate with the health
37 maintenance organization's placement efforts.

38 7. In the event a health maintenance organization enters into a
39 participation agreement with a specialty care center for medically frag-
40 ile children in this state, the requirements of this section shall apply
41 to such participation agreement and to all claims submitted to, or
42 payments made by, any other health maintenance organizations, insurers
43 or payors making payment to the specialty care center pursuant to the
44 provisions of that participation agreement.

45 8. (a) The commissioner shall designate a single set of clinical stan-
46 dards applicable to all utilization review agents regarding pediatric
47 extended acute care stays (defined for the purposes of this section as
48 discharge from one acute care hospital followed by immediate admission
49 to a second acute care hospital; not including transfers of case payment
50 cases as defined in section twenty-eight hundred seven-c of this chap-
51 ter). The standards shall be adapted from national long term acute care
52 hospital standards for adults and shall be approved by the commissioner,
53 after consultation with one or more specialty care centers for medically
54 fragile children. The standards shall include, but not be limited to,
55 specifications of the level of care supports in the patient's home, at a
56 skilled nursing facility or other setting, that must be in place in



1 order to safely and adequately care for a medically fragile child before
2 medically complex acute care can be deemed no longer medically neces-
3 sary. The standards designated by the commissioner shall pre-empt the
4 clinical standards, if any, for pediatric extended acute care set forth
5 in the utilization review plan by the utilization review agent.

6 (b) The commissioner shall designate a single set of supplemental
7 clinical standards (in addition to the clinical standards selected by
8 the utilization review agent) applicable to all utilization review
9 agents regarding acute and sub-acute inpatient rehabilitation for
10 medically fragile children. The supplemental standards shall specify the
11 level of care supports in the patient's home, at a skilled nursing
12 facility or other setting, that must be in place in order to safely and
13 adequately care for a medically fragile child before acute or sub-acute
14 inpatient rehabilitation can be deemed no longer medically necessary.
15 The supplemental standards designated by the commissioner shall pre-empt
16 the clinical standards, if any, regarding readiness for discharge of
17 medically fragile children from acute or sub-acute inpatient rehabili-
18 tation, as set forth in the utilization review plan by the utilization
19 review agent.

20 9. In all instances the utilization review agent shall defer to the
21 recommendations of the referring physician to refer a medically fragile
22 child for care at a particular specialty provider of care to medically
23 fragile children, or the recommended treatment plan by the treating
24 physician at a specialty care center for medically fragile children,
25 except where the utilization review agent has determined, by clear and
26 convincing evidence, that: (a) the recommended provider or proposed
27 treatment plan is not in the best interest of the medically fragile
28 child, or (b) an alternative provider offering substantially the same
29 level of care in accordance with substantially the same treatment plan
30 is available from a lower cost provider.

31 § 7. Subparagraph (D) of paragraph 1 of subsection (b) of section 4900
32 of the insurance law, as added by section 36 of subpart A of part BB of
33 chapter 57 of the laws of 2019, is amended and a new subparagraph (E) is
34 added to read as follows:

35 (D) for purposes of a determination involving treatment for a mental
36 health condition:

37 (i) a physician who possesses a current and valid non-restricted
38 license to practice medicine and who specializes in behavioral health
39 and has experience in the delivery of mental health courses of treat-
40 ment; or

41 (ii) a health care professional other than a licensed physician who
42 specializes in behavioral health and has experience in the delivery of
43 mental health courses of treatment and, where applicable, possesses a
44 current and valid non-restricted license, certificate, or registration
45 or, where no provision for a license, certificate or registration
46 exists, is credentialed by the national accrediting body appropriate to
47 the profession; [and] or

48 (E) for purposes of a determination involving treatment of a medically
49 fragile child:

50 (i) a physician who possesses a current and valid non-restricted
51 license to practice medicine and who is board certified or board eligi-
52 ble in pediatric rehabilitation, pediatric critical care, or neonatolo-
53 gy; or

54 (ii) a physician who possesses a current and valid non-restricted
55 license to practice medicine and is board certified in a pediatric
56 subspecialty directly relevant to the patient's medical condition; and

1 § 8. Paragraph 2 of subsection (b) of section 4900 of the insurance
2 law, as amended by chapter 586 of the laws of 1998, is amended to read
3 as follows:

4 (2) for purposes of title two of this article:

5 (A) a physician who:

6 (i) possesses a current and valid non-restricted license to practice
7 medicine;

8 (ii) where applicable, is board certified or board eligible in the
9 same or similar specialty as the health care provider who typically
10 manages the medical condition or disease or provides the health care
11 service or treatment under appeal;

12 (iii) has been practicing in such area of specialty for a period of at
13 least five years; and

14 (iv) is knowledgeable about the health care service or treatment under
15 appeal; or

16 (B) a health care professional other than a licensed physician who:

17 (i) where applicable, possesses a current and valid non-restricted
18 license, certificate or registration;

19 (ii) where applicable, is credentialed by the national accrediting
20 body appropriate to the profession in the same profession and same or
21 similar specialty as the health care provider who typically manages the
22 medical condition or disease or provides the health care service or
23 treatment under appeal;

24 (iii) has been practicing in such area of specialty for a period of at
25 least five years;

26 (iv) is knowledgeable about the health care service or treatment under
27 appeal; and

28 (v) where applicable to such health care professional's scope of prac-
29 tice, is clinically supported by a physician who possesses a current and
30 valid non-restricted license to practice medicine; or

31 (C) for purposes of a determination involving treatment of a medically
32 fragile child:

33 (i) a physician who possesses a current and valid non-restricted
34 license to practice medicine and who is board certified or board eligi-
35 ble in pediatric rehabilitation, pediatric critical care, or neonatolo-
36 gy; or

37 (ii) a physician who possesses a current and valid non-restricted
38 license to practice medicine and is board certified in a pediatric
39 subspecialty directly relevant to the patient's medical condition.

40 § 9. Subsection (b-1) of section 4900 of the insurance law, as added
41 by chapter 586 of the laws of 1998, is amended to read as follows:

42 (b-1) "Clinical standards" means those guidelines and standards set
43 forth in the utilization review plan by the utilization review agent
44 whose adverse determination is under appeal or, in the case of medically
45 fragile children those guidelines and standards as required by section
46 forty-nine hundred three-a of this article.

47 § 10. Subsection (j) of section 4900 of the insurance law, as added by
48 chapter 705 of the laws of 1996, is amended to read as follows:

49 (j) "Utilization review plan" means: (1) a description of the process
50 for developing the written clinical review criteria; (2) a description
51 of the types of written clinical information which the plan might
52 consider in its clinical review, including but not limited to, a set of
53 specific written clinical review criteria; (3) a description of practice
54 guidelines and standards used by a utilization review agent in carrying
55 out a determination of medical necessity, which, in the case of
56 medically fragile children, shall incorporate the standards required by

1 section forty-nine hundred three-a of this article; (4) the procedures
2 for scheduled review and evaluation of the written clinical review
3 criteria; and (5) a description of the qualifications and experience of
4 the health care professionals who developed the criteria, who are
5 responsible for periodic evaluation of the criteria and of the health
6 care professionals or others who use the written clinical review crite-
7 ria in the process of utilization review.

8 § 11. Section 4900 of the insurance law is amended by adding a new
9 subsection (k) to read as follows:

10 (k) "Medically fragile child" means an individual who is under twen-
11 ty-one years of age and has a chronic debilitating condition or condi-
12 tions, who may or may not be hospitalized or institutionalized, and
13 meets one or more of the following criteria: (1) is technologically
14 dependent for life or health sustaining functions; (2) requires a
15 complex medication regimen or medical interventions to maintain or to
16 improve their health status; or (3) is in need of ongoing assessment or
17 intervention to prevent serious deterioration of their health status or
18 medical complications that place their life, health or development at
19 risk. Chronic debilitating conditions include, but are not limited to,
20 bronchopulmonary dysplasia, cerebral palsy, congenital heart disease,
21 microcephaly, pulmonary hypertension, and muscular dystrophy. The term
22 "medically fragile child" shall also include severe conditions, includ-
23 ing but not limited to traumatic brain injury, which typically require
24 care in a specialty care center for medically fragile children, even
25 though the child does not have a chronic debilitating condition or also
26 meet one of the three conditions of this subsection. In order to facili-
27 tate the prompt and convenient identification of particular patient care
28 situations meeting the definitions of this subsection, the superinten-
29 dent, after consulting with the commissioner of health, may issue writ-
30 ten guidance listing (by diagnosis codes, utilization thresholds, or
31 other available coding or commonly used medical classifications) the
32 types of patient care needs which are deemed to meet this definition.
33 Notwithstanding the definitions set forth in this subsection, any
34 patient which has received prior approval from a utilization review
35 agent for admission to a specialty care facility for medically fragile
36 children shall be considered a medically fragile child at least until
37 discharge from that facility occurs.

38 § 12. The insurance law is amended by adding a new section 4903-a to
39 read as follows:

40 § 4903-a. Utilization review determinations for medically fragile
41 children. (a) Notwithstanding any inconsistent provision of the utiliza-
42 tion review agent's clinical standards, the utilization review agent
43 shall administer and apply the clinical standards (and make determi-
44 nations of medical necessity) regarding medically fragile children in
45 accordance with the requirements of this section. If the utilization
46 review agent is a separate entity from the health care plan, the health
47 care plan shall make contractual or other arrangements in order to
48 facilitate the utilization review agent's compliance with this section.

49 (b) In the case of a medically fragile child, the term "medically
50 necessary" shall mean health care and services that are necessary to
51 promote normal growth and development and prevent, diagnose, treat,
52 ameliorate or palliate the effects of a physical, mental, behavioral,
53 genetic, or congenital condition, injury or disability. When applied to
54 the circumstances of any particular medically fragile child, the term
55 "medically necessary" shall include: (1) the care or services that are
56 essential to prevent, diagnose, prevent the worsening of, alleviate or

1 ameliorate the effects of an illness, injury, disability, disorder or
2 condition; (2) the care or services that are essential to the overall
3 physical, cognitive and mental growth and developmental needs of the
4 child; and (3) the care or services that will assist the child to
5 achieve or maintain maximum functional capacity in performing daily
6 activities, taking into account both the functional capacity of the
7 child and those functional capacities that are appropriate for individ-
8 uals of the same age as the child. The utilization review agent shall
9 base its determination on medical and other relevant information
10 provided by the child's primary care provider, other health care provid-
11 ers, school, local social services, and/or local public health officials
12 that have evaluated the child, and the utilization review agent will
13 ensure the care and services are provided in sufficient amount, duration
14 and scope to reasonably be expected to produce the intended results and
15 to have the expected benefits that outweigh the potential harmful
16 effects.

17 (c) Utilization review agents shall undertake the following with
18 respect to medically fragile children:

19 (1) Consider as medically necessary all covered services that assist
20 medically fragile children in reaching their maximum functional capaci-
21 ty, taking into account the appropriate functional capacities of chil-
22 dren of the same age. Utilization review agents must continue to cover
23 services until that child achieves age-appropriate functional capacity.

24 (2) Shall not base determinations solely upon review standards appli-
25 cable to (or designed for) adults to medically fragile children. Adult
26 standards include, but are not limited to, Medicare rehabilitation stan-
27 dards and the "Medicare 3 hour rule." Determinations have to take into
28 consideration the specific needs of the child and the circumstances
29 pertaining to their growth and development.

30 (3) Accommodate unusual stabilization and prolonged discharge plans
31 for medically fragile children, as appropriate. Issues utilization
32 review agents must consider when developing and approving discharge
33 plans include, but are not limited to: sudden reversals of condition or
34 progress, which may make discharge decisions uncertain or more prolonged
35 than for other children or adults; necessary training of parents or
36 other adults to care for medically fragile children at home; unusual
37 discharge delays encountered if parents or other responsible adults
38 decline or are slow to assume full responsibility for caring for
39 medically fragile children; the need to await an appropriate home or
40 home-like environment rather than discharge to a housing shelter or
41 other inappropriate setting for medically fragile children, the need to
42 await construction adaptations to the home (such as the installation of
43 generators or other equipment); and lack of available suitable special-
44 ized care (such as unavailability of pediatric nursing home beds, pedia-
45 triac ventilator units, pediatric private duty nursing in the home, or
46 specialized pediatric home care services). Utilization review agents
47 must develop a person centered discharge plan for the child taking the
48 above situations into consideration.

49 (4) It is the utilization review agents network management responsi-
50 bility to identify an available provider of needed covered services, as
51 determined through a person centered care plan, to effect safe discharge
52 from a hospital or other facility; payments shall not be denied to a
53 discharging hospital or other facility due to lack of an available post-
54 discharge provider as long as they have worked with the utilization
55 review agent to identify an appropriate provider. Utilization review
56 agents are required to approve the use of out-of-network providers if

1 they do not have a participating provider to address the needs of the
2 child.

3 (5) This section does not limit any other rights a medically fragile
4 child may have, including the right to appeal the denial of out of
5 network coverage at in-network cost sharing levels where an appropriate
6 in-network provider is not available pursuant to subsection a-two of
7 section four thousand nine hundred four of this title.

8 (6) Utilization review agents must ensure that medically fragile chil-
9 dren receive services from appropriate providers that have the expertise
10 to effectively treat the child and must contract with providers with
11 demonstrated expertise in caring for the medically fragile children.
12 Network providers shall refer to appropriate network community and
13 facility providers to meet the needs of the child or seek authorization
14 from the utilization review agent for out-of-network providers when
15 participating providers cannot meet the child's needs. The utilization
16 review agent must authorize services as fast as the insured's condition
17 requires and in accordance with established timeframes in the contracts
18 or policy forms.

19 (d) A utilization review agent shall have a procedure by which an
20 insured who is a medically fragile child who requires specialized
21 medical care over a prolonged period of time, may receive a referral to
22 a specialty care center for medically fragile children. If the utiliza-
23 tion review agent, or the primary care provider or the specialist treat-
24 ing the patient, in consultation with a medical director of the utiliza-
25 tion review agent, determines that the insured's care would most
26 appropriately be provided by such a specialty care center, the utiliza-
27 tion review agent shall refer the insured to such center. In no event
28 shall a utilization review agent be required to permit an insured to
29 elect to have a non-participating specialty care center, unless the
30 health care plan does not have an appropriate specialty care center to
31 treat the insured's disease or condition within its network. Such refer-
32 ral shall be pursuant to a treatment plan developed by the specialty
33 care center and approved by the utilization review agent, in consulta-
34 tion with the primary care provider, if any, or a specialist treating
35 the patient, and the insured or the insured's designee. If a utilization
36 review agent refers an insured to a specialty care center that does not
37 participate in the health care plan's network, services provided pursu-
38 ant to the approved treatment plan shall be provided at no additional
39 cost to the insured beyond what the insured would otherwise pay for
40 services received within the network. For purposes of this section, a
41 specialty care center for medically fragile children shall mean a chil-
42 dren's hospital as defined pursuant to subparagraph (iv) of paragraph
43 (e-2) of subdivision four of section two thousand eight hundred seven-c
44 of the public health law, a residential health care facility affiliated
45 with such a children's hospital, any residential health care facility
46 with a specialty pediatric bed average daily census during two thousand
47 seventeen of fifty or more patients, or a facility which satisfies such
48 other criteria as the commissioner of health may designate.

49 (e) When rendering or arranging for care or payment, both the provider
50 and the health care plan shall inquire of, and shall consider the
51 desires of, the family of a medically fragile child including, but not
52 limited to, the availability and capacity of the family, the need for
53 the family to simultaneously care for the family's other children, and
54 the need for parents to continue employment.

55 (f) The health care plan must pay at least eighty-five percent (unless
56 a different percentage or method has been mutually agreed to) of the

1 facility's negotiated acute care rate for all days of inpatient hospital
2 care at a specialty care center for medically fragile children when the
3 insurer and the specialty care facility mutually agree the patient is
4 ready for discharge from the specialty care center to the patient's home
5 but requires specialized home services that are not available or in
6 place, or the patient is awaiting discharge to a residential health care
7 facility when no residential health care facility bed is available given
8 the specialized needs of the medically fragile child. The health care
9 plan must pay at least the facility's skilled nursing Medicaid facility
10 rate, unless a different rate has been mutually negotiated, for all days
11 of residential health care facility care at a specialty care center for
12 medically fragile children when the insurer and the specialty care
13 facility mutually agree the patient is ready for discharge from the
14 specialty care center to the patient's home but requires specialized
15 home services that are not available or in place. Such requirements
16 shall apply until the health care plan can identify and secure admission
17 to an alternate provider rendering the necessary level of services. The
18 specialty care center must cooperate with the health care plan's place-
19 ment efforts.

20 (g) In the event a health care plan enters into a participation agree-
21 ment with a specialty care center for medically fragile children in this
22 state, the requirements of this section shall apply to that partic-
23 ipation agreement and to all claims submitted to, or payments made by,
24 any other insurers, health maintenance organizations or payors making
25 payment to the specialty care center pursuant to the provisions of that
26 participation agreement.

27 (h) (1) The superintendent, after consulting with the commissioner of
28 health, shall designate a single set of clinical standards applicable to
29 all utilization review agents regarding pediatric extended acute care
30 stays (defined for the purposes of this section as discharge from one
31 acute care hospital followed by immediate admission to a second acute
32 care hospital; not including transfers of case payment cases as defined
33 in section two thousand eight hundred seven-c of the public health law).
34 The standards shall be adapted from national long term acute care hospi-
35 tal standards for adults and shall be approved by the superintendent,
36 after consultation with one or more specialty care centers for medically
37 fragile children. The standards shall include, but not be limited to,
38 specifications of the level of care supports in the patient's home, at a
39 skilled nursing facility or other setting, that must be in place in
40 order to safely and adequately care for a medically fragile child before
41 medically complex acute care can be deemed no longer medically neces-
42 sary. The standards designated by the commissioner shall pre-empt the
43 clinical standards, if any, for pediatric extended acute care set forth
44 in the utilization review plan by the utilization review agent.

45 (2) The superintendent, after consulting with the commissioner of
46 health, shall designate a single set of supplemental clinical standards
47 (in addition to the clinical standards selected by the utilization
48 review agent) applicable to all utilization review agents regarding
49 acute and sub-acute inpatient rehabilitation for medically fragile chil-
50 dren. The standards shall specify the level of care supports in the
51 patient's home, at a skilled nursing facility or other setting, that
52 must be in place in order to safely and adequately care for a medically
53 fragile child before acute or sub-acute inpatient rehabilitation can be
54 deemed no longer medically necessary. The supplemental standards desig-
55 nated by the superintendent shall pre-empt the clinical standards, if
56 any, regarding readiness for discharge of medically fragile children

1 from acute or sub-acute inpatient rehabilitation, as set forth in the
2 utilization review plan by the utilization review agent.

3 (i) In all instances the utilization review agent shall defer to the
4 recommendations of the referring physician to refer a medically fragile
5 child for care at a particular specialty provider of care to medically
6 fragile children, or the recommended treatment plan by the treating
7 physician at a specialty care center for medically fragile children,
8 except where the utilization review agent has determined, by clear and
9 convincing evidence, that: (1) the recommended provider or proposed
10 treatment plan is not in the best interest of the medically fragile
11 child; or (2) an alternative provider offering substantially the same
12 level of care in accordance with substantially the same treatment plan
13 is available from a lower cost provider.

14 § 13. This act shall take effect January 1, 2022.

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

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

