

FY 2024 NEW YORK STATE EXECUTIVE BUDGET

**HEALTH AND MENTAL HYGIENE
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend the public health law, in relation to to amend part H of 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 known and projected department of health state fund medicaid expenditures (Part A); to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law relating to providing enhanced consumer and provider protections, in relation to the effectiveness of certain provisions relating to contracts between plans, insurers, or corporations and hospitals; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to adjustments of rates, in relation to the effectiveness of certain provisions relating to the amount of income to be applied toward the cost of medical care, services and supplies of institutionalized spouses; to amend chapter 906 of the laws of 1984, amending the social services law relating to expanding medical assistance eligibility and the scope of services available to certain persons with disabilities, in relation to the effectiveness thereof; to amend the social services law, in relation to the age of eligibility for home and community-based services waivers; to amend chapter 313 of the laws of 2018, amending the public health law relating to body imaging scanning equipment, in relation to the effectiveness thereof; to amend chapter 426 of the laws of 1983, amending the public health law relating to professional misconduct proceedings, in

relation to the effectiveness of certain provisions thereof; to amend chapter 582 of the laws of 1984, amending the public health law relating to regulating activities of physicians, in relation to the effectiveness of certain provisions thereof; to amend the public health law, in relation to extending the demonstration period in certain physician committees; to amend chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to the effectiveness thereof; to amend the public health law, in relation to reimbursement rate promulgation for residential health care facilities; to amend the public health law, in relation to certified home health agency services payments; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend the public health law, in relation to continuing nursing home upper payment limit payments; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness of certain provisions relating to increasing information available to patients; to amend part H of chapter 59 of the laws of 2011, amending the public health law relating to the statewide health information network of New York and the statewide planning and research

cooperative system and general powers and duties, in relation to making certain provisions permanent; to amend part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to participating provider pharmacies and prescription drug coverage, in relation to extending the expiration of certain provisions thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to extending the effectiveness of certain provisions 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 extending the effectiveness of certain provisions thereof; to amend the social services law, in relation to the effectiveness of certain provisions relating to negotiation of supplemental rebates relating to medication assisted treatment; to amend part B of chapter 57 of the laws of 2015, amending the social services law and other laws relating to supplemental rebates, in relation to the effectiveness thereof; to amend part KK of chapter 56 of the laws of 2020, amending the public health law relating to the designation of statewide general hospital quality and sole community pools and the reduction of capital related inpatient expenses, in relation to the effectiveness thereof; to amend part C of chapter 60 of the laws of 2014, amending the social services law relating to fair hearings within the Fully Integrated Duals Advantage program, in relation to the effectiveness thereof; to amend chapter 779 of the laws of 1986, amending the social services law relating to authorizing services for non-residents in adult homes, residences for adults and enriched housing programs, in relation to extending the effectiveness of certain provisions

thereof; 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 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 part A of chapter 56 of the laws of 2013, amending chapter 59 of the laws of 2011 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to extending government rates for behavioral services and adding an alternative payment methodology requirement; and to amend the public health law, in relation to residential health care facility assessments; and to amend part MM of chapter 57 of the laws of 2021 amending the public health law relating to aiding in the transition to adulthood for children with medical fragility living in pediatric nursing homes and other settings, in relation to the effectiveness thereof (Part B); to amend part A3 of chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to extending the effectiveness of provisions thereof; to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to extending certain provisions relating to the distribution of pool allocations and graduate medical education; to amend the public health

law, in relation to extending certain provisions relating to health care initiative pool distributions; to amend the social services law, in relation to extending payment provisions for general hospitals; and to amend the public health law, in relation to extending certain provisions relating to the assessments on covered lives (Part C); to amend the social services law, in relation to copayments for drugs; to amend the public health law, in relation to prescriber prevails; and to repeal certain provisions of the social services law relating to coverage for certain prescription drugs (Part D); to amend the public health law, in relation to amending and extending the voluntary indigent care pool; in relation to establishing the definition of rural emergency hospital; and in relation to expanding eligibility for vital access provider assurance program funding; and to amend Part I of chapter 57 of the laws of 2022 relating to providing a five percent across the board payment increase to all qualifying fee-for-service Medicaid rates, in relation to Medicaid payments made for the operating component of hospital inpatient services (Part E); 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 effectiveness of certain provisions thereof; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending certain provisions concerning the hospital excess liability pool; 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 F); to amend the elder law, in relation to programs for the aging (Part G); to amend section 5 of part AAA of chapter 56 of the laws of 2022, amending the social services law relating to expanding Medicaid eligibility requirements for seniors and disabled individuals, in relation to the effectiveness of the basic health plan program; to amend the social services law, in relation to enacting the 1332 state innovation program; and to amend the state finance law, in relation to establishing the 1332 state innovation program fund (Part H); to amend the public health law, in relation to extending authority to enroll certain recipients in need of more than 120 days of community based-long term care in a managed long term care plan; to amend the public health law, in relation to extending the moratorium on the processing and approval of applications seeking a certificate of authority as a managed long term care plan, setting performance standards for managed long term care plans and granting the commissioner of health the authority to procure in the event the department of health determines that a sufficient number of managed long term care plans have not met the enhanced performance standards; to amend the social services law, in relation to fiscal intermediaries; to amend part I of chapter 57 of the laws of 2022 providing a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates, in relation to providing an additional increase to all qualifying fee-for-service Medicaid rates for the operating component of residential health care facilities services and an additional increase to all qualifying fee-for-service Medicaid rates for the operating component of assisted living programs; to amend the public health law, in relation to home

care worker wage parity; to amend part H of chapter 59 of the laws of 2011 amending the public health law and other laws relating to known and projected department of health state fund medical expenditures, in relation to extending the provisions thereof; to repeal certain provisions of the social services law relating to the consumer directed personal assistance program; to amend the public health law, in relation to establishing the state supplemental premium assistance for consumer directed personal assistants; and to amend the state finance law, in relation to creating the CDPAP supplemental premium assistance fund (Part I); to amend the insurance law and the public health law, in relation to insurer, organization, or corporation review of certain documentation for certain claims (Part J); to amend the social services law, in relation to authorizing Medicaid eligibility for certain services provided to individuals who are in a correctional institution, and for certain services provided to individuals who are in an institution for mental disease (Part K); to amend the insurance law, in relation to site of service review and coverage for services provided at hospital-based outpatient clinics (Part L); to amend the public health law, in relation to streamlining and adding criteria to the certificate of need process and to review and oversight of material transactions (Part M); to amend the social services law, in relation to expanding the Medicaid Buy-In program for people with disabilities (Part N); to amend the public health law, in relation to prohibiting the sale or distribution of flavored tobacco products (Part O); to amend the public health law, in relation to establishing a new statewide health care transformative program (Part P); to amend the social services law, in relation to establishing

Medicaid reimbursement for community health workers (CHWs) for high-risk populations; and to amend the public health law, in relation to permitting licensed mental health counselors and licensed marriage and family therapists in community health centers to be reimbursed (Part Q); to amend the social services law and the public health law, in relation to expanding Medicaid coverage of preventative health care services (Part R); to amend the public health law and the education law, in relation to modernizing the state of New York's emergency medical system and workforce; and to repeal certain sections of the public health law relating thereto (Part S); to amend the public health law, in relation to lead testing in certain multiple dwellings; and to amend the executive law, in relation to expanding the powers of the secretary of state with respect to the New York state uniform fire prevention and building code (Part T); to amend the general business law, in relation to safeguarding abortion access through data privacy protection (Part U); to amend the education law, in relation to authorizing licensed pharmacists to prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy in accordance with standardized procedures or protocols developed and approved by the board of pharmacy (Part V); to amend the education law, in relation to the provision of HIV pre-exposure prophylaxis; to amend the public health law and the education law, in relation to the administration of COVID-19 and influenza tests; to amend part C of chapter 57 of the laws of 2022 amending the public health law and the education law relating to allowing pharmacists to direct limited service laboratories and order and administer COVID-19 and influenza tests and modernizing nurse

practitioners, in relation to the effectiveness thereof; to amend the education law and the social services law, in relation to the scope of practice of nurses and pharmacists; to amend the education law, in relation to authorizing dentists to offer HIV and hepatitis C screening and diagnostic tests; to amend the education law and the public health law, in relation to the scope of practice of physician assistants; to amend chapter 471 of the laws of 2016 amending the education law and the public health law relating to authorizing certain advanced home health aides to perform certain advanced tasks, in relation to the effectiveness thereof; to amend the education law, in relation to the scope of practice of medication aides; to amend the education law, in relation to enacting the interstate medical licensure compact; to amend the education law, in relation to enacting the nurse licensure compact; and providing for the repeal of certain provisions upon the expiration thereof (Part W); to amend the public health law, in relation to providing for the registration of temporary health care services agencies (Part X); to amend the civil practice law and rules and the judiciary law, in relation to affidavits for medical debt actions (Subpart A); to amend the insurance law, in relation to prescription drug price and supply chain transparency; and to amend the state finance law, in relation to funds deposited in the pharmacy benefit manager regulatory fund (Subpart B); to amend the public health law, in relation to requiring hospitals participating in the general hospital indigent care pool to use certain forms for the collection of medical debt (Subpart C); and to amend the insurance law, in relation to guaranty fund coverage for insurers writing health insurance (Subpart D) (Part Y); to amend the public health law and the social services law, in

relation to quality improvement and increased consumer transparency in assisted living residences (Part Z); to amend the public health law, in relation to hepatitis C screening and requiring third trimester syphilis testing; and to amend chapter 425 of the laws of 2013 amending the public health law relating to requiring hospitals to offer hepatitis C testing, in relation to making such provisions permanent (Part AA); to amend the public health law, in relation to adding certain fentanyl analogs to the schedules of controlled substances; to amend the public health law, in relation to the definition of "imitation controlled substance"; to amend the penal law and the criminal procedure law, in relation to criminal possession and sale of imitation controlled substances; and to repeal certain provisions of the public health law relating thereto (Part BB); to amend the public health law, the state finance law, the civil practice law and rules, the limited liability company law, the partnership law, the correction law, the education law, the executive law, the mental hygiene law, the penal law, the surrogate's court procedure act, the social services law, the workers' compensation law, the cannabis law, the county law, the general business law, the insurance law, the labor law, the criminal procedure law, the business corporation law, the vehicle and traffic law, the administrative code of the city of New York, the military law, and the tax law, in relation to repealing articles governing healthcare professions in the education law and adding such provisions to the public health law and transferring all functions, powers, duties and obligations relating thereto; to repeal certain provisions of the education law relating thereto; and to repeal certain provisions of the public health law relating thereto (Part CC); in relation to

establishing a cost of living adjustment for designated human services programs (Part DD); to amend part A of chapter 56 of the laws of 2013, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2013-2014 state fiscal year, in relation to the effectiveness of certain provisions thereof (Part EE); to amend the education law, in relation to expanding the description of certain services which are not prohibited by statutes governing the practice of nursing (Part FF); to amend the mental hygiene law and the education law, in relation to credentialing qualified mental health associates (Part GG); to amend the mental hygiene law, in relation to certified community behavioral health clinics (Part HH); to amend the insurance law and the financial services law, in relation to insurance coverage for behavioral health services (Subpart A); to amend the insurance law and the public health law, in relation to utilization review standards for mental health services (Subpart B); to amend the insurance law and the public health law, in relation to telehealth payment parity (Subpart C); to amend the insurance law, in relation to private rights of action (Subpart D); to amend the insurance law, in relation to substance use disorder treatment (Subpart E); and to amend the insurance law and the public health law, in relation to network adequacy for mental health and substance use disorder services (Subpart F) (Part II); and to amend the mental hygiene law, in relation to the imposition of sanctions by the commissioner of mental health (Part JJ)

PURPOSE:

This bill contains provisions needed to implement the Health and Mental Hygiene portion of the FY 2024 Executive Budget.

This memorandum describes Parts A through JJ of the bill which are described wholly within the parts listed below.

Part A – Medicaid Global Cap Extension

Purpose:

This bill would make statutory changes necessary to extend the Medicaid Global Cap. The Medicaid Global Cap is a mechanism to place limits on Medicaid spending to maintain a disciplined Medicaid budget.

Summary of Provisions and Statement in Support:

This bill would amend Chapter 57 of the Laws of 2022 to extend the two-year Medicaid Global Cap budgeting construct through FY 2025 in order to manage the State’s Medicaid budget.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State’s multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Enacted Budget.

Effective Date:

This bill would take effect immediately.

Part B – Extend various provisions of the Public Health, Education, and Social Services Laws

Purpose:

This bill would continue to extend various expiring laws to maintain Financial Plan savings by continuing certain previously enacted Medicaid and health savings initiatives and programs authorized in the Public Health, Social Services, and Education Laws.

Summary of Provisions and Statement in Support:

Section one of this bill would amend Chapter 451 of the Laws of 2007, extending the two-month cooling off period after the termination of a contract between an Article 44 health plan and a hospital, through June 30, 2025.

Section two of this bill would amend Chapter 57 of the Laws of 2018, extending authorization for spousal budgeting in long-term care waiver programs, including Managed Long-Term Care, through March 31, 2028.

Sections three through six of this bill would amend Chapter 57 of the Laws of 2018 and the Social Services Law, updating the age eligibility criteria from 18 years of age and under to 21 years of age to conform with the current approved children's waiver criteria and extending the authority of the State to continue the Care at Home (CAH) I and II waivers which provide community-based services to physically disabled children who require hospital or skilled nursing home level of care, allowing the child to reside at home instead of in an institution, through March 31, 2028.

Section seven of this bill would amend section 3502 of Public Health Law, extending authorization of licensed and certain unlicensed employees at correctional facilities to use body imaging equipment for the screening of the incarcerated, through January 30, 2029.

Section eight bill would amend Chapter 426 of the Laws of 1983, extending provisions related to professional misconduct hearings within the Office of Professional Medical Conduct and Committee of Physician Health procedures, through July 1, 2033.

Section nine of this bill would amend Chapter 582 of the Laws of 1984, extending provisions which provide immunity from liability for members of any physician committee acting without malice and within the scope of such member's functions, through July 1, 2033.

Section ten of this bill would amend section 230 of Public Health Law, extending the demonstration period for the Committee for Physician Health of the Medical Society of the State of New York or the New York State Osteopathic Society, whose purpose is to confront and refer to treatment physicians who are thought to be suffering from alcoholism, drug abuse, or mental illness, through July 1, 2033.

Section eleven of this bill would amend Chapter 57 of the Laws of 2019, extending provisions related to the NYS Medical Care Facilities Financing Act, which permits flexibility in contracting for goods and services by State-operated hospitals, through March 31, 2028.

Section twelve of this bill would amend Chapter 49 of the Laws of 2017, extending the limit on payment of nursing home appeals of eighty million dollars annually through April 1, 2027.

Section thirteen of this bill would amend Chapter 49 of the Laws of 2017, extending the authorization of episodic payment per sixty-day period of care for certified home health agencies through March 31, 2027.

Section fourteen of this bill would amend Chapter 56 of the Laws of 2020, maintaining the limit on method of payment for prescription drugs under the medical assistance program through March 31, 2026.

Section fifteen of this bill would amend Chapter 56 of the Laws of 2020, extending the nursing home upper payment limit and intergovernmental transfer provisions through March 31, 2026.

Section sixteen of this bill would amend Chapter 56 of the Laws of 2020, extending the Comprehensive Health Services Program through March 31, 2026.

Section seventeen of this bill would amend Chapter 56 of the Laws of 2020, making permanent the authorization for the use of funds of the Office of Professional Medical Conduct for 14 activities of Patient Health Information and Quality Improvement Act of 2000.

Section eighteen of this bill would amend Chapter 56 of the Laws of 2020, making permanent the statewide health information network and statewide planning and research cooperative system.

Section nineteen of this bill would amend Chapter 56 of the Laws of 2020, extending Public Health Law penalties, the Patient Safety Center Account, and the Enriched Social Adult Day Services Demonstration Project, through April 1, 2026.

Section twenty of this bill would amend Chapter 56 of the Laws of 2020, extending the Home Care Medicare Maximization program through February 1, 2027.

Sections twenty-one through twenty-three of this bill would amend Chapter 56 of the Laws of 2020, extending the Nursing Home Medicare Maximization program through February 1, 2026.

Section twenty-four of this bill would amend Chapter 57 of the Laws of 2015, extending the authorization of the State to negotiate supplemental rebates directly with manufacturers both inside and outside of Managed Care to leverage total Medicaid prescription brand name drug volume, through March 31, 2026. Such authority would

apply only to covered out-patient drugs for which the manufacturer already has a rebate agreement with the Federal government.

Section twenty-five of this bill of this bill would amend Chapter 57 of the Laws of 2015, extending the authorization to establish a statewide formulary for certain classes of drugs to negotiate effectively with the manufacturers of such drugs to maximize savings to Medicaid, through March 31, 2029.

Section twenty-six of this bill would amend Chapter 56 of the Laws of 2020, extending various provisions necessary to convert the Upper Payment Limit (UPL) Payment that is paid to NYC Health and Hospitals Corporation (H+H) to a rate add-on, through March 31, 2026.

Section twenty-seven of this bill would amend Chapter 56 of the Laws of 2020, extending the authority to hire contract staff to administer fair hearings for the Fully Integrated Duals Advantage program, through January 1, 2027.

Section twenty-eight of this bill would amend Chapter 58 of the Laws of 2020, extending the program which authorizes the provision of services for nonresidents in adult homes, residences for adults and enriched housing programs, through July 1, 2027.

Section twenty-nine of this bill would amend Chapter 57 of the Laws of 2021, extending the authorization of bad debt and charity care allowances for certified home health agencies through June 30, 2025.

Sections thirty and thirty-one of this bill would amend Chapter 57 of the Laws of 2021, extending a limitation on the reimbursement of certified home health agencies and long-term home health care programs administrative and general costs to not exceed a Statewide average through March 31, 2027.

Section thirty-two of this bill would amend Chapter 57 of the Laws of 2021, extending the elimination of the trend factor for service for general hospital and nursing home reimbursement through March 31, 2025.

Section thirty-three of this bill would amend Chapter 57 of the Laws of 2021, extending authorization related to the financing of certain health care capital improvements through March 31, 2025.

Section thirty-four of this bill would amend Chapter 57 of the Laws of 2021, extending the health facility cash assessment program through March 31, 2025.

Section thirty-five of this bill would amend Chapter 57 of the Laws of 2021, extending the young adult demonstration for medically fragile children through July 30, 2027.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services.

Effective Date:

This bill would be effective April 1, 2023.

Part C – Reauthorize the Health Care Reform Act (HCRA) for Three Years

Purpose:

This bill would extend the provisions of the Health Care Reform Act (HCRA), which plays a significant role in governing the financing of health care services, through March 31, 2026. The HCRA is scheduled to sunset on March 31, 2023.

Summary of Provisions and Statement in Support:

In 1996, New York enacted HCRA, which replaced the hospital reimbursement system in existence since 1983 with a deregulated system. HCRA was designed to improve the fiscal health of hospitals and support critical public health programs. It was subsequently extended and modified several times, most recently Part Y of chapter 56 of the laws of 2020 reauthorized HCRA through March 31, 2023.

This bill would extend HCRA through March 31, 2026, and would amend provisions to maximize the use of available revenue sources, modify programs, and secure the fiscal viability of HCRA through its proposed extension period. Specifically:

Section one would amend the Public Health Law as it relates to chapter 62 of the laws of 2003 to extend dedicated revenue for program administration through March 31, 2026.

Section two would amend §2807-j of the Public Health Law to extend authorization to allocate surcharge funds between various financing pools through March 31, 2026.

Sections three and four would amend §2807-c, §2807-j, §2807-s, and §2807-t of Public Health Law to extend the continuation of the Medicaid inpatient hospital reimbursement methodology and collection of HCRA surcharges and assessments through December 31, 2026.

Section five would amend §2807-i of Public Health Law to extend Health Care Initiatives allocations through March 31, 2026.

Section six would amend §2807-m of Public Health Law to extend the authorization for Area Health Education Centers through March 31, 2026; would extend graduate medical education (GME) funding for the Doctors Across New York program, which includes the Physician Loan Repayment Program and Practice Support Program, through March 31, 2026; would extend GME funding for the Physician Workforce Study through March 31, 2026; would extend GME funding for the Diversity in Medicine Program through March 31, 2026; and would extend funding for the Empire Clinical Research Investigator Program through March 31, 2026.

Section seven would amend §2807-p of Public Health Law to extend authorization for Clinic Bad Debt and Charity Care through March 31, 2026.

Sections eight and nine would amend §2807-s of Public Health Law to extend authorization for the collection of the Covered Lives Assessment and makes technical corrections to increase collections to \$1.085 billion through December 31, 2026, to align with the intent of S.5560A (Chapter 820 of 2021), which would increase collections to provides additional state funding to municipalities for Early Intervention services.

Section ten would amend §2807-s of Public Health Law to extend authorization for Covered Lives Assessment to fund the Regional Professional Education Pool through December 31, 2026.

Section eleven would amend §2807-t of Public Health Law to modify the reconciliation of collections for the Covered Lives Assessment in excess of \$1.085 billion through December 31, 2026. This section would align with sections eight and nine to make technical changes in accordance with the intent of S.5560A.

Section twelve would amend §2807-v of Public Health Law to extend various tobacco initiative allocations through March 31, 2026.

Section thirteen would amend §367-b of Social Services Law to extend the authorization for certain hospital billing requirements, historically extended with HCRA, through March 31, 2026.

Section fourteen would amend §3614 of Public Health Law to extend the Home Care Workforce Recruitment and Retention Program through March 31, 2026.

Section fifteen would amend §367-q of Social Services Law to extend the Personal Care Workforce Recruitment and Retention Program through March 31, 2026.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan, which reflects the continuation of HCRA funding for a number of health programs and revenue sources.

Effective Date:

This act would take effect immediately.

Part D – Medicaid Pharmacy Related Recommendations

Purpose:

This bill would allow the Department of Health (DOH) to remove drugs that are no longer in use due to newer and more advanced alternatives which would allow DOH to more efficiently assess drug utilization and potential fiscal impact.

Summary of Provisions and Statement in Support:

This bill would permit the Department of Health (DOH) to modify the list of over-the-counter drugs that are reimbursable by Medicaid and would eliminate a prescriber's ability of final determination when the justification for a drug's use is not clinically supported. Currently, DOH can only add drugs to the list but cannot remove drugs that are no longer in use due to newer or more advanced alternatives.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by the Office of the Actuary in the Centers for Medicare & Medicaid Services.

The pharmacy proposals in this section account for \$8.7 million in net state savings in FY 2024 and \$66.9 million in net state savings in FY 2025.

Effective Date:

Section one of this bill would take effect on October 1, 2023. Sections two and three of this bill would take effect on April 1, 2024.

Part E – Hospital Related Recommendations

Purpose:

This bill would implement various hospital reforms. This bill would extend the Voluntary Indigent Care Pool (ICP) for three years to more accurately target State dollars to high need facilities; authorize the designation of Rural Emergency Hospitals to permit interested parties to seek such designation in accordance with the federal Consolidated Appropriations Act of 2021; expand the definition of an eligible recipient of Vital Access Provider Assurance Program (VAPAP) funding to include certain Performing Provider Systems; and provide a 5% increase to hospital inpatient rates.

Summary of Provisions and Statement in Support:

This bill would amend various provisions of the Public Health Law in order to implement necessary hospital reforms. Section one of this bill would amend section 2807 of Public Health Law to reduce the ICP by \$42.7 million State share to better target State dollars to high need facilities and to extend the Voluntary ICP for three years, through March 31, 2026.

Sections two and three of this bill would amend section 2801 of Public Health Law to authorize the designation of Rural Emergency Hospitals to allow smaller hospitals to change their designation and maintain core operations that will help preserve access and gain access to federal funding streams. Section three would require that a public community forum be held at least 30 days before the application for Rural Emergency Hospital designation is submitted and that the hospital notify the Office of Mental Health or Office of Addiction Services and Supports of inpatient psychiatric beds or substance abuse treatment programs present in the facility prior to the public community forum.

Sections four through eight of this bill would amend subdivision (g) of section 2826 of the Public Health Law to expand VAPAP eligibility to providers who were formed as a Delivery System Reform Incentive Payment Performing Provider System, and which collaborated with an independent practice association that received “VBP Innovator” status from DOH.

Section nine of this bill would amend Part I of Chapter 57 of the Laws of 2022 to increase the operating component of inpatient hospital rates by 5% to offset provider losses related to 340B revenue impacted by the New York State Medicaid Pharmacy program transition.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and will result in a cost to the State of \$169.8 million annually.

Effective Date:

This bill would take effect immediately; provided that sections three and four of this bill would take effect 60 days after it shall have become a law; and provided, further, that sections one, two, six, seven, eight, and nine of this bill shall be deemed to have been in full force and effect on and after April 1, 2023.

Part F – Extend the Physicians Excess Medical Malpractice Program

Purpose:

This bill would extend the provisions of the Physician’s Excess Medical Malpractice Program through June 30, 2024.

Summary of Provisions and Statement in Support:

This bill would amend the Civil Practice Law and Rules to extend the hospital excess liability pool, also known as the Physician’s Excess Medical Malpractice Program, by one year through June 30, 2024.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget to continue the Excess Medical Malpractice Program.

Effective Date:

This bill would take effect immediately.

Part G – Private Pay

Purpose:

This bill would amend the Elder Law to decrease the income threshold to access the Private Pay program, from 400% of the federal poverty level (FPL) to 250% of the federal poverty level, to allow more seniors to access the program by ensuring they do not have to pay out of pocket costs.

Summary of Provisions and Statement in Support:

This bill would amend subsection 12 of Section 203 of the Elder Law to state that private payments shall not be required of individuals with incomes below 250% of the FPL. This expansion in eligibility would increase the number of middle-income earners

over the age of 60 who can access services necessary to meet their needs and help them remain safely at home and within their community.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and will not result in any fiscal impacts during FY 2024 or FY 2025, as any costs would be supported within existing resources.

Effective Date:

This bill would be effective immediately.

Part H – Essential Plan Program Changes

Purpose:

This bill expands Essential Plan eligibility to include individuals up to 250 percent of the federal poverty level, allows pregnant women to stay in the Essential Plan through one year post-partum regardless of changes to her income, and delays the implementation of the Medicaid coverage expansion for undocumented individuals over the age of 64 to align with the proposed section 1332 waiver expansion.

Summary of Provisions and Statement in Support:

This bill would authorize a change in Federal authority for the Essential Plan from section 1331 of the Affordable Care Act to section 1332, subject to federal approval. This change would broaden the current criteria for eligibility to consumers with incomes between 200% and 250% of the federal poverty level. This change would allow pregnant individuals and their newborns to receive coverage for one year post-partum regardless of any change to income during that period.

This bill would also authorize a "1332 State Innovation Program Fund" in the joint custody of the State Comptroller and the Department of Taxation and Finance, which consists of money transferred from the federal government pursuant to the approved 1332 waiver, and would be used to implement and operate the 1332 State Innovation plan created by this bill.

Section one of this bill would amend section 5 of part AAA of Chapter 56 of the Laws of 2022 to delay the implementation of the Medicaid coverage expansion for undocumented individuals over the age of 64 as enacted in the FY 2023 budget to align with the 1332 waiver proposed as part of the FY 2024 budget.

Section two and three of this bill would authorize, subject to Federal approval, a change in Federal authority for the Essential Plan pursuant to Sections 1331 and 1332 of the Affordable Care Act or by State Innovation Waivers. Additionally, this section would

allow individuals and their newborns to receive coverage for one-year post-partum regardless of any change to income.

Section four would establish the State Innovation Program fund.

Section five would establish a severability clause.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Enacted Budget.

This bill would provide fiscal savings of \$213 million in FY 2024 and \$165 million in FY 2025, subject to Federal approval and guarantee of Federal financial participation.

Effective Date:

This bill would be effective January 1, 2024.

Part I – Long Term Care Program Reforms

Purpose:

This bill would implement Medicaid long term care (MLTC) program reforms. MLTC services in New York are fragmented and reforms are needed as evidenced by the interim findings of the report required by chapter 57 of the laws of the 2022.

Summary of Provisions and Statement in Support:

Section one of this bill would amend section 4403 of the Public Health Law (PHL) to keep certain recipients in need of more than 120 days of community based-long term care enrolled in a MLTC plan for an additional four years.

Sections two through six of this bill would amend section 4403-f of the PHL to extend the moratorium on the processing and approval of applications seeking a certificate of authority as a MLTC plan until March 31, 2027. During the moratorium, all MLTC plans are required to meet the stated performance standards on or before October 1, 2024. The performance standards include MLTC plan's commitment to contract with the minimum number of licensed home care service agencies needed to provide necessary personal care services to the greatest practicable number of enrollees and the minimum number of fiscal intermediaries needed to provide necessary consumer directed personal assistance services. If the Department of Health (DOH) determines that a

sufficient number of MLTC plans have not met the stated performance standards, DOH has the authority to select MLTC plans through a competitive bid process. Sections seven through 12 of this bill would amend section 365-f of the Social Services Law to repeal the fiscal intermediary (FI) procurement process as FI contracting is addressed through the MLTC plan performance standards process.

Sections 13 and 14 of this bill would amend Part I of Chapter 57 of the laws of 2022 to provide a uniform rate increase of 5% to residential health care facilities and assisted living programs.

Section 15 of this bill would amend section 3614-c of the PHL to eliminate wage parity for the Consumer Directed Personal Assistance Program in New York City and in Nassau, Suffolk, and Westchester counties, to implement reforms to the program that better target the intent of wage parity.

Sections 16 through 18 of this bill would amend section 3614-f of the PHL and add new section 3614-g to the PHL and new section 97-bbbbb to the State Finance Law to establish a consumer directed personal assistance program supplemental premium assistance fund for consumer directed personal assistants to ensure these healthcare workers maintain access to essential health care benefits.

Section 19 of this bill would establish the effective date.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Executive Budget.

This bill would result in a State Fiscal Impact of \$73 million in FY 2024 and generates \$69.6 million in State savings in FY 2025.

Effective Date:

This bill would have an immediate effective date and would be deemed to have been in full force and effect on and after April 1, 2023.

Part J – Managed Care Program Reforms

Purpose:

This bill would establish that in the case of emergency services or resultant inpatient admissions, health plans are obligated to pay the hospital's claim before reviewing to

determine whether the services were medically necessary. This bill would eliminate prospective denials for medically necessary services between payers and providers of health care services.

Summary of Provisions and Statement in Support:

This bill would establish the criteria, processes, and time frames for a health plan's review of claims from a hospital for emergency services or inpatient admissions resulting from emergency services. The process would include the establishment of a joint committee made up of clinicians from both the health plan and the hospital to resolve payment disagreements and an independent third-party review agent for final resolution if necessary.

Section one of this bill would amend subsection a of section 3224-a of the Insurance Law by adding three new paragraphs which provide that if a health plan's obligation to pay a hospital claim is clear, other than for the plan's desire to review clinical documentation, and the claim is for emergency services, or for an admission following an emergency department visit, the plan must pay the claim and then request the desired documentation for retrospective review. The hospital would have to refund any overpayment to the health plan if the services are ultimately determined to be not medically necessary or emergent. Disagreements would be sent to a joint committee established of clinicians from both parties and if the joint committee cannot agree then to an independent third-party review agent.

Section two of this bill would amend subsection b of section 3224-1 of the Insurance Law to clarify the timeline for issuing payment with respect to adverse determinations.

Section three of this bill would renumber existing paragraphs 4 and 5 of subsection b of section 3224-b of the Insurance Law to 6 and 7 and add new paragraphs 4 and 5. These new paragraphs would provide that plans cannot use claims audits to reverse determinations on medical necessity, level of care, and site of service made by utilization review agents.

Section four of this bill would amend the opening paragraph of subsection c of section 4904 of the Insurance Law for a technical correction.

Section five of this bill would amend the opening paragraph of subdivision 3 of section 4904 of the Public Health Law for a technical correction.

Section six of this bill would establish that nothing in this act would limit the authority of the Office of the Medicaid Inspector General, the Department of Health, or the State in oversight activities or audits in relation to any relevant law or contract.

Section seven of this bill would establish the effective date.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget. This bill has an associated fiscal cost of \$7.75 million in FY 2024 and \$31.6 million in FY 2025.

Effective Date:

This bill would be effective January 1, 2024.

Part K – Waiver Eligibility Expansion

Purpose:

This bill would amend section 366 of Social Services Law to align the state law with the pending Federal Medicaid waivers, which would expand eligibility for certain Medicaid services to incarcerated persons and adults in institutions of mental disease.

Summary of Provisions and Statement in Support:

This bill would give authority for Medicaid services to be provided that are not currently authorized. Specifically, the bill would extend Medicaid services to incarcerated persons prior to release to better prepare these individuals for community re-entry, and to children and adults in institutions of mental disease (IMDs).

These expansions would align state law with the 1115 New York Health Equity Reform (NYHER) Waiver amendment and the 1115 IMD Waiver, both of which are pending with the Centers for Medicare and Medicaid Services (CMS), and are expected to be approved this year. The IMD Waiver application seeks to expand services to adults; the Department of Health and the Office of Mental Health plan to submit a waiver amendment in this coming year authorizing service reimbursement for children.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services.

Effective Date:

This bill would be effective April 1, 2023.

Part L – Site of Service Review

Purpose:

This bill would amend the Insurance Law to establish provisions and definitions related to site of service review and coverage for services provided at hospital-based outpatient clinics.

Summary of Provisions and Statement in Support:

This bill would establish that the review by a health plan into whether a procedure was medically necessary when it was performed at a hospital-based outpatient clinic rather than a free-standing ambulatory surgical center constitutes a utilization review. Accordingly, this review must follow the rules of utilization review, including member appeal rights. This bill would also establish that health plans engaging in this type of review must prioritize patient health and safety, and the patient's choice of provider, and the health plan determination cannot be made solely on the basis of the cost of the service. Finally, health plans would be required to have a sufficient network of free-standing ambulatory surgical centers for members to choose from, and disclose their "site of service" review policies and limitations to members, providers, and the Department of Health and Department of Financial Services.

Section one of this bill would amend section 3241 of the Insurance Law by adding a new subsection (d) to establish definitions related to site of service, including free-standing ambulatory surgical center, health care plan, hospital-based outpatient clinic, and site of service review and provisions of compliance to ensure patient access to healthcare procedures at hospital-based outpatient sites.

The compliance provisions would establish the following new paragraphs of the Insurance Law:

Paragraph (2) would require site of service reviews be in accordance with the requirements and protections in Article 49 of Insurance Law and Article 49 of Public Health Law, which certifies agents and the utilization review process and establishes the right to an external appeal;

Paragraph (3) would require site of service reviews to prioritize patient health, safety, and access to care;

Paragraph (4) would require health care plans to have adequate free-standing ambulatory surgical center providers to meet the health needs of insureds and enrollees;

Paragraph (5) would require health care plans to disclose and explain the site of service review and its limitation to services covered to policyholders, contract holders, insureds and enrollees; participating providers at least 90 days prior to implementation; and

Department of Financial Services and Department of Health at least 45 days prior to notifying policyholders, contract holders, insureds, and enrollees;

Paragraph (6) would require health care plans who implement the site of service review prior to January 1, 2024 to provide the disclosures noted in paragraph 5 during open enrollment or January 1, 2024, whichever is earlier;

Paragraph (7) would require health care plans, at minimum, approve procedures at free-standing ambulatory surgical center due to concerns over patient's health condition, the facility lacking adequate capacity for treatment, or if the procedure could not be completed in a timely manner; and

Paragraph (8) would require health care plans to take into consideration whether an in-network enrollee's physician recommended the service be provided at a hospital or free-standing clinic, has the proper credentialing or if an established relationship exists between the enrollee and an in-network treating physician.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and will not result in any fiscal impacts during FY 2024 or FY 2025, as any costs will be supported within existing resources.

Effective Date:

This act would take effect January 1, 2024; however, any acts necessary to implement are authorized to be made, are effective immediately.

Part M – Reform Approval Processes for Healthcare Projects and Transactions

Purpose:

This bill would make changes to the Public Health Law (PHL) necessary to reform the State's oversight of major health care projects. The provisions in the bill would clarify and strengthen the review of applicants seeking to become established operators of hospitals, including nursing homes and diagnostic and treatment centers, among other licensed medical facilities. The bill would also provide oversight of material transactions between private entities that have significant effects on New York's health care system, and would streamline the Certificate of Need process for health care projects and operators that are already regulated.

Summary of Provisions and Statement in Support:

The bill would make the following changes:

Section one of this bill would amend subdivision 3 of PHL section 2801-a to revise the review period of an applicant's health care affiliations from ten years to seven years and clarify the types of health-related and long-term care affiliations that applicants must disclose.

Section two of this bill would amend paragraphs b and c of subdivision 4 of PHL section 2801-a to clarify the types of transfers or other dispositions of ownership interest in established operators of hospitals that do not require the prior approval of the Public Health and Health Planning Council (PHHPC) and those transfers that may proceed upon notice.

Section three of this bill would amend subdivisions 1 and 2 of PHL section 3611-a to clarify the types of transfers or other dispositions of ownership interest in established operators of home care agencies that do not require the prior approval of PHHPC and those transfers that may proceed upon notice.

Section four of this bill would amend paragraph b of subdivision 3 of PHL section 4004 to allow certain transfers or other dispositions of ownership interest in established operators of hospices and to proceed upon notice without the prior approval of PHHPC.

Section five of this bill would add a new article 45-A to the PHL that would establish Department of Health oversight over material transactions involving health care entities.

Section six of this bill would amend section 2802 of the PHL to increase revenue from Article 28 hospital, nursing home and diagnostic and treatment center Certificate of Need applications through increased construction fees.

Section seven of this bill would amend section 3605 to the PHL to enable local health departments of counties and of the City of New York to more efficiently provide certain public health services under Article 36 of the PHL.

Section eight of this bill would amend section 3611 of the PHL to reduce processing time of Certificate of Need applications submitted for Licensed Home Care Agencies under Article 36 of the PHL.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and would result in a total cost of approximately \$2.1 million in FY 2024 and \$2.1 million in FY 2025.

Effective Date:

This bill would be effective immediately, except section five of the bill would be effective 90 days after enactment and would apply to any material transaction closing on or after April 1, 2024. Additionally, the amendment and/or repeal of any rule or regulation

necessary for the implementation of this act on its effective date would be authorized to be made and completed effective immediately.

Part N – Expand the Medicaid Buy-In for Working People with Disabilities

Purpose:

This bill would make statutory changes to expand the Medicaid Buy-In program for working people with disabilities by removing the age limit, increasing the resource limit, increasing the income eligibility, and using a non-Modified Adjusted Gross Income (MAGI) budgeting calculation. These changes would allow working people with disabilities to enter the workforce and obtain promotions without the fear of losing essential health benefits.

Summary of Provisions and Statement in Support:

Subject to federal approval, the Medicaid Buy-In program would increase its resource level and income limits to determine eligibility and remove the current age limit of at least 65 years old. The program would be capped at 30,000 eligible participants. These changes would allow working people with disabilities to enter the workforce and obtain promotions without the fear of losing necessary health benefits.

Section one of this bill would amend section 366 of the Social Services Law to require the Department of Health (DOH) to submit waivers and any other requests needed for federal approval to expand the Medicaid Buy-In Program, capped at 30,000 eligible participants. The resource level and income limit for eligibility for this program would increase from 250% of the Federal Poverty Level (FPL) to 2,250% of the FPL using non-MAGI budgeting and would incorporate premiums on a sliding income scale for incomes 250% of the FPL and greater. The program would also remove the age limit, currently set at 65 years old and would exempt income from responsible relatives when determining the disabled applicant's income eligibility level. DOH would be able to authorize eligible persons under the established criteria to be a participant of the program.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and will result in a cost to the State of \$60 million annually.

Effective Date:

This act would take effect on January 1, 2025.

Part O – Lead the Way for a Tobacco-Free Generation

Purpose:

This bill would ban the sale of harmful flavored tobacco or vapor products which are often targeted at children. The bill would make technical changes to and modify the definition of vapor products by removing the requirement that regulated vapor products be “intended or reasonably expected to be used with or for the consumption of nicotine.” The bill would also amend the definition of “flavored” to mean any vapor or tobacco product with a “taste, aroma, or sensation distinguishable by an ordinary consumer.” The new definition of “flavored” would also include “a cooling or numbing sensation imparted during consumption of a tobacco or vapor product,” and establish a presumption of flavorings. The bill would expressly state that nothing in this bill shall prohibit the purchase, use, or possession of these products by a person who is not a retailer.

Summary of Provisions and Statement in Support:

This bill would further public health by banning flavored tobacco and vapor products. These products typically target children.

The bill’s provisions would include the following:

Section one of the bill would amend section 1399-aa of the Public Health Law (PBH) to modify the definitions for enforcement officers, listed or non-discount price, retail dealer, vapor products, vapor products dealer, tobacco or vapor seller, and smoking paraphernalia. Specifically, this section would expand the definition of vapors products by removing the requirement that regulated vapor products be “intended or reasonably expected to be used with or for the consumption of nicotine,” and instead define vapor products as anything intended to be used for tobacco.

Section two would amend section 1399-bb of the PBH to make conforming changes related to the new definition of vapor products no longer being defined as those only “intended or reasonably expected to be used with or for the consumption of nicotine.”

Section three would amend section 1399-cc of the PBH to remove rolling papers and liquid nicotine from definitions and advertisements and add vapor products. This section would also remove the definition on smoking paraphernalia as the previous definition referenced only those items designed for the inhalation of tobacco.

Sections four, five, seven, eight, nine, ten, eleven, twelve, thirteen, fifteen and seventeen would amend various sections within article 13-F of PBH for conforming changes necessary to remove references to “electronic cigarettes” and “products intended or reasonably expected to be used with or for the consumption of nicotine” and instead incorporate the newly defined statutory term “vapor products.”

Section six would amend section 1399-ee of the PBH to add language allowing state or local health officials to impose a penalty of a minimum of \$300 dollars or a maximum of \$1,500 dollars if not given access to a retail store and all product display and storage areas.

Section fourteen would amend section 1399-ll of the PBH to replace gender binary language with gender neutral pronouns.

Section sixteen would amend section 1399-mm-1 of the PBH to define “flavored” to mean any vapor or tobacco product with a “taste, aroma, or sensation distinguishable by an ordinary consumer” and would remove language which requires that the vapor product must be “intended or reasonably expected to be used with or for the consumption of nicotine.” This section would also add to the definition of a flavored product to be those that display “a cooling or numbing sensation imparted during consumption of a tobacco or vapor product.” This section would also allow for the presumption of flavoring, if a products packaging or labeling, or if the product’s retailer, makes a claim or implies that it has a flavor; revise the definition of applicable dealers in this section to be retail dealer, or tobacco business or vapor seller; and add a new section 3 to this subsection, stating that no vapor products dealer shall keep in inventory, store, stow, warehouse, process, package, ship, or distribute flavored vapor or tobacco products anywhere in or adjacent to a business where vapor or tobacco products are sold at retail.

Section eighteen would amend section 1399-mm-3 of the PBH to revise the reference of “electronic cigarette” to “electronic device.”

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and would result in a reduction of \$133 million in state tax revenue in FY 2024 and \$255 million in FY 2025.

Effective Date:

This bill would take on September 1, 2023.

Part P – Provide Transformative Health Care Capital Funding

Purpose:

This bill would establish and implement a new \$1 billion Statewide Health Care Facility Transformation Program V (Statewide V) to fund capital projects for eligible health care providers, improving health care delivery, and financing information technology improvements statewide.

Summary of Provisions and Statement in Support:

This bill would amend the Public Health Law by adding a new section, 2825-h, setting forth provisions of the Statewide V Program for the purpose of transforming, redesigning, and strengthening quality health care services and Health Care IT infrastructure for eligible health care providers statewide. The Department of Health and the Dormitory Authority for the State of New York would enter into a formal agreement related to the joint administration of the Statewide V program. Up to \$500 million would be awarded to health care providers in support of projects which promote innovative, patient-centered models of care, increased access to care, improved quality of care, and provider financial sustainability. Up to \$500 million would also be awarded to health care providers for the implementation or improvement of critical health care information technologies and telehealth capacity.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and would result in a State Fiscal Impact of \$100 million in FY 2025, \$400 million in FY 2026, \$400 million in FY 2027, and \$100 million in FY 2028.

Effective Date:

This bill would be effective immediately.

Part Q – Expand Access to Primary Care

Purpose:

This bill would expand access to primary care by amending the Public Health Law and Social Services Law to establish Medicaid reimbursement to community health workers who provide services to high-risk populations and to licensed mental health counselors, licensed marriage and family therapists, and licensed social workers who provide services in clinics, including community health centers.

Summary of Provisions and Statement in Support:

This bill would amend section 365-a of the Social Services Law to provide for Medicaid reimbursement to community health workers providing services to children and to adults with health-related social needs. It would also amend section 2807 of the Public Health Law by authorizing licensed mental health counselors, licensed marriage and family therapists, and licensed social workers to be reimbursed in certain outpatient settings including community health centers.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and would result in a cost to the State of \$8.7 million in FY 2024 and \$34.7 million in FY 2025.

Effective Date:

This bill would take effect on January 1, 2024.

Part R – Expand Medicaid Coverage of Preventative Care Health Services

Purpose:

This bill would expand Medicaid Coverage of preventative health care services including nutritionist and dietitian services and arthritis self-management.

Summary of Provisions and Statement in Support:

This bill would expand Medicaid coverage to include care and services of nutritionists and dietitians.

This bill would also amend subdivision 2 of section 365-a of the Social Services Law by adding a new paragraph that would allow Medicaid coverage of the Chronic Disease Self-Management Program (CDSMP) workshop for osteoarthritis to be offered as a substitute for prolonged inpatient hospitalizations, emergency department visits, and other medical care needed for the treatment of arthritis complications including arthritis self-management training services for persons diagnosed with osteoarthritis.

Section three of this bill would amend clause (A) of subparagraph (ii) of paragraph (f) of subdivision (2-a) of section 2807 of the Public Health Law making technical corrections to effectuate section two of this part, a reimbursement methodology for arthritis self-management training services.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan by keeping overall Medicaid spending within capped levels, which are indexed to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by Office of the Actuary in the Centers for Medicare & Medicaid Services, as prescribed in the FY 2023 Executive Budget. This bill would result in a cost to the State of \$9.5 million in FY 2024 and \$17.8 million in FY 2025, which can be accommodated within the Global Cap.

Effective Date:

The coverage of nutritionists and dietitians would be effective on July 1, 2023. The parts of the bill pertaining to arthritis self-management training services would be effective October 1, 2023.

Part S – Revitalize Emergency Medical Services and Medical Transportation

Purpose:

The bill would amend the Public Health Law and Education Law to modernize New York’s Emergency Medical System and workforce. This bill would improve and increase the coordination and delivery of healthcare to sick and injured adults and children.

Summary of Provisions and Statement in Support:

This bill would modernize the State’s emergency medical response by expanding the definition of “emergency medical service” beyond just initial medical assistance to better reflect how emergency medical services are currently being provided. This expanded definition would include administering vaccinations and buprenorphine and creating mobile integrated healthcare programs. The bill would also streamline the process by which regional boards report and make recommendations to the State Emergency Medical Services Council (SEMSCO) and the process by which SEMSCO makes recommendations to the Department of Health (DOH) and clarify the role of each Regional Emergency Medical Services Council (REMSCO), including with respect to operating authority applications.

All emergency medical services agencies would be required to adopt performance standards and the State would create a comprehensive emergency medical service system plan to improve the accessibility of high-quality emergency medical services and training programs for emergency medical service practitioners. To help address staffing issues, DOH would develop a program to promote the recruitment and retention of emergency medical services providers.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State’s multi-year Financial Plan and would result in a total cost of approximately \$7.3 million in FY 2024 and \$20.1 million in FY 2025.

Effective Date:

This bill would be effective immediately, except, section 11 of the bill would take effect 90 days after enactment.

Part T – Address Childhood Lead Poisoning in High-Risk Areas Outside of New York City

Purpose:

The bill would amend the Public Health Law and Executive Law in relation to lead testing in certain multiple dwellings in order to ensure dwellings are free of lead paint hazards by requiring registration, inspection, compliance, and the ability to establish fines for violations.

Summary of Provisions and Statement in Support:

This bill would require the Department of Health (DOH) to develop a registry for all residential dwellings with two or more rental units built prior to 1980. All residential dwellings qualifying for the registry would have to be certified as free of lead paint hazards based on inspections conducted on a tri-annual basis. DOH would establish fines to be levied in the event of non-compliance with the requirements.

The inspection requirements would be based on regulations and guidance from DOH and could include qualifications for inspectors, minimum requirements of a compliant inspection, and a process for reporting inspection results to local health departments. The bill would also require that remediation of lead-based paint hazards be conducted in compliance with all municipal requirements and specific requirements in regulations. This bill would require documentation of compliance with regulations as a condition to issuance of a certificate of occupancy or certificate of compliance.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and would result in a total cost of approximately \$18.5 million in FY 2024 and \$18.5 million in FY 2025.

Effective Date:

This bill would be effective 18 months after enactment, except section two would take effect two years after enactment.

Part U – Safeguard Abortion Access through Data Privacy Protections

Purpose:

In the wake of the United States Supreme Court's decision overturning Roe v. Wade, finding abortion services across the United States has become a legally treacherous endeavor, as individuals' search histories, medical records, or other data may be used against them in civil or criminal proceedings in states where abortion is now illegal. This

bill would further safeguard abortion access in New York State by strengthening data privacy protections for individuals seeking abortion services in the State.

Specifically, this bill would prevent individuals and companies in New York from sharing abortion procedure information with out of state law enforcement officials. This bill would also restrict an individual or corporation from delivering digital advertisement to users through the use of geofencing at any health care facility.

Summary of Provisions and Statement in Support:

This bill would add a new sections 394-f and 394-g to the General Business Law to prevent persons or entities headquartered or incorporated in New York from sharing information with out-of-state law enforcement agencies, whether civil or criminal, of individuals seeking abortion care in New York State. This bill would provide for limited exceptions when a person or entity has been served with a warrant.

The bill would also prevent any person, corporation, partnership, or association from delivering digital advertisements through the use of geofencing technology to individuals at health care facilities.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget because it will have an impact on public and private entities in New York State.

Effective Date:

This bill would be effective 30 days after its enactment.

Part V – Implement Over the Counter Contraception Access

Purpose:

This bill would authorize licensed pharmacists to prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy in accordance with protocols developed and approved by the State Board of Pharmacy in consultation with the Department of Health (DOH), eliminating the need for patients to first visit a doctor's office, health clinic, or other health care provider.

Summary of Provisions and Statement in Support:

This bill would amend the Education Law to expand access to contraceptives by authorizing licensed pharmacists to prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy in accordance with standardized procedures or protocols developed and approved by the State Board of

Pharmacy in consultation with DOH. The pharmacists would have to complete an approved training, require individuals to complete a self-screening tool prior to administering the contraceptives, and must refer patients to their primary care providers or nearby clinic.

Pharmacists and their employers would only be authorized to charge a \$10 administrative fee for patients seeking contraception without a prescription. Patients whose insurance covers the cost of hormonal contraceptives or emergency contraceptive drug therapy would not be required to pay an administrative fee but would be required to pay any copayments as required by the terms of their coverage.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and will not result in any fiscal impact during FY 2024 or FY 2025.

Effective Date:

This bill would take effect immediately.

Part W – Allow Health Care Providers to do More

Purpose:

To help alleviate the health care work force shortage, this bill would make statutory changes necessary to expand the scope of practice for health care providers allowing them to provide more care. The bill would allow pharmacists, physician assistants, and nurses to take on additional health care provider roles under their licenses. Pursuant to this bill, New York would enter the Interstate Licensure Compact and the Nurse Licensure Compact. This would make it easier for physicians and nurses licensed in other states to practice in New York, either physically or virtually, by establishing licensure reciprocity with other states.

Summary of Provisions and Statement in Support:

The bill would make the following changes to expand the scope of practice for health care providers:

Sections one and two of this bill would amend sections 6527 and 6909 of the Education Law to allow physicians and nurse practitioners to issue a non-patient specific standing order for HIV-preventive medication, commonly called PrEP.

Section three of this bill would amend section 6801 of the Education Law to allow pharmacists to execute a non-patient specific standing order for PrEP, subject to the specific conditions.

Sections four and five of this bill would amend section 571 of the Public Health Law and section 6801 of the Education Law to allow licensed pharmacists to order and administer any tests waived under the Clinical Laboratory Improvement Amendments-waived test, including tests for COVID-19, influenza and others such as HIV, sexually transmitted infections, and pregnancy.

Section six of this bill would amend Part C of Chapter 57 of the Laws of 2022 to authorize pharmacists to be qualified health care professionals for purposes of directing limited-service laboratories and performing COVID-19 and influenza tests. It would also make permanent the amendments to the Education Law authorizing physicians and certified nurse practitioners to order non-patient specific regimen to registered professional nurses for tests to determine the presence of COVID-19 or its antibodies or influenza virus.

Section seven of this bill would amend 6801 of the Education Law to authorize licensed pharmacists to prescribe and order medications to treat nicotine dependence approved by the Federal Food and Drug Administration for smoking cessation.

Section eight of this bill would amend section 6801 of the Education Law to authorize licensed pharmacists to prescribe and order opioid antagonists, limited to naloxone and other medications approved by the Department of Health (DOH) for such purpose pursuant to sections 3309 and 3309-b of the Public Health Law.

Section nine of this bill would amend section 6801-a of the Education Law to delete reference to a “demonstration program;” permit nurse practitioners or facilities to enter into collaborative agreements with pharmacists by which drug therapies would be reviewed, evaluated and managed; authorize collaborative drug therapy management (CDTM) to occur in all hospitals and other Article 28 facilities, such as nursing homes and clinics, and any other entities that provide direct patient care under the auspices of a medical director. It would also permit the State Education Department, in consultation with DOH, to include up to 15 community practice sites as authorized locations for the provision of CDTM.

Section 10 of this bill would amend to section 6601 of the Education Law to allow the practice of dentistry to include the offering of an HIV or hepatitis C screening test or diagnostic tests.

Sections 11 and 12 of this bill amend Section 6909 and 6527 of the Education Law to authorize certified nurse practitioners and licensed physicians to issue non-patient specific standing regimen, to be executed by registered professional nurses, for: 1) the ordering of asthma self-management education and home-based asthma services; 2) the urgent or emergency treatment of asthma; 3) providing stool tests to screen for the presence of colorectal cancer; and 4) the ordering of diabetes self-management education and support.

Section 13 of this bill would amend section 6801 of the Education Law to allow pharmacists to order diabetes and asthma self-management education and support services and home-based asthma services for patients. It would also authorize the Commissioner of Education to promulgate regulations to allow pharmacists to order additional health related services.

Section 14 of this bill would amend section 365-A of the Social Services Law to expand standard Medicaid coverage to include medically necessary diabetes self-management training services when referred by licensed pharmacists.

Section 15 of this bill would amend section 365-A of the Social Services Law to expand standard Medicaid coverage to include medically necessary asthma self-management training services when referred by licensed pharmacists or by registered professional nurses acting under the authority of a non-patient specific standing regimen.

Section 16 of this bill would amend section 365-A of the Social Services Law to allow licensed pharmacists order and administer vaccinations, medications, self-management education and home-based services within their scope of practice.

Section 17 of this bill would amend section 6542 of the Education Law to allow certain experienced physician assistants to practice without supervision of a physician.

Section 18 through 20 of this bill would amend sections 3701, 3702 and 3703 of the Public Health Law to conform with the changes to the Education Law effectuated by section 19 of this bill.

Section 21 of this bill would amend section 902 of the Education Law to allow the Board of Education, and the trustee or board of trustees of each school district, to employ a physician assistant.

Section 22 of this bill would amend section 6810 of the Education Law to require records of prescriptions to include the prescriber's name, rather than the doctor's.

Section 23 of this bill would amend section 3302 of the Public Health Law to add physician assistant to the definition of practitioner for the purposes of prescribing controlled substances.

Sections 24 through 26 of this bill would amend sections 6908 and 6909 of the Education Law and section 12 of Chapter 471 of the Laws of 2016 to extend authorization for advanced home health aides for another six years and amend the supervision requirements for advanced tasks performed by advanced home health aides.

Sections 27 through 29 of this bill would amend the Education Law and Public Health Law to authorize certified medication aides to administer routine and prefilled

medications in residential health care facilities for a duration of two years (a temporary pilot program).

Sections 30 and 31 of this bill would amend the Education Law to allow New York to join the Interstate Medical Licensure Compact and the Nurse Licensure Compact, enabling doctors and nurses to relocate to New York and use their existing license to practice in the State.

Section 32 of this bill would amend the Education Law to authorize issuance of temporary permit to practice for individuals licensed in another state who seek licensure in New York State.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan as it allows health care providers to do more in the wake of workforce shortages. Section seven of this bill will result in an annual Medicaid savings of \$1.1 million and the remaining sections of the bill will not result in any fiscal impacts in FY 2024 or FY 2025.

Effective Date:

This act would take effect immediately, provided however, section seven shall take effect nine months after it shall become law, sections 19 through 25 shall take effect one year after they shall have become a law, and sections 29 through 31 shall expire and be deemed repealed two years after they shall have become a law.

Part X – Nurse Agency Staffing Practice Recommendations

Purpose:

This bill would make statutory changes to require nurse staffing agencies to register and report key data about their operations with the goal of increasing transparency into the utilization and costs of contract labor. The data would aide the State in exploring options to remedy dependence on temporary healthcare services agency staffing.

Summary of Provisions and Statement in Support:

This bill would add a new Article 29-K to the Public Health Law regarding the registration of temporary health care services agencies with the Department of Health. Temporary health care services agencies provide or procure temporary employment of health care professionals and personnel for health care providers, such as “travel nurses.” The bill would establish definitions, requirements, minimum standards, violations and penalties, and quarterly reporting requirements for the temporary health

care services agencies. The State would use the collected data to explore options to remedy the dependence upon, and escalating costs related to, agency staffing. Article 29-K would establish the following new sections of Public Health Law:

Section 2999-II would define terms related to nurse agency staffing practices, including certified nurse aid, controlling person, health care entity, health care personnel, nurse, direct care worker, person, and temporary health care services agency;

Section 2999-JJ would establish requirements for registration and operation of temporary health care services agencies, including an annual registration fee;

Section 2999-KK would set minimum standards for the operation of temporary health care services agencies;

Section 2999-LL would grant authority to penalize and fine any violations of provisions within the article; and

Section 2999-MM would set the requirement for temporary health care services agencies to produce quarterly reports to the Department of Health.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and will not result in any fiscal impacts during FY 2024 or FY 2025, as any costs will be supported within existing resources.

Effective Date:

This bill would take effect immediately.

Part Y – Protect New Yorkers from Medical Debt and Other Burdensome Medical Costs

Purpose:

This bill would enhance protections for consumers in New York who have medical debt or are impacted by high medical costs. The bill would amend the Consumer Credit Fairness Act to cover medical debt, create a consumer education campaign that addresses medical debt, and require hospitals to use a uniform application for financial assistance. The bill would also create the Prescription Drug Price and Supply Chain Transparency Act and would amend the Insurance Law to establish guaranty fund coverage for insurers writing health insurance.

Summary of Provisions and Statement in Support:

On November 8, 2021, Governor Hochul signed into law the Consumer Credit Fairness Act (“the Act”) as Chapter 593, which required, in part, that if the plaintiff in a collection action is not the original creditor, the plaintiff may obtain a default judgment against a consumer-defendant only if it provides an affidavit from the original creditor. This bill would amend the Act to address a variety of issues surrounding medical debt and ease the process for consumers to receive financial assistance in hospitals. This bill would also clarify section 280-a of the Public Health Law and expand on the need for transparency under the Prescription Drug Price and Supply Chain Transparency Act. Lastly, this bill would extend protections to consumers who have invested in life and health insurance contracts with companies who become insolvent.

Subpart A – Affidavits in Medical Debt

Section one would amend chapter 593 of the laws of 2021, and subdivision (j), as added by chapter 593 of the laws of 2021, of section 3215 of the Civil Practice Law and Rules and increase the burden of proof of medical debt and affidavit requirements of hospitals and health care professionals.

Section two would amend subdivision 2 of section 212 of the Judiciary Law to require supporting affidavits to file a motion arising from medical debt which is required by subdivision (f) of section 3215 of the Civil Practice Law and Rules.

Section three of this subpart would establish the effective date for this subpart.

Subpart B – Prescription Drug Price and Supply Chain Transparency Act of 2023

Sections one and two would amend the Insurance Law to create the Prescription Drug Price and Supply Chain Transparency Act of 2023 and describe the legislative intent.

Section three would amend the Insurance Law by adding a new Article 30 which details the reporting requirements of drug price increases, registration of pharmacy services administrative organizations, pharmacy switch companies, and rebate aggregators, and the disclosures required of these companies.

Section four would amend Chapter 128 of the Laws of 2022 to amend the Pharmacy Benefit Manager regulatory fund to accommodate the new monies received as fees from the Prescription Drug Price and Supply Chain Transparency Act. All monies would remain in such fund unless and until directed by statute or appropriation.

Section five of this bill would establish the effective date for this subpart.

Subpart C – Collection of Medical Debt

Section one would amend section 17 of part B of chapter 60 of laws of 2014 to require general hospitals to implement minimum collection policies and procedures approved by the Department of Health, utilizing only a uniform financial assistance form developed and provided by the Department of Health.

Section two of this subpart would establish the effective date for this subpart and a severability clause for this bill.

Section three of this bill would establish the effective dates for this subpart.

Subpart D – Health Guaranty Fund

Sections one through 13 of this bill would amend Insurance Law Article 77 to establish guaranty fund coverage for insurers writing health insurance.

Section 14 would add a new Insurance Law section 3245, which would provide that in the event an insurance company authorized to do an accident and health insurance business in New York is deemed insolvent, no insured covered under a policy delivered or issued for delivery in New York by the insurance company will be liable to any provider of health care services for any covered services of the insolvent insurance company. No provider of health care services or any representative of such provider would be able to collect or attempt to collect from the insured sums owed by such insurance company, and no provider or representative of such provider may maintain any action at law against an insured to collect sums owed to such provider by such insurance company.

Section 15 of this subpart would establish the effective date for this subpart.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State's multi-year Financial Plan and will not result in any fiscal impact during FY 2024 or FY 2025.

Effective Date:

This bill would take effect immediately; provided, however, that the applicable effective date of subparts A through D of this bill shall be as specifically set forth in the last section of such subparts.

Part Z – State of the State - Ensure Access to Aging Services and High-Quality Long-Term Care

Purpose:

This bill would improve the quality of the New York's long-term care facilities by increasing transparency and improving oversight and enforcement mechanisms.

Summary of Provisions and Statement in Support:

This bill would require assisted living residences to report annually on quality measures and post the monthly service rate, staffing complement, approved admission or

residency agreement, and a summary of all service fees on the facility's website. Based on this information, the Department of Health (DOH) may grant "Advanced Standing" classification to top scoring facilities, which would provide an extended surveillance schedule to facilities so designated. To promote transparency, DOH could post the results of the assisted living quality reporting on its website beginning on January 31, 2024.

This bill would also allow DOH to develop quality indicators to determine ratings of assisted living residences. It would permit facilities that are dually licensed to provide assisted living program services to seek accreditation from a nationally recognized accrediting agency, which would exempt the facilities from inspection by DOH for the duration of their accreditation. For transparency, DOH would post on its website a list of all accredited assisted living residences.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and would result in a \$525,000 fiscal impact to the State in FY 2024 and FY 2025.

Effective Date:

This bill would take effect 120 days after it is signed into law.

Part AA – End Preventable Epidemics

Purpose:

This bill would expand hepatitis C virus (HCV) screening to all adults and pregnant persons in New York. The bill would also require third trimester pregnancy screening for syphilis in order to prevent congenital syphilis in New York State.

Summary of Provisions and Statement in Support:

This bill would expand access to critical screening for certain sexually transmitted infections. It would permanently require an HCV screening test be offered to individuals who receive inpatient or outpatient services in a Public Health Law Article 28 licensed facility and would require health care providers to offer HCV testing to all individuals 18 years of age and over as part of routine medical care. If an HCV screening test is reactive, a diagnostic test must be performed to confirm the diagnosis of the current infection.

This bill would also require HCV screening during pregnancy and require syphilis testing of all pregnant people in the third trimester to decrease rates of congenital infections.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and accounts for \$1.1 million in additional State Medicaid spending in FY 2024 and \$1.1 million in additional State Medicaid spending in FY 2025.

Effective Date:

This bill would take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2023.

Part BB – Combating Opioid Addictions by Banning Fentanyl Analogs

Purpose:

This bill would update the State Schedule I and II list of Controlled Substances. This bill would also add new criminal penalties for imitation of a controlled substance. These changes are critical to address the rising incidents of fatalities related to fentanyl and fentanyl analogs.

Summary of Provisions and Statement in Support:

This bill would amend the Public Health Law to include controlled substances that are represented to be other controlled substances. It would encompass illicit fentanyl pressed into tablet form to appear, for example, like Food and Drug Administration-approved controlled substance medications. The bill would also add criminal sale of an imitation controlled substance in the fifth, third, and first degree to the definition of “drug trafficking felony” in the Penal Law and create stricter penalties for the sale or possession with intent to sell imitation controlled substances.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and the State’s multi-year Financial Plan and will not result in any fiscal impact during FY 2024 or FY 2025.

Effective Date:

This bill would be effective immediately.

Part CC - Transfer of Oversight for Licensed Healthcare Professions

Purpose:

This bill would amend the Education Law and the Public Health Law to transfer oversight of certain licensed health care professions from the State Education Department (SED) to the Department of Health (DOH). This would ensure better

oversight of the health care workforce and more consistent implementation of the State's health care policies.

Summary of Provisions and Statement in Support:

This bill would repeal provisions of the Education Law and place them in the Public Health Law to transfer oversight of all licensed professions related to health care from SED to DOH. This would ensure better quality and consistency in the State's health care workforce and policies. This bill would provide for the transfer of all SED employees necessary to implement this bill to DOH.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget. Any costs will be supported within the existing resources of DOH and SED.

Effective Date:

This bill would take effect on January 1, 2024.

Part DD – Human Services Cost-of-Living Adjustment.

Purpose:

This bill would provide a 2.5% cost of living adjustment (COLA) for certain human services programs from April 1, 2023 to March 31, 2024.

Summary of Provisions and Statement in Support:

This bill would establish a one-time COLA for fiscal year 2024 at a rate of 2.5% to eligible human services programs. Last year, the State enacted a one-time COLA for these providers of 5.4 percent. That statute expires on March 31, 2023. An additional COLA for this coming fiscal year would help to address providers' continued reports of increasing costs and staffing shortages and prevent program reductions. The bill would require local government units or direct contract providers receiving this COLA to account for their use of the funds and would authorize agency commissioners to recoup funding if it is not used consistent with statute or appropriation.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget to provide the 2.5% COLA to eligible human services providers. The 2.5% COLA would cost a total of \$203.4 million.

Effective Date:

This bill would take effect immediately and shall be deemed to have been in full force and

effect on and after April 1, 2023.

Part EE – OPWDD Managed Care Statute Extender

Purpose:

This bill would extend managed care statutes related to the Office for People with Developmental Disabilities (OPWDD) through September 30, 2028.

Summary of Provisions and Statement in Support:

This bill would amend Section 84 of Part A of Chapter 56 of the Laws of 2013, as amended by Section 9 of Part Z of Chapter 57 of the Laws of 2018, to extend statutes related to implementing managed long term care plans for OPWDD through September 30, 2028. This would be consistent with extensions proposed for Department of Health (DOH) managed care programs.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget to preserve statutory flexibility if OPWDD was to transition its service delivery system to managed care.

Effective Date:

This bill would take effect immediately.

Part FF - OPWDD Flexibilities for Delegated Nursing Tasks

Purpose:

This bill would allow greater flexibility for the performance of certain nursing tasks by unlicensed employees of providers certified by the Office for People with Developmental Disabilities (OPWDD) in community-based settings that are not certified by OPWDD.

Summary of Provisions and Statement in Support:

This bill would amend the Education Law by adding a new Section 6908 (1)(a)(v) to allow direct support staff in certain OPWDD community-based programs to perform certain nursing tasks. The amendment would align the statute with the Consumer Directed Personal Assistance Services (CDPAS) program, increasing the availability of nursing task services outside of certified residential settings. This would potentially allow more individuals to transition into more independent settings, which would decrease reliance on certified residential settings.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget as increasing consistency between CDPAS and OPWDD community-based services would allow for further community integration and reduce discrepancies and inequities in services. This would generate annual savings of \$700K starting in FY 2024.

Effective Date:

This bill would take effect immediately.

Part GG - Qualified Mental Health Associate Credentialing

Purpose:

This bill would create a “Qualified Mental Health Associate” credential for paraprofessionals providing services for the Office of Mental Health.

Summary of Provisions and Statement in Support:

This bill would amend Section 7.07 of the Mental Hygiene Law to add training requirements and establish the development of credentials to qualified mental health associates. New York’s mental health system is experiencing a workforce crisis, with demand for services far exceeding the capacity of the current clinical workforce. A credentialing mechanism for paraprofessionals would expand the workforce while creating a career trajectory for non-clinicians working within the mental health field. The components of the credentialing process would include: training requirements, best practices, the procedure for issuing, suspending, and revoking credentials, credentialing fees, and the establishment of a credentialing board.

This bill would also amend the Education Law to include qualified mental health associates and to ensure their duties stay within counseling and assessment type services. Actions such as prescribing would be prohibited pursuant to this new credential.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget and will cost \$700,000 to provide design standards, training, feedback, and implement this new credential.

Effective Date:

This bill would take effect immediately.

Part HH - Establish Joint Licensure between OMH and OASAS for Certified Community Behavioral Health Clinics and to establish an Indigent Care Program

Purpose:

This bill would authorize the Office of Mental Health (OMH) and the Office of Addiction Services and Supports (OASAS) to jointly license Certified Community Behavioral Health Clinics (Community Behavioral Health Clinics) to eliminate duplication of State resources and create more efficient licensing processes. The current system requires such entities to be licensed separately by both State entities. This bill also would establish an Indigent Care Program.

Summary of Provisions and Statement in Support:

This legislation amends the Mental Hygiene Law to allow Community Behavioral Health Clinics to be established through a single procedure of joint licensure by both OMH and OASAS. Currently, Community Behavioral Health Clinics are required to obtain and maintain independent licenses from each of those agencies. This bill would eliminate duplicative administration and oversight, and by making the process more efficient, would expand the availability of Community Behavioral Health Clinics. It would also allow Community Behavioral Health Clinics to continue to blend mental health, substance use disorder, and physical health treatment services without additional administrative obstacles.

This bill also establishes an Indigent Care Program, which would provide state funds to certain qualifying providers that suffer losses due to uncompensated care that results from federal law requirements that providers serve any individual in need, regardless of their ability to pay.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget because these amendments will continue to support a blended model of treatment, provide care to those who cannot pay for the services, and reimburse certain providers for providing uncompensated care.

Effective Date:

This bill would take effect immediately.

Part II - Insurance Reforms Improving Access to Behavioral Health Services

Purpose:

This bill would amend various provisions of the Insurance and Public Health Laws to improve access to behavioral health services. New York State regulated insurers would be required to cover and reimburse for behavioral health services, including medications for substance use disorder, and telehealth payments for behavioral health and developmental disability services. The bill would also mandate the use of Office of Mental Health (OMH) designated medical necessity criteria and tools, authorize lawsuits by insureds for state law parity violations, and clarify provider network adequacy standards.

Summary of Provisions and Statement in Support:

This bill would enhance the mental health crisis system by expanding insurance coverage for mental health services to include mobile crisis intervention services, medically monitored residential treatment, and certain critical time intervention services for individuals following a psychiatric inpatient admission or emergency room visit. Coverage for mobile crisis intervention services would be required without preauthorization or a specific provider network status, with out-of-network payment disputes subject to independent dispute resolution. Insurers would be required to reimburse for school-based mental health clinic services at negotiated rates or, if there is no negotiated rate, at no less than the Medicaid rate in effect, regardless of network participation status. Insureds would also be held harmless to their in-network cost-sharing.

The bill would codify best practice use of utilization reviews by prohibiting insurers from performing preauthorization or concurrent reviews for the first 30 days of mental health treatment for adults in an in-network inpatient hospital or crisis residence licensed or operated by OMH, except where an insured meets designated clinical criteria or is receiving care in a facility designated by OMH in consultation with the Department of Financial Services (DFS) and the Department of Health (DOH). This subpart would also require utilization review determinations for mental health conditions to be made using evidence-based and age-appropriate clinical review criteria designated or approved by OMH in consultation with DFS and DOH.

The bill would require payment parity for telehealth services provided by providers licensed by OMH, the Office of Addiction Services and Supports (OASAS), or the Office for People with Developmental Disabilities without regard to the physical location of the attending practitioner or the patient. These provisions ensure provider fiscal viability to maintain office-based service capacity for all clients.

The bill would authorize insureds to bring legal actions to address state law parity violations. This provision ensures meaningful and timely enforcement of an important health care consumer protection law.

The bill would amend the existing sections of the Insurance Law to clarify coverage of substance use disorder medications, including opioid antagonists and devices (e.g., naloxone) under a health insurance policy or contract. These provisions would expand access to medication, including opioid antagonists.

Finally, the bill would require DFS and DOH to promulgate regulations, in consultation with OMH and OASAS, regarding provider network access standards for behavioral health services, including appointment availability timeframes, time and distance standards, and the responsibilities of an insurer to provide out-of-network referrals and reimburse for out-of-network services provided by OMH or OASAS licensed or certified providers at no less than the Medicaid rates then in effect. This would provide clarity on network adequacy standards and incentivize insurers to expand their networks of behavioral health providers and provide timely access to services.

Budget Implications:

This bill is necessary to implement the FY 2024 Executive Budget, as these amendments would further enforce insurers' compliance with State and federal parity laws and improve access to behavioral health services.

The fiscal impact for the Department of Civil Service is roughly \$700,000.

Effective Date:

Subpart A would become effective January 1, 2024, except sections 1-12 would be effective for policies issued, renewed, amended, or modified on or after January 1, 2024.

Subpart B would become effective one year after enactment.

Subparts C, D, and F would become effective upon enactment.

Subpart E would become effective upon enactment and apply to policies issued, renewed, amended, or modified after that date.

Part JJ - Penalties for Mental Hygiene Law Violations

Purpose:

This bill would authorize the Commissioner of the Office of Mental Health (OMH) to impose penalties for providers who fail to comply with applicable law or the terms of their operating certificate. This bill would help ensure that an appropriate number of beds are made available for patients who urgently need them.

Summary of Provisions and Statement in Support:

This legislation would amend the Mental Hygiene Law to enhance the authority of the Commissioner of OMH to impose penalties. Expanded authority would deter providers from violating the terms of their operating certificate or applicable law, and would create incentives for providers to bring much needed inpatient psychiatric beds back online as soon as possible. This amendment would replace the term "fine" with "sanctions" to provide more flexibility when enforcing compliance by limiting the use of a hospital's operating certificate. This bill would also revise the maximum sanction amount from \$1,000 per day or \$15,000 per violation to \$2,000 per day per violation and specifies that penalties may be considered at the individual bed level for beds closed without authorization at inpatient settings.

Budget Implications:

This legislation is necessary to implement the FY 2024 Executive Budget because it would support the re-opening of Article 28 inpatient psychiatric beds and provide \$500,000 in revenue in FY 2024.

Effective Date:

This bill would be effective immediately.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.