

**FY 2024 NEW YORK STATE EXECUTIVE BUDGET**

**HEALTH AND MENTAL HYGIENE  
ARTICLE VII LEGISLATION**

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Legislative Bill Drafting Commission  
12571-01-3

S. -----  
Senate  
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IN SENATE--Introduced by Sen

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

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*BUDGBI\***

(Enacts into law major components of  
legislation necessary to implement  
the state health and mental hygiene  
budget for the 2023-2024 state  
fiscal year)

-----  
BUDGBI. HMH Governor

AN ACT

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 expendi-  
tures (Part A); to amend chapter 451  
of the laws of 2007, amending the  
public health law, the social  
services law and the insurance law

IN SENATE

Senate introducer's signature

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

s15 Addabbo	s34 Fernandez	s28 Krueger	s01 Palumbo	s42 Skoufis
s43 Ashby	s60 Gallivan	s24 Lanza	s21 Parker	s11 Stavisky
s36 Bailey	s12 Gianaris	s16 Liu	s19 Persaud	s45 Stec
s57 Borrello	s59 Gonzalez	s50 Mannion	s13 Ramos	s35 Stewart-
s46 Breslin	s26 Gounardes	s04 Martinez	s05 Rhoads	Cousins
s25 Brisport	s53 Griffo	s07 Martins	s33 Rivera	s44 Tedisco
s55 Brouk	s40 Harckham	s02 Mattera	s39 Rolison	s06 Thomas
s09 Canzoneri-	s54 Helming	s48 May	s61 Ryan	s49 Walczyk
Fitzpatrick	s41 Hinchey	s37 Mayer	s18 Salazar	s52 Webb
s17 Chu	s47 Hoylman-	s03 Murray	s10 Sanders	s38 Weber
s30 Cleare	Sigal	s20 Myrie	s23 Scarcella-	s08 Weik
s14 Comrie	s31 Jackson	s51 Oberacker	Spanton	
s56 Cooney	s27 Kavanagh	s58 O'Mara	s32 Sepulveda	
s22 Felder	s63 Kennedy	s62 Ortt	s29 Serrano	

IN ASSEMBLY

Assembly introducer's signature

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

a078 Alvarez	a140 Conrad	a150 Goodell	a017 Mikulin	a016 Sillitti
a031 Anderson	a032 Cook	a116 Gray	a122 Miller	a052 Simon
a121 Angelino	a039 Cruz	a100 Gunther	a051 Mitaynes	a075 Simone
a037 Ardila	a043 Cunningham	a139 Hawley	a145 Morinello	a114 Simpson
a035 Aubry	a021 Curran	a083 Heastie	a144 Norris	a094 Slater
a120 Barclay	a018 Darling	a028 Hevesi	a045 Novakhov	a005 Smith
a106 Barrett	a053 Davila	a128 Hunter	a069 O'Donnell	a118 Smullen
a105 Beephan	a072 De Los Santos	a029 Hyndman	a091 Otis	a022 Solages
a107 Bendett	a003 DeStefano	a079 Jackson	a132 Palmesano	a110 Steck
a082 Benedetto	a070 Dickens	a104 Jacobson	a088 Paulin	a010 Stern
a042 Bichotte	a054 Dilan	a011 Jean-Pierre	a141 Peoples-	a127 Stirpe
Hermelyn	a081 Dinowitz	a134 Jensen	Stokes	a102 Tague
a117 Blankenbush	a147 DiPietro	a115 Jones	a023 Pheffer	a064 Tannousis
a015 Blumencranz	a009 Durso	a077 Joyner	Amato	a086 Tapia
a073 Bores	a099 Eachus	a125 Kelles	a063 Pirozzolo	a071 Taylor
a098 Brabenc	a048 Eichenstein	a040 Kim	a089 Pretlow	a001 Thiele
a026 Braunstein	a074 Epstein	a013 Lavine	a019 Ra	a033 Vanel
a138 Bronson	a109 Fahy	a065 Lee	a030 Raga	a055 Walker
a046 Brook-Krasny	a061 Fall	a126 Lemondes	a038 Rajkumar	a143 Wallace
a020 Brown, E.	a008 Fitzpatrick	a095 Levenberg	a006 Ramos	a112 Walsh
a012 Brown, K.	a004 Flood	a060 Lucas	a062 Reilly	a041 Weinstein
a093 Burdick	a057 Forrest	a135 Lunsford	a087 Reyes	a024 Weprin
a085 Burgos	a124 Friend	a123 Lupardo	a149 Rivera	a059 Williams
a142 Burke	a050 Gallagher	a129 Magnarelli	a027 Rosenthal, D.	a113 Woerner
a119 Buttenschon	a131 Gallahan	a101 Maher	a067 Rosenthal, L.	a080 Zaccaro
a133 Byrnes	a007 Gandolfo	a036 Mamdani	a025 Rozic	a096 Zebrowski
a044 Carroll	a068 Gibbs	a130 Manktelow	a111 Santabarbara	a056 Zinerman
a058 Chandler-	a002 Giglio, J.A.	a108 McDonald	a090 Sayegh	
Waterman	a148 Giglio, J.M.	a014 McDonough	a076 Seawright	
a049 Chang	a066 Glick	a097 McGowan	a084 Septimo	
a136 Clark	a034 Gonzalez-	a146 McMahon	a092 Shimsky	
a047 Colton	Rojas	a137 Meeks	a103 Shrestha	

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

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and: in Assembly 2 copies of memorandum in support, in  
Senate 4 copies of memorandum in support (single house); or 4 signed copies  
of bill and 6 copies of memorandum in support (uni-bill).

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 stan-

dards 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-adminis-

tered 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 health-care 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)

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

1 Section 1. This act enacts into law major components of legislation  
2 necessary to implement the state health and mental hygiene budget for  
3 the 2023-2024 state fiscal year. Each component is wholly contained  
4 within a Part identified as Parts A through JJ. The effective date for  
5 each particular provision contained within such Part is set forth in the  
6 last section of such Part. Any provision in any section contained within  
7 a Part, including the effective date of the Part, which makes a refer-  
8 ence to a section "of this act", when used in connection with that  
9 particular component, shall be deemed to mean and refer to the corre-  
10 sponding section of the Part in which it is found. Section three of this  
11 act sets forth the general effective date of this act.

12 PART A

13 Section 1. Paragraph (a) of subdivision 1 of section 92 of part H of  
14 chapter 59 of the laws of 2011, amending the public health law and other  
15 laws relating to general hospital reimbursement for annual rates, as  
16 amended by section 2 of part H of chapter 57 of the laws of 2022, is  
17 amended to read as follows:

18 (a) For state fiscal years 2011-12 through [2023-24] 2024-25, the  
19 director of the budget, in consultation with the commissioner of health  
20 referenced as "commissioner" for purposes of this section, shall assess  
21 on a quarterly basis, as reflected in quarterly reports pursuant to  
22 subdivision five of this section known and projected department of  
23 health state funds medicaid expenditures by category of service and by  
24 geographic regions, as defined by the commissioner.

25 § 2. This act shall take effect immediately and shall be deemed to  
26 have been in full force and effect on and after April 1, 2023.

1

## PART B

2 Section 1. Subdivision 1 of section 20 of chapter 451 of the laws of  
3 2007 amending the public health law, the social services law and the  
4 insurance law relating to providing enhanced consumer and provider  
5 protections, as amended by chapter 181 of the laws of 2021, is amended  
6 to read as follows:

7 1. sections four, eleven and thirteen of this act shall take effect  
8 immediately and shall expire and be deemed repealed June 30, [2023]  
9 2025;

10 § 2. Subdivision 6-a of section 93 of part C of chapter 58 of the laws  
11 of 2007, amending the social services law and other laws relating to  
12 adjustments of rates, as amended by section 2 of part T of chapter 57 of  
13 the laws of 2018, is amended to read as follows:

14 6-a. section fifty-seven of this act shall expire and be deemed  
15 repealed [on March 31, 2023] March 31, 2028; provided that the amend-  
16 ments made by such section to subdivision 4 of section 366-c of the  
17 social services law shall apply with respect to determining initial and  
18 continuing eligibility for medical assistance, including the continued  
19 eligibility of recipients originally determined eligible prior to the  
20 effective date of this act, and provided further that such amendments  
21 shall not apply to any person or group of persons if it is subsequently  
22 determined by the Centers for Medicare and Medicaid services or by a  
23 court of competent jurisdiction that medical assistance with federal  
24 financial participation is available for the costs of services provided  
25 to such person or persons under the provisions of subdivision 4 of  
26 section 366-c of the social services law in effect immediately prior to  
27 the effective date of this act.

1 § 3. Section 3 of chapter 906 of the laws of 1984, amending the social  
2 services law relating to expanding medical assistance eligibility and  
3 the scope of services available to certain persons with disabilities, as  
4 amended by section 4 of part T of chapter 57 of the laws of 2018, is  
5 amended to read as follows:

6 § 3. This act shall take effect on the thirtieth day after it shall  
7 have become a law and shall be of no further force and effect after  
8 [March 31, 2023] March 31, 2028, at which time the provisions of this  
9 act shall be deemed to be repealed.

10 § 4. Subparagraph (i) of paragraph b of subdivision 6 of section 366  
11 of the social services law, as amended by chapter 389 of the laws of  
12 2008, is amended to read as follows:

13 (i) be [eighteen] twenty-one years of age or under;

14 § 5. Subparagraph (i) of paragraph b of subdivision 7 of section 366  
15 of the social services law, as amended by chapter 324 of the laws of  
16 2004, is amended to read as follows:

17 (i) be [eighteen] twenty-one years of age or under;

18 § 6. Subparagraph (i) of paragraph b of subdivision 9 of section 366  
19 of the social services law, as added by chapter 170 of the laws of 1994,  
20 is amended to read as follows:

21 (i) be under [eighteen] twenty-one years of age;

22 § 7. Section 2 of chapter 313 of the laws of 2018, amending the public  
23 health law relating to body imaging scanning equipment, is amended to  
24 read as follows:

25 § 2. This act shall take effect on the one hundred twentieth day after  
26 it shall have become a law; provided, however, that, effective imme-  
27 diately, the addition, amendment, and/or repeal of any rules and regu-  
28 lations necessary to implement the provisions of this act on its effec-

1 tive date are directed to be completed on or before such effective date;  
2 and provided further, that this act shall expire and be deemed repealed  
3 [five years after such effective date] January 30, 2029.

4 § 8. Section 5 of chapter 426 of the laws of 1983, amending the public  
5 health law relating to professional misconduct proceedings, as amended  
6 by chapter 106 of the laws of 2018, is amended to read as follows:

7 § 5. This act shall take effect June 1, 1983 and shall remain in full  
8 force and effect until July 1, [2023] 2033.

9 § 9. Section 5 of chapter 582 of the laws of 1984, amending the public  
10 health law relating to regulating activities of physicians, as amended  
11 by chapter 106 of the laws of 2018, is amended to read as follows:

12 § 5. This act shall take effect immediately, provided however that the  
13 provisions of this act shall remain in full force and effect until July  
14 1, [2023] 2033 at which time the provisions of this act shall be deemed  
15 to be repealed.

16 § 10. Subparagraph (ii) of paragraph (c) of subdivision 11 of section  
17 230 of the public health law, as amended by chapter 106 of the laws of  
18 2018, is amended to read as follows:

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

1 first, nineteen hundred eighty-six and terminate on March thirty-first,  
2 nineteen hundred eighty-nine. An additional demonstration period shall  
3 commence April first, nineteen hundred eighty-nine and terminate March  
4 thirty-first, nineteen hundred ninety-two. An additional demonstration  
5 period shall commence April first, nineteen hundred ninety-two and  
6 terminate March thirty-first, nineteen hundred ninety-five. An addi-  
7 tional demonstration period shall commence on April first, nineteen  
8 hundred ninety-five and terminate on March thirty-first, nineteen  
9 hundred ninety-eight. An additional demonstration period shall commence  
10 on April first, nineteen hundred ninety-eight and terminate on March  
11 thirty-first, two thousand three. An additional demonstration period  
12 shall commence on April first, two thousand three and terminate on March  
13 thirty-first, two thousand thirteen. An additional demonstration period  
14 shall commence April first, two thousand thirteen and terminate on March  
15 thirty-first, two thousand eighteen. An additional demonstration period  
16 shall commence April first, two thousand eighteen and terminate on July  
17 first, two thousand [twenty-three] thirty-three provided, however, that  
18 the commissioner may prescribe requirements for the continuation of such  
19 demonstration program, including periodic reviews of such programs and  
20 submission of any reports and data necessary to permit such reviews.  
21 During these additional periods, the provisions of this subparagraph  
22 shall also apply to a physician committee of a county medical society.

23 § 11. Section 4 of chapter 505 of the laws of 1995, amending the  
24 public health law relating to the operation of department of health  
25 facilities, as amended by section 1 of part E of chapter 57 of the laws  
26 of 2019, is amended to read as follows:

27 § 4. This act shall take effect immediately; provided, however, that  
28 the provisions of paragraph (b) of subdivision 4 of section 409-c of the

1 public health law, as added by section three of this act, shall take  
2 effect January 1, 1996 and shall expire and be deemed repealed [twenty-  
3 eight years from the effective date thereof] March 31, 2028.

4 § 12. Paragraph (b) of subdivision 17 of section 2808 of the public  
5 health law, as amended by section 15 of part E of chapter 57 of the laws  
6 of 2019, is amended to read as follows:

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

1 department, including, but not limited to, amounts owed pursuant to  
2 section twenty-eight hundred seven-d of this article; provided, however,  
3 that the commissioner's authority to negotiate such agreements resolving  
4 multiple pending rate appeals as hereinbefore described shall continue  
5 on and after April first, two thousand [twenty-three] twenty-seven. Rate  
6 adjustments made pursuant to this paragraph remain fully subject to  
7 approval by the director of the budget in accordance with the provisions  
8 of subdivision two of section twenty-eight hundred seven of this arti-  
9 cle.

10 § 13. Paragraph (a) of subdivision 13 of section 3614 of the public  
11 health law, as amended by section 16 of part E of chapter 57 of the laws  
12 of 2019, is amended to read as follows:

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

27 § 14. Section 4 of chapter 19 of the laws of 1998, amending the social  
28 services law relating to limiting the method of payment for prescription

1 drugs under the medical assistance program, as amended by section 2 of  
2 part BB of chapter 56 of the laws of 2020, is amended to read as  
3 follows:

4 § 4. This act shall take effect 120 days after it shall have become a  
5 law and shall expire and be deemed repealed March 31, [2023] 2026.

6 § 15. Paragraph (e-1) of subdivision 12 of section 2808 of the public  
7 health law, as amended by section 3 of part BB of chapter 56 of the laws  
8 of 2020, is amended to read as follows:

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

1 annual additional payments for the state fiscal years beginning April  
2 first, two thousand fourteen, April first, two thousand fifteen and  
3 April first, two thousand sixteen and of up to five hundred million  
4 dollars in such aggregate annual additional payments for the state  
5 fiscal years beginning April first, two thousand seventeen, April first,  
6 two thousand eighteen, and April first, two thousand nineteen, and of up  
7 to five hundred million dollars in such aggregate annual additional  
8 payments for the state fiscal years beginning April first, two thousand  
9 twenty, April first, two thousand twenty-one, and April first, two thou-  
10 sand twenty-two, and of up to five hundred million dollars in such  
11 aggregate annual additional payments for the state fiscal years begin-  
12 ning April first, two thousand twenty-three, April first, two thousand  
13 twenty-four, and April first, two thousand twenty-five. The amount allo-  
14 cated to each eligible public residential health care facility for this  
15 period shall be computed in accordance with the provisions of paragraph  
16 (f) of this subdivision, provided, however, that patient days shall be  
17 utilized for such computation reflecting actual reported data for two  
18 thousand three and each representative succeeding year as applicable,  
19 and provided further, however, that, in consultation with impacted  
20 providers, of the funds allocated for distribution in the state fiscal  
21 year beginning April first, two thousand thirteen, up to thirty-two  
22 million dollars may be allocated in accordance with paragraph (f-1) of  
23 this subdivision.

24 § 16. Section 18 of chapter 904 of the laws of 1984, amending the  
25 public health law and the social services law relating to encouraging  
26 comprehensive health services, as amended by section 4 of part BB of  
27 chapter 56 of the laws of 2020, is amended to read as follows:

1 § 18. This act shall take effect immediately, except that sections  
2 six, nine, ten and eleven of this act shall take effect on the sixtieth  
3 day after it shall have become a law, sections two, three, four and nine  
4 of this act shall expire and be of no further force or effect on or  
5 after March 31, [2023] 2026, section two of this act shall take effect  
6 on April 1, 1985 or seventy-five days following the submission of the  
7 report required by section one of this act, whichever is later, and  
8 sections eleven and thirteen of this act shall expire and be of no  
9 further force or effect on or after March 31, 1988.

10 § 17. Section 4 of part X2 of chapter 62 of the laws of 2003, amending  
11 the public health law relating to allowing for the use of funds of the  
12 office of professional medical conduct for activities of the patient  
13 health information and quality improvement act of 2000, as amended by  
14 section 5 of part BB of chapter 56 of the laws of 2020, is amended to  
15 read as follows:

16 § 4. This act shall take effect immediately[; provided that the  
17 provisions of section one of this act shall be deemed to have been in  
18 full force and effect on and after April 1, 2003, and shall expire March  
19 31, 2023 when upon such date the provisions of such section shall be  
20 deemed repealed].

21 § 18. Subdivision (o) of section 111 of part H of chapter 59 of the  
22 laws of 2011, amending the public health law relating to the statewide  
23 health information network of New York and the statewide planning and  
24 research cooperative system and general powers and duties, as amended by  
25 section 6 of part BB of chapter 56 of the laws of 2020, is amended to  
26 read as follows:

27 [(o) sections thirty-eight and thirty-eight-a of this act shall expire  
28 and be deemed repealed March 31, 2023;]

1 § 19. Section 32 of part A of chapter 58 of the laws of 2008, amending  
2 the elder law and other laws relating to reimbursement to participating  
3 provider pharmacies and prescription drug coverage, as amended by  
4 section 7 of part BB of chapter 56 of the laws of 2020, is amended to  
5 read as follows:

6 § 32. This act shall take effect immediately and shall be deemed to  
7 have been in full force and effect on and after April 1, 2008; provided  
8 however, that sections one, six-a, nineteen, twenty, twenty-four, and  
9 twenty-five of this act shall take effect July 1, 2008; provided however  
10 that sections sixteen, seventeen and eighteen of this act shall expire  
11 April 1, [2023] 2026; provided, however, that the amendments made by  
12 section twenty-eight of this act shall take effect on the same date as  
13 section 1 of chapter 281 of the laws of 2007 takes effect; provided  
14 further, that sections twenty-nine, thirty, and thirty-one of this act  
15 shall take effect October 1, 2008; provided further, that section twen-  
16 ty-seven of this act shall take effect January 1, 2009; and provided  
17 further, that section twenty-seven of this act shall expire and be  
18 deemed repealed March 31, [2023] 2026; and provided, further, however,  
19 that the amendments to subdivision 1 of section 241 of the education law  
20 made by section twenty-nine of this act shall not affect the expiration  
21 of such subdivision and shall be deemed to expire therewith and provided  
22 that the amendments to section 272 of the public health law made by  
23 section thirty of this act shall not affect the repeal of such section  
24 and shall be deemed repealed therewith.

25 § 20. Section 228 of chapter 474 of the laws of 1996, amending the  
26 education law and other laws relating to rates for residential health  
27 care facilities, as amended by section 12 of part BB of chapter 56 of  
28 the laws of 2020, is amended to read as follows:

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

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

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

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

14 (e) Medicaid revenue percentage, for purposes of this section, shall  
15 mean CHHA and LTHHCP revenues attributable to services provided to  
16 persons eligible for payments pursuant to title 11 of article 5 of the  
17 social services law divided by such revenues plus CHHA and LTHHCP reven-  
18 ues attributable to services provided to beneficiaries of Title XVIII of  
19 the federal social security act (medicare).

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

22 (g) Target period. For purposes of this section, the 1996 target peri-  
23 od shall mean August 1, 1996 through March 31, 1997, the 1997 target  
24 period shall mean January 1, 1997 through November 30, 1997, the 1998  
25 target period shall mean January 1, 1998 through November 30, 1998, the  
26 1999 target period shall mean January 1, 1999 through November 30, 1999,  
27 the 2000 target period shall mean January 1, 2000 through November 30,  
28 2000, the 2001 target period shall mean January 1, 2001 through November

1 30, 2001, the 2002 target period shall mean January 1, 2002 through  
2 November 30, 2002, the 2003 target period shall mean January 1, 2003  
3 through November 30, 2003, the 2004 target period shall mean January 1,  
4 2004 through November 30, 2004, and the 2005 target period shall mean  
5 January 1, 2005 through November 30, 2005, the 2006 target period shall  
6 mean January 1, 2006 through November 30, 2006, and the 2007 target  
7 period shall mean January 1, 2007 through November 30, 2007 and the 2008  
8 target period shall mean January 1, 2008 through November 30, 2008, and  
9 the 2009 target period shall mean January 1, 2009 through November 30,  
10 2009 and the 2010 target period shall mean January 1, 2010 through  
11 November 30, 2010 and the 2011 target period shall mean January 1, 2011  
12 through November 30, 2011 and the 2012 target period shall mean January  
13 1, 2012 through November 30, 2012 and the 2013 target period shall mean  
14 January 1, 2013 through November 30, 2013, and the 2014 target period  
15 shall mean January 1, 2014 through November 30, 2014 and the 2015 target  
16 period shall mean January 1, 2015 through November 30, 2015 and the 2016  
17 target period shall mean January 1, 2016 through November 30, 2016 and  
18 the 2017 target period shall mean January 1, 2017 through November 30,  
19 2017 and the 2018 target period shall mean January 1, 2018 through  
20 November 30, 2018 and the 2019 target period shall mean January 1, 2019  
21 through November 30, 2019 and the 2020 target period shall mean January  
22 1, 2020 through November 30, 2020[,] and the 2021 target period shall  
23 mean January 1, 2021 through November 30, 2021 and the 2022 target peri-  
24 od shall mean January 1, 2022 through November 30, 2022 and the 2023  
25 target period shall mean January 1, 2023 through November 30, 2023 and  
26 the 2024 target period shall mean January 1, 2024 through November 30,  
27 2024 and the 2025 target period shall mean January 1, 2025 through  
28 November 30, 2025 and the 2026 target period shall mean January 1, 2026

1 through November 30, 2026 and the 2027 target period shall mean January  
2 1, 2027 through November 30, 2027.

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

7 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to  
8 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,  
9 prior to February 1, 2003, prior to February 1, 2004, prior to February  
10 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to  
11 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010,  
12 prior to February 1, 2011, prior to February 1, 2012, prior to February  
13 1, 2013, prior to February 1, 2014, prior to February 1, 2015, prior to  
14 February 1, 2016, prior to February 1, 2017, prior to February 1, 2018,  
15 prior to February 1, 2019, prior to February 1, 2020, prior to February  
16 1, 2021, prior to February 1, 2022, [and] prior to February 1, 2023,  
17 prior to February 1, 2024, prior to February 1, 2025, prior to February  
18 1, 2026 and prior to February 1, 2027 for each regional group the  
19 commissioner of health shall calculate the prior year's medicaid revenue  
20 percentages for the period commencing January 1 through November 30 of  
21 such prior year.

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

24 4. (a) For each regional group, the 1996 target medicaid revenue  
25 percentage shall be calculated by subtracting the 1996 medicaid revenue  
26 reduction percentages from the base period medicaid revenue percentages.  
27 The 1996 medicaid revenue reduction percentage, taking into account

1 regional and program differences in utilization of medicaid and medicare  
2 services, for the following regional groups shall be equal to:

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

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

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

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

11 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
12 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019,  
13 2020, 2021, 2022 [and], 2023, 2024, 2025, 2026 and 2027 for each  
14 regional group, the target medicaid revenue percentage for the respec-  
15 tive year shall be calculated by subtracting the respective year's medi-  
16 caid revenue reduction percentage from the base period medicaid revenue  
17 percentage. The medicaid revenue reduction percentages for 1997, 1998,  
18 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011,  
19 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and],  
20 2023, 2024, 2025, 2026 and 2027, taking into account regional and  
21 program differences in utilization of medicaid and medicare services,  
22 for the following regional groups shall be equal to for each such year:

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

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

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

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

3 (c) For each regional group, the 1999 target medicaid revenue percent-  
4 age shall be calculated by subtracting the 1999 medicaid revenue  
5 reduction percentage from the base period medicaid revenue percentage.  
6 The 1999 medicaid revenue reduction percentages, taking into account  
7 regional and program differences in utilization of medicaid and medicare  
8 services, for the following regional groups shall be equal to:

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

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

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

15 (iv) one and two hundred seventy-five thousandths percentage points  
16 (1.275) for LTHHCPS located within the upstate region.

17 5. (a) For each regional group, if the 1996 medicaid revenue percent-  
18 age is not equal to or less than the 1996 target medicaid revenue  
19 percentage, the commissioner of health shall compare the 1996 medicaid  
20 revenue percentage to the 1996 target medicaid revenue percentage to  
21 determine the amount of the shortfall which, when divided by the 1996  
22 medicaid revenue reduction percentage, shall be called the 1996  
23 reduction factor. These amounts, expressed as a percentage, shall not  
24 exceed one hundred percent. If the 1996 medicaid revenue percentage is  
25 equal to or less than the 1996 target medicaid revenue percentage, the  
26 1996 reduction factor shall be zero.

27 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
28 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018,

1 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025, 2026 and 2027, for each  
2 regional group, if the medicaid revenue percentage for the respective  
3 year is not equal to or less than the target medicaid revenue percentage  
4 for such respective year, the commissioner of health shall compare such  
5 respective year's medicaid revenue percentage to such respective year's  
6 target medicaid revenue percentage to determine the amount of the short-  
7 fall which, when divided by the respective year's medicaid revenue  
8 reduction percentage, shall be called the reduction factor for such  
9 respective year. These amounts, expressed as a percentage, shall not  
10 exceed one hundred percent. If the medicaid revenue percentage for a  
11 particular year is equal to or less than the target medicaid revenue  
12 percentage for that year, the reduction factor for that year shall be  
13 zero.

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

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

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

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

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

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

27 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
28 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019,

1 2020, 2021, 2022 [and], 2023, 2024, 2025, 2026 and 2027, for each  
2 regional group, the reduction factor for the respective year shall be  
3 multiplied by the following amounts to determine each regional group's  
4 applicable state share reduction amount for such respective year:

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

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

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

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

13 For each regional group reduction, if the reduction factor for a  
14 particular year shall be zero, there shall be no state share reduction  
15 amount for such year.

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

19 (i) one million seven hundred ninety-two thousand five hundred dollars  
20 (\$1,792,500) for CHHAs located within the downstate region;

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

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

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

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

1 7. (a) For each regional group, the 1996 state share reduction amount  
2 shall be allocated by the commissioner of health among CHHAs and LTHHCPS  
3 on the basis of the extent of each CHHA's and LTHHCP's failure to  
4 achieve the 1996 target medicaid revenue percentage, calculated on a  
5 provider specific basis utilizing revenues for this purpose, expressed  
6 as a proportion of the total of each CHHA's and LTHHCP's failure to  
7 achieve the 1996 target medicaid revenue percentage within the applica-  
8 ble regional group. This proportion shall be multiplied by the applica-  
9 ble 1996 state share reduction amount calculation pursuant to paragraph  
10 (a) of subdivision 6 of this section. This amount shall be called the  
11 1996 provider specific state share reduction amount.

12 (b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
13 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018,  
14 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025, 2026 and 2027 for each  
15 regional group, the state share reduction amount for the respective year  
16 shall be allocated by the commissioner of health among CHHAs and LTHHCPS  
17 on the basis of the extent of each CHHA's and LTHHCP's failure to  
18 achieve the target medicaid revenue percentage for the applicable year,  
19 calculated on a provider specific basis utilizing revenues for this  
20 purpose, expressed as a proportion of the total of each CHHA's and  
21 LTHHCP's failure to achieve the target medicaid revenue percentage for  
22 the applicable year within the applicable regional group. This propor-  
23 tion shall be multiplied by the applicable year's state share reduction  
24 amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of  
25 this section. This amount shall be called the provider specific state  
26 share reduction amount for the applicable year.

27 8. (a) The 1996 provider specific state share reduction amount shall  
28 be due to the state from each CHHA and LTHHCP and may be recouped by the

1 state by March 31, 1997 in a lump sum amount or amounts from payments  
2 due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the  
3 social services law.

4 (b) The provider specific state share reduction amount for 1997, 1998,  
5 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010,  
6 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022  
7 [and], 2023, 2024, 2025, 2026 and 2027 respectively, shall be due to the  
8 state from each CHHA and LTHHCP and each year the amount due for such  
9 year may be recouped by the state by March 31 of the following year in a  
10 lump sum amount or amounts from payments due to the CHHA and LTHHCP  
11 pursuant to title 11 of article 5 of the social services law.

12 9. CHHAs and LTHHCPS shall submit such data and information at such  
13 times as the commissioner of health may require for purposes of this  
14 section. The commissioner of health may use data available from third-  
15 party payors.

16 10. On or about June 1, 1997, for each regional group the commissioner  
17 of health shall calculate for the period August 1, 1996 through March  
18 31, 1997 a medicaid revenue percentage, a reduction factor, a state  
19 share reduction amount, and a provider specific state share reduction  
20 amount in accordance with the methodology provided in paragraph (a) of  
21 subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivi-  
22 sion 6 and paragraph (a) of subdivision 7 of this section. The provider  
23 specific state share reduction amount calculated in accordance with this  
24 subdivision shall be compared to the 1996 provider specific state share  
25 reduction amount calculated in accordance with paragraph (a) of subdivi-  
26 sion 7 of this section. Any amount in excess of the amount determined in  
27 accordance with paragraph (a) of subdivision 7 of this section shall be  
28 due to the state from each CHHA and LTHHCP and may be recouped in

1 accordance with paragraph (a) of subdivision 8 of this section. If the  
2 amount is less than the amount determined in accordance with paragraph  
3 (a) of subdivision 7 of this section, the difference shall be refunded  
4 to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs  
5 and LTHHCPs shall submit data for the period August 1, 1996 through  
6 March 31, 1997 to the commissioner of health by April 15, 1997.

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

9 (a) such CHHA or LTHHCP shall be presumed to have no decrease in medi-  
10 cated revenue percentage between the applicable base period and the  
11 applicable target period for purposes of the calculations pursuant to  
12 this section; and

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

20 12. The commissioner of health shall inform in writing the director of  
21 the budget and the chair of the senate finance committee and the chair  
22 of the assembly ways and means committee of the results of the calcu-  
23 lations pursuant to this section.

24 § 21. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of  
25 the laws of 1995, amending the public health law and other laws relating  
26 to medical reimbursement and welfare reform, as amended by section 13 of  
27 part BB of chapter 56 of the laws of 2020, is amended to read as  
28 follows:

1 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,  
2 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,  
3 February 1, 2008, February 1, 2009, February 1, 2010, February 1, 2011,  
4 February 1, 2012, February 1, 2013, February 1, 2014, February 1, 2015,  
5 February 1, 2016, February 1, 2017, February 1, 2018, February 1, 2019,  
6 February 1, 2020, February 1, 2021, February 1, 2022 [and], February 1,  
7 2023, February 1, 2024, February 1, 2025 and February 1, 2026, the  
8 commissioner of health shall calculate the result of the statewide total  
9 of residential health care facility days of care provided to benefici-  
10 aries of title XVIII of the federal social security act (medicare),  
11 divided by the sum of such days of care plus days of care provided to  
12 residents eligible for payments pursuant to title 11 of article 5 of the  
13 social services law minus the number of days provided to residents  
14 receiving hospice care, expressed as a percentage, for the period  
15 commencing January 1, through November 30, of the prior year respective-  
16 ly, based on such data for such period. This value shall be called the  
17 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011,  
18 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and],  
19 2023, 2024, 2025 and 2026 statewide target percentage respectively.

20 § 22. Subparagraph (ii) of paragraph (b) of subdivision 3 of section  
21 64 of chapter 81 of the laws of 1995, amending the public health law and  
22 other laws relating to medical reimbursement and welfare reform, as  
23 amended by section 14 of part BB of chapter 56 of the laws of 2020, is  
24 amended to read as follows:

25 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
26 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018,  
27 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide target  
28 percentages are not for each year at least three percentage points high-

1 er than the statewide base percentage, the commissioner of health shall  
2 determine the percentage by which the statewide target percentage for  
3 each year is not at least three percentage points higher than the state-  
4 wide base percentage. The percentage calculated pursuant to this para-  
5 graph shall be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004,  
6 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016,  
7 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026  
8 statewide reduction percentage respectively. If the 1997, 1998, 2000,  
9 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012,  
10 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023,  
11 2024, 2025 and 2026 statewide target percentage for the respective year  
12 is at least three percentage points higher than the statewide base  
13 percentage, the statewide reduction percentage for the respective year  
14 shall be zero.

15 § 23. Subparagraph (iii) of paragraph (b) of subdivision 4 of section  
16 64 of chapter 81 of the laws of 1995, amending the public health law and  
17 other laws relating to medical reimbursement and welfare reform, as  
18 amended by section 15 of part BB of chapter 56 of the laws of 2020, is  
19 amended to read as follows:

20 (iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,  
21 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020,  
22 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide reduction percent-  
23 age shall be multiplied by one hundred two million dollars respectively  
24 to determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,  
25 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019,  
26 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026 statewide aggregate  
27 reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004,  
28 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016,

1 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024, 2025 and 2026  
2 statewide reduction percentage shall be zero respectively, there shall  
3 be no 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009,  
4 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 2020, 2021,  
5 2022 [and], 2023, 2024, 2025 and 2026 reduction amount.

6 § 24. The opening paragraph of paragraph (e) of subdivision 7 of  
7 section 367-a of the social services law, as amended by section 1 of  
8 part GG of chapter 56 of the laws of 2020, is amended to read as  
9 follows:

10 During the period from April first, two thousand fifteen through March  
11 thirty-first, two thousand [twenty-three] twenty-six, the commissioner  
12 may, in lieu of a managed care provider or pharmacy benefit manager,  
13 negotiate directly and enter into an arrangement with a pharmaceutical  
14 manufacturer for the provision of supplemental rebates relating to phar-  
15 maceutical utilization by enrollees of managed care providers pursuant  
16 to section three hundred sixty-four-j of this title and may also negoti-  
17 ate directly and enter into such an agreement relating to pharmaceutical  
18 utilization by medical assistance recipients not so enrolled. Such  
19 rebate arrangements shall be limited to the following: antiretrovirals  
20 approved by the FDA for the treatment of HIV/AIDS, opioid dependence  
21 agents and opioid antagonists listed in a statewide formulary estab-  
22 lished pursuant to subparagraph (vii) of this paragraph, hepatitis C  
23 agents, high cost drugs as provided for in subparagraph (viii) of this  
24 paragraph, gene therapies as provided for in subparagraph (ix) of this  
25 paragraph, and any other class or drug designated by the commissioner  
26 for which the pharmaceutical manufacturer has in effect a rebate  
27 arrangement with the federal secretary of health and human services  
28 pursuant to 42 U.S.C. § 1396r-8, and for which the state has established

1 standard clinical criteria. No agreement entered into pursuant to this  
2 paragraph shall have an initial term or be extended beyond the expira-  
3 tion or repeal of this paragraph.

4 § 25. Subdivision 1 of section 60 of part B of chapter 57 of the laws  
5 of 2015, amending the social services law and other laws relating to  
6 supplemental rebates, as amended by section 8 of part GG of chapter 56  
7 of the laws of 2020, is amended to read as follows:

8 1. section one of this act shall expire and be deemed repealed March  
9 31, [2026] 2029;

10 § 26. Section 8 of part KK of chapter 56 of the laws of 2020, amending  
11 the public health law relating to the designation of statewide general  
12 hospital quality and sole community pools and the reduction of capital  
13 related inpatient expenses, is amended to read as follows:

14 § 8. This act shall take effect immediately and shall be deemed to  
15 have been in full force and effect on and after April 1, 2020, provided,  
16 further that sections [three] four through [nine] seven of this act  
17 shall expire and be deemed repealed March 31, [2023] 2026; provided  
18 further, however, that the director of the budget may, in consultation  
19 with the commissioner of health, delay the effective dates prescribed  
20 herein for a period of time which shall not exceed ninety days following  
21 the conclusion or termination of an executive order issued pursuant to  
22 section 28 of the executive law declaring a state disaster emergency for  
23 the entire state of New York, upon such delay the director of budget  
24 shall notify the chairs of the assembly ways and means committee and  
25 senate finance committee and the chairs of the assembly and senate  
26 health committee; provided further, however, that the director of the  
27 budget shall notify the legislative bill drafting commission upon the  
28 occurrence of a delay in the effective date of this act in order that

1 the commission may maintain an accurate and timely effective data base  
2 of the official text of the laws of the state of New York in furtherance  
3 of effectuating the provisions of section 44 of the legislative law and  
4 section 70-b of the public officers law.

5 § 27. Subdivision 4-a of section 71 of part C of chapter 60 of the  
6 laws of 2014, amending the social services law relating to fair hearings  
7 within the Fully Integrated Duals Advantage program, as amended by  
8 section 7 of part MM of chapter 56 of the laws of 2020, is amended to  
9 read as follows:

10 4-a. section twenty-two of this act shall take effect April 1, 2014,  
11 and shall be deemed expired January 1, [2024] 2027;

12 § 28. Section 4 of chapter 779 of the laws of 1986, amending the  
13 social services law relating to authorizing services for non-residents  
14 in adult homes, residences for adults and enriched housing programs, as  
15 amended by section 1 of item PP of subpart B of part XXX of chapter 58  
16 of the laws of 2020, is amended to read as follows:

17 § 4. This act shall take effect on the one hundred twentieth day after  
18 it shall have become a law and shall remain in full force and effect  
19 until July 1, [2023] 2027, provided however, that effective immediately,  
20 the addition, amendment and/or repeal of any rules or regulations neces-  
21 sary for the implementation of the foregoing sections of this act on its  
22 effective date are authorized and directed to be made and completed on  
23 or before such effective date.

24 § 29. Section 11 of chapter 884 of the laws of 1990, amending the  
25 public health law relating to authorizing bad debt and charity care  
26 allowances for certified home health agencies, as amended by section 1  
27 of part S of chapter 57 of the laws of 2021, is amended to read as  
28 follows:

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

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

3 (b) sections four through ten shall expire on June 30, [2023] 2025,

4 and

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

9 § 30. Subdivision 5-a of section 246 of chapter 81 of the laws of  
10 1995, amending the public health law and other laws relating to medical  
11 reimbursement and welfare reform, as amended by section 3 of part S of  
12 chapter 57 of the laws of 2021, is amended to read as follows:

13 5-a. Section sixty-four-a of this act shall be deemed to have been in  
14 full force and effect on and after April 1, 1995 through March 31, 1999  
15 and on and after July 1, 1999 through March 31, 2000 and on and after  
16 April 1, 2000 through March 31, 2003 and on and after April 1, 2003  
17 through March 31, 2007, and on and after April 1, 2007 through March 31,  
18 2009, and on and after April 1, 2009 through March 31, 2011, and on and  
19 after April 1, 2011 through March 31, 2013, and on and after April 1,  
20 2013 through March 31, 2015, and on and after April 1, 2015 through  
21 March 31, 2017 and on and after April 1, 2017 through March 31, 2019,  
22 and on and after April 1, 2019 through March 31, 2021, and on and after  
23 April 1, 2021 through March 31, 2023, and on and after April 1, 2023  
24 through March 31, 2027;

25 § 31. Section 64-b of chapter 81 of the laws of 1995, amending the  
26 public health law and other laws relating to medical reimbursement and  
27 welfare reform, as amended by section 4 of part S of chapter 57 of the  
28 laws of 2021, is amended to read as follows:

1 § 64-b. Notwithstanding any inconsistent provision of law, the  
2 provisions of subdivision 7 of section 3614 of the public health law, as  
3 amended, shall remain and be in full force and effect on April 1, 1995  
4 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on  
5 and after April 1, 2000 through March 31, 2003 and on and after April 1,  
6 2003 through March 31, 2007, and on and after April 1, 2007 through  
7 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,  
8 and on and after April 1, 2011 through March 31, 2013, and on and after  
9 April 1, 2013 through March 31, 2015, and on and after April 1, 2015  
10 through March 31, 2017 and on and after April 1, 2017 through March 31,  
11 2019, and on and after April 1, 2019 through March 31, 2021, and on and  
12 after April 1, 2021 through March 31, 2023, and on and after April 1,  
13 2023 through March 31, 2027.

14 § 32. Section 4-a of part A of chapter 56 of the laws of 2013, amend-  
15 ing chapter 59 of the laws of 2011 amending the public health law and  
16 other laws relating to general hospital reimbursement for annual rates,  
17 as amended by section 5 of part S of chapter 57 of the laws of 2021, is  
18 amended to read as follows:

19 § 4-a. Notwithstanding paragraph (c) of subdivision 10 of section  
20 2807-c of the public health law, section 21 of chapter 1 of the laws of  
21 1999, or any other contrary provision of law, in determining rates of  
22 payments by state governmental agencies effective for services provided  
23 on and after January 1, 2017 through March 31, [2023] 2024, for inpa-  
24 tient and outpatient services provided by general hospitals, for inpa-  
25 tient services and adult day health care outpatient services provided by  
26 residential health care facilities pursuant to article 28 of the public  
27 health law, except for residential health care facilities or units of  
28 such facilities providing services primarily to children under twenty-

1 one years of age, for home health care services provided pursuant to  
2 article 36 of the public health law by certified home health agencies,  
3 long term home health care programs and AIDS home care programs, and for  
4 personal care services provided pursuant to section 365-a of the social  
5 services law, the commissioner of health shall apply no greater than  
6 zero trend factors attributable to the 2017, 2018, 2019, 2020, 2021,  
7 2022 [and], 2023, 2024 and 2025 calendar years in accordance with para-  
8 graph (c) of subdivision 10 of section 2807-c of the public health law,  
9 provided, however, that such no greater than zero trend factors attrib-  
10 utable to such 2017, 2018, 2019, 2020, 2021, 2022 [and], 2023, 2024 and  
11 2025 calendar years shall also be applied to rates of payment provided  
12 on and after January 1, 2017 through March 31, [2023] 2025 for personal  
13 care services provided in those local social services districts, includ-  
14 ing New York city, whose rates of payment for such services are estab-  
15 lished by such local social services districts pursuant to a rate-set-  
16 ting exemption issued by the commissioner of health to such local social  
17 services districts in accordance with applicable regulations; and  
18 provided further, however, that for rates of payment for assisted living  
19 program services provided on and after January 1, 2017 through March 31,  
20 [2023] 2025, such trend factors attributable to the 2017, 2018, 2019,  
21 2020, 2021, 2022 [and], 2023, 2024 and 2025 calendar years shall be  
22 established at no greater than zero percent.

23 § 33. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,  
24 amending the public health law and other laws relating to medical  
25 reimbursement and welfare reform, as amended by section 6 of part S of  
26 chapter 57 of the laws of 2021, is amended to read as follows:

27 2. Sections five, seven through nine, twelve through fourteen, and  
28 eighteen of this act shall be deemed to have been in full force and

1 effect on and after April 1, 1995 through March 31, 1999 and on and  
2 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000  
3 through March 31, 2003 and on and after April 1, 2003 through March 31,  
4 2006 and on and after April 1, 2006 through March 31, 2007 and on and  
5 after April 1, 2007 through March 31, 2009 and on and after April 1,  
6 2009 through March 31, 2011 and sections twelve, thirteen and fourteen  
7 of this act shall be deemed to be in full force and effect on and after  
8 April 1, 2011 through March 31, 2015 and on and after April 1, 2015  
9 through March 31, 2017 and on and after April 1, 2017 through March 31,  
10 2019, and on and after April 1, 2019 through March 31, 2021, and on and  
11 after April 1, 2021 through March 31, 2023, and on and after April 1,  
12 2023 through March 31, 2025;

13 § 34. Subparagraph (vi) of paragraph (b) of subdivision 2 of section  
14 2807-d of the public health law, as amended by section 11 of part S of  
15 chapter 57 of the laws of 2021, is amended to read as follows:

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

1 provided that for all such gross receipts received on or after April  
2 first, two thousand five through March thirty-first, two thousand nine,  
3 and on or after April first, two thousand nine through March thirty-  
4 first, two thousand eleven such assessment shall be six percent, and  
5 further provided that for all such gross receipts received on or after  
6 April first, two thousand eleven through March thirty-first, two thou-  
7 sand thirteen such assessment shall be six percent, and further provided  
8 that for all such gross receipts received on or after April first, two  
9 thousand thirteen through March thirty-first, two thousand fifteen such  
10 assessment shall be six percent, and further provided that for all such  
11 gross receipts received on or after April first, two thousand fifteen  
12 through March thirty-first, two thousand seventeen such assessment shall  
13 be six percent, and further provided that for all such gross receipts  
14 received on or after April first, two thousand seventeen through March  
15 thirty-first, two thousand nineteen such assessment shall be six  
16 percent, and further provided that for all such gross receipts received  
17 on or after April first, two thousand nineteen through March thirty-  
18 first, two thousand twenty-one such assessment shall be six percent, and  
19 further provided that for all such gross receipts received on or after  
20 April first, two thousand twenty-one through March thirty-first, two  
21 thousand twenty-three such assessment shall be six percent, and further  
22 provided that for all such gross receipts received on or after April  
23 first, two thousand twenty-three through March thirty-first, two thou-  
24 sand twenty-five such assessment shall be six percent.

25 § 35. Section 3 of part MM of chapter 57 of the laws of 2021 amending  
26 the public health law relating to aiding in the transition to adulthood  
27 for children with medical fragility living in pediatric nursing homes  
28 and other settings is amended to read as follows:

1 § 3. This act shall take effect on the one hundred twentieth day after  
2 it shall have become a law; provided however, that section one of this  
3 act shall expire and be deemed repealed [two] four years after such  
4 effective date; and provided further, that section two of this act shall  
5 expire and be deemed repealed [three] five years after such effective  
6 date.

7 § 36. This act shall take effect immediately and shall be deemed to  
8 have been in full force and effect on and after April 1, 2023; provided,  
9 however, that the amendments to subdivision 6 of section 366 of the  
10 social services law made by section four of this act shall not affect  
11 the repeal of such subdivision and shall be deemed repealed therewith;  
12 provided further, however, that the amendments to subparagraph (ii) of  
13 paragraph (c) of subdivision 11 of section 230 of the public health law  
14 made by section ten of this act shall not affect the expiration of such  
15 subparagraph and shall be deemed to expire therewith; and provided  
16 further, however, that the amendments to the opening paragraph of para-  
17 graph (e) of subdivision 7 of section 367-a of the social services law  
18 made by section twenty-four of this act shall not affect the repeal of  
19 such paragraph and shall be deemed repealed therewith.

20

## PART C

21 Section 1. Section 34 of part A3 of chapter 62 of the laws of 2003  
22 amending the general business law and other laws relating to enacting  
23 major components necessary to implement the state fiscal plan for the  
24 2003-04 state fiscal year, as amended by section 1 of part Y of chapter  
25 56 of the laws of 2020, is amended to read as follows:

1 § 34. (1) Notwithstanding any inconsistent provision of law, rule or  
2 regulation and effective April 1, 2008 through March 31, [2023] 2026,  
3 the commissioner of health is authorized to transfer and the state comp-  
4 troller is authorized and directed to receive for deposit to the credit  
5 of the department of health's special revenue fund - other, health care  
6 reform act (HCRA) resources fund - 061, provider collection monitoring  
7 account, within amounts appropriated each year, those funds collected  
8 and accumulated pursuant to section 2807-v of the public health law,  
9 including income from invested funds, for the purpose of payment for  
10 administrative costs of the department of health related to adminis-  
11 tration of statutory duties for the collections and distributions  
12 authorized by section 2807-v of the public health law.

13 (2) Notwithstanding any inconsistent provision of law, rule or regu-  
14 lation and effective April 1, 2008 through March 31, [2023] 2026, the  
15 commissioner of health is authorized to transfer and the state comp-  
16 troller is authorized and directed to receive for deposit to the credit  
17 of the department of health's special revenue fund - other, health care  
18 reform act (HCRA) resources fund - 061, provider collection monitoring  
19 account, within amounts appropriated each year, those funds collected  
20 and accumulated and interest earned through surcharges on payments for  
21 health care services pursuant to section 2807-s of the public health law  
22 and from assessments pursuant to section 2807-t of the public health law  
23 for the purpose of payment for administrative costs of the department of  
24 health related to administration of statutory duties for the collections  
25 and distributions authorized by sections 2807-s, 2807-t, and 2807-m of  
26 the public health law.

27 (3) Notwithstanding any inconsistent provision of law, rule or regu-  
28 lation and effective April 1, 2008 through March 31, [2023] 2026, the

1 commissioner of health is authorized to transfer and the comptroller is  
2 authorized to deposit, within amounts appropriated each year, those  
3 funds authorized for distribution in accordance with the provisions of  
4 paragraph (a) of subdivision 1 of section 2807-1 of the public health  
5 law for the purposes of payment for administrative costs of the depart-  
6 ment of health related to the child health insurance plan program  
7 authorized pursuant to title 1-A of article 25 of the public health law  
8 into the special revenue funds - other, health care reform act (HCRA)  
9 resources fund - 061, child health insurance account, established within  
10 the department of health.

11 (5) Notwithstanding any inconsistent provision of law, rule or regu-  
12 lation and effective April 1, 2008 through March 31, [2023] 2026, the  
13 commissioner of health is authorized to transfer and the comptroller is  
14 authorized to deposit, within amounts appropriated each year, those  
15 funds allocated pursuant to paragraph (j) of subdivision 1 of section  
16 2807-v of the public health law for the purpose of payment for adminis-  
17 trative costs of the department of health related to administration of  
18 the state's tobacco control programs and cancer services provided pursu-  
19 ant to sections 2807-r and 1399-ii of the public health law into such  
20 accounts established within the department of health for such purposes.

21 (6) Notwithstanding any inconsistent provision of law, rule or regu-  
22 lation and effective April 1, 2008 through March 31, [2023] 2026, the  
23 commissioner of health is authorized to transfer and the comptroller is  
24 authorized to deposit, within amounts appropriated each year, the funds  
25 authorized for distribution in accordance with the provisions of section  
26 2807-1 of the public health law for the purposes of payment for adminis-  
27 trative costs of the department of health related to the programs funded  
28 pursuant to section 2807-1 of the public health law into the special

1 revenue funds - other, health care reform act (HCRA) resources fund -  
2 061, pilot health insurance account, established within the department  
3 of health.

4 (7) Notwithstanding any inconsistent provision of law, rule or regu-  
5 lation and effective April 1, 2008 through March 31, [2023] 2026, the  
6 commissioner of health is authorized to transfer and the comptroller is  
7 authorized to deposit, within amounts appropriated each year, those  
8 funds authorized for distribution in accordance with the provisions of  
9 subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c  
10 of the public health law from monies accumulated and interest earned in  
11 the bad debt and charity care and capital statewide pools through an  
12 assessment charged to general hospitals pursuant to the provisions of  
13 subdivision 18 of section 2807-c of the public health law and those  
14 funds authorized for distribution in accordance with the provisions of  
15 section 2807-1 of the public health law for the purposes of payment for  
16 administrative costs of the department of health related to programs  
17 funded under section 2807-1 of the public health law into the special  
18 revenue funds - other, health care reform act (HCRA) resources fund -  
19 061, primary care initiatives account, established within the department  
20 of health.

21 (8) Notwithstanding any inconsistent provision of law, rule or regu-  
22 lation and effective April 1, 2008 through March 31, [2023] 2026, the  
23 commissioner of health is authorized to transfer and the comptroller is  
24 authorized to deposit, within amounts appropriated each year, those  
25 funds authorized for distribution in accordance with section 2807-1 of  
26 the public health law for the purposes of payment for administrative  
27 costs of the department of health related to programs funded under  
28 section 2807-1 of the public health law into the special revenue funds -

1 other, health care reform act (HCRA) resources fund - 061, health care  
2 delivery administration account, established within the department of  
3 health.

4 (9) Notwithstanding any inconsistent provision of law, rule or regu-  
5 lation and effective April 1, 2008 through March 31, [2023] 2026, the  
6 commissioner of health is authorized to transfer and the comptroller is  
7 authorized to deposit, within amounts appropriated each year, those  
8 funds authorized pursuant to sections 2807-d, 3614-a and 3614-b of the  
9 public health law and section 367-i of the social services law and for  
10 distribution in accordance with the provisions of subdivision 9 of  
11 section 2807-j of the public health law for the purpose of payment for  
12 administration of statutory duties for the collections and distributions  
13 authorized by sections 2807-c, 2807-d, 2807-j, 2807-k, 2807-l, 3614-a  
14 and 3614-b of the public health law and section 367-i of the social  
15 services law into the special revenue funds - other, health care reform  
16 act (HCRA) resources fund - 061, provider collection monitoring account,  
17 established within the department of health.

18 § 2. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 9 of  
19 section 2807-j of the public health law, as amended by section 2 of part  
20 Y of chapter 56 of the laws of 2020, are amended to read as follows:

21 (iv) seven hundred sixty-five million dollars annually of the funds  
22 accumulated for the periods January first, two thousand through December  
23 thirty-first, two thousand [twenty-two] twenty five, and

24 (v) one hundred ninety-one million two hundred fifty thousand dollars  
25 of the funds accumulated for the period January first, two thousand  
26 [twenty-three] twenty-six through March thirty-first, two thousand  
27 [twenty-three] twenty-six.

1 § 3. Subdivision 5 of section 168 of chapter 639 of the laws of 1996,  
2 constituting the New York Health Care Reform Act of 1996, as amended by  
3 section 3 of part Y of chapter 56 of the laws of 2020, is amended to  
4 read as follows:

5 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health  
6 law, as amended or as added by this act, shall expire on December 31,  
7 [2023] 2026, and shall be thereafter effective only in respect to any  
8 act done on or before such date or action or proceeding arising out of  
9 such act including continued collections of funds from assessments and  
10 allowances and surcharges established pursuant to sections 2807-c,  
11 2807-j, 2807-s and 2807-t of the public health law, and administration  
12 and distributions of funds from pools established pursuant to sections  
13 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public  
14 health law related to patient services provided before December 31,  
15 [2023] 2026, and continued expenditure of funds authorized for programs  
16 and grants until the exhaustion of funds therefor;

17 § 4. Subdivision 1 of section 138 of chapter 1 of the laws of 1999,  
18 constituting the New York Health Care Reform Act of 2000, as amended by  
19 section 4 of part Y of chapter 56 of the laws of 2020, is amended to  
20 read as follows:

21 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health  
22 law, as amended by this act, shall expire on December 31, [2023] 2026,  
23 and shall be thereafter effective only in respect to any act done before  
24 such date or action or proceeding arising out of such act including  
25 continued collections of funds from assessments and allowances and  
26 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and  
27 2807-t of the public health law, and administration and distributions of  
28 funds from pools established pursuant to sections 2807-c, 2807-j,

1 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public  
2 health law, as amended or added by this act, related to patient services  
3 provided before December 31, [2023] 2026, and continued expenditure of  
4 funds authorized for programs and grants until the exhaustion of funds  
5 therefor;

6 § 5. Section 2807-1 of the public health law, as amended by section 5  
7 of part Y of chapter 56 of the laws of 2020, is amended to read as  
8 follows:

9 § 2807-1. Health care initiatives pool distributions. 1. Funds accumu-  
10 lated in the health care initiatives pools pursuant to paragraph (b) of  
11 subdivision nine of section twenty-eight hundred seven-j of this arti-  
12 cle, or the health care reform act (HCRA) resources fund established  
13 pursuant to section ninety-two-dd of the state finance law, whichever is  
14 applicable, including income from invested funds, shall be distributed  
15 or retained by the commissioner or by the state comptroller, as applica-  
16 ble, in accordance with the following.

17 (a) Funds shall be reserved and accumulated from year to year and  
18 shall be available, including income from invested funds, for purposes  
19 of distributions to programs to provide health care coverage for unin-  
20 sured or underinsured children pursuant to sections twenty-five hundred  
21 ten and twenty-five hundred eleven of this chapter from the respective  
22 health care initiatives pools established for the following periods in  
23 the following amounts:

24 (i) from the pool for the period January first, nineteen hundred nine-  
25 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
26 up to one hundred twenty million six hundred thousand dollars;

27 (ii) from the pool for the period January first, nineteen hundred  
28 ninety-eight through December thirty-first, nineteen hundred ninety-

1 eight, up to one hundred sixty-four million five hundred thousand  
2 dollars;

3 (iii) from the pool for the period January first, nineteen hundred  
4 ninety-nine through December thirty-first, nineteen hundred ninety-nine,  
5 up to one hundred eighty-one million dollars;

6 (iv) from the pool for the period January first, two thousand through  
7 December thirty-first, two thousand, two hundred seven million dollars;

8 (v) from the pool for the period January first, two thousand one  
9 through December thirty-first, two thousand one, two hundred thirty-five  
10 million dollars;

11 (vi) from the pool for the period January first, two thousand two  
12 through December thirty-first, two thousand two, three hundred twenty-  
13 four million dollars;

14 (vii) from the pool for the period January first, two thousand three  
15 through December thirty-first, two thousand three, up to four hundred  
16 fifty million three hundred thousand dollars;

17 (viii) from the pool for the period January first, two thousand four  
18 through December thirty-first, two thousand four, up to four hundred  
19 sixty million nine hundred thousand dollars;

20 (ix) from the pool or the health care reform act (HCRA) resources  
21 fund, whichever is applicable, for the period January first, two thou-  
22 sand five through December thirty-first, two thousand five, up to one  
23 hundred fifty-three million eight hundred thousand dollars;

24 (x) from the health care reform act (HCRA) resources fund for the  
25 period January first, two thousand six through December thirty-first,  
26 two thousand six, up to three hundred twenty-five million four hundred  
27 thousand dollars;

1 (xi) from the health care reform act (HCRA) resources fund for the  
2 period January first, two thousand seven through December thirty-first,  
3 two thousand seven, up to four hundred twenty-eight million fifty-nine  
4 thousand dollars;

5 (xii) from the health care reform act (HCRA) resources fund for the  
6 period January first, two thousand eight through December thirty-first,  
7 two thousand ten, up to four hundred fifty-three million six hundred  
8 seventy-four thousand dollars annually;

9 (xiii) from the health care reform act (HCRA) resources fund for the  
10 period January first, two thousand eleven, through March thirty-first,  
11 two thousand eleven, up to one hundred thirteen million four hundred  
12 eighteen thousand dollars;

13 (xiv) from the health care reform act (HCRA) resources fund for the  
14 period April first, two thousand eleven, through March thirty-first, two  
15 thousand twelve, up to three hundred twenty-four million seven hundred  
16 forty-four thousand dollars;

17 (xv) from the health care reform act (HCRA) resources fund for the  
18 period April first, two thousand twelve, through March thirty-first, two  
19 thousand thirteen, up to three hundred forty-six million four hundred  
20 forty-four thousand dollars;

21 (xvi) from the health care reform act (HCRA) resources fund for the  
22 period April first, two thousand thirteen, through March thirty-first,  
23 two thousand fourteen, up to three hundred seventy million six hundred  
24 ninety-five thousand dollars; and

25 (xvii) from the health care reform act (HCRA) resources fund for each  
26 state fiscal year for periods on and after April first, two thousand  
27 fourteen, within amounts appropriated.

1 (b) Funds shall be reserved and accumulated from year to year and  
2 shall be available, including income from invested funds, for purposes  
3 of distributions for health insurance programs under the individual  
4 subsidy programs established pursuant to the expanded health care cover-  
5 age act of nineteen hundred eighty-eight as amended, and for evaluation  
6 of such programs from the respective health care initiatives pools or  
7 the health care reform act (HCRA) resources fund, whichever is applica-  
8 ble, established for the following periods in the following amounts:

9 (i) (A) an amount not to exceed six million dollars on an annualized  
10 basis for the periods January first, nineteen hundred ninety-seven  
11 through December thirty-first, nineteen hundred ninety-nine; up to six  
12 million dollars for the period January first, two thousand through  
13 December thirty-first, two thousand; up to five million dollars for the  
14 period January first, two thousand one through December thirty-first,  
15 two thousand one; up to four million dollars for the period January  
16 first, two thousand two through December thirty-first, two thousand two;  
17 up to two million six hundred thousand dollars for the period January  
18 first, two thousand three through December thirty-first, two thousand  
19 three; up to one million three hundred thousand dollars for the period  
20 January first, two thousand four through December thirty-first, two  
21 thousand four; up to six hundred seventy thousand dollars for the period  
22 January first, two thousand five through June thirtieth, two thousand  
23 five; up to one million three hundred thousand dollars for the period  
24 April first, two thousand six through March thirty-first, two thousand  
25 seven; and up to one million three hundred thousand dollars annually for  
26 the period April first, two thousand seven through March thirty-first,  
27 two thousand nine, shall be allocated to individual subsidy programs;  
28 and

1 (B) an amount not to exceed seven million dollars on an annualized  
2 basis for the periods during the period January first, nineteen hundred  
3 ninety-seven through December thirty-first, nineteen hundred ninety-nine  
4 and four million dollars annually for the periods January first, two  
5 thousand through December thirty-first, two thousand two, and three  
6 million dollars for the period January first, two thousand three through  
7 December thirty-first, two thousand three, and two million dollars for  
8 the period January first, two thousand four through December thirty-  
9 first, two thousand four, and two million dollars for the period January  
10 first, two thousand five through June thirtieth, two thousand five shall  
11 be allocated to the catastrophic health care expense program.

12 (ii) Notwithstanding any law to the contrary, the characterizations of  
13 the New York state small business health insurance partnership program  
14 as in effect prior to June thirtieth, two thousand three, voucher  
15 program as in effect prior to December thirty-first, two thousand one,  
16 individual subsidy program as in effect prior to June thirtieth, two  
17 thousand five, and catastrophic health care expense program, as in  
18 effect prior to June thirtieth, two thousand five, may, for the purposes  
19 of identifying matching funds for the community health care conversion  
20 demonstration project described in a waiver of the provisions of title  
21 XIX of the federal social security act granted to the state of New York  
22 and dated July fifteenth, nineteen hundred ninety-seven, may continue to  
23 be used to characterize the insurance programs in sections four thousand  
24 three hundred twenty-one-a, four thousand three hundred twenty-two-a,  
25 four thousand three hundred twenty-six and four thousand three hundred  
26 twenty-seven of the insurance law, which are successor programs to these  
27 programs.

1 (c) Up to seventy-eight million dollars shall be reserved and accumu-  
2 lated from year to year from the pool for the period January first,  
3 nineteen hundred ninety-seven through December thirty-first, nineteen  
4 hundred ninety-seven, for purposes of public health programs, up to  
5 seventy-six million dollars shall be reserved and accumulated from year  
6 to year from the pools for the periods January first, nineteen hundred  
7 ninety-eight through December thirty-first, nineteen hundred ninety-  
8 eight and January first, nineteen hundred ninety-nine through December  
9 thirty-first, nineteen hundred ninety-nine, up to eighty-four million  
10 dollars shall be reserved and accumulated from year to year from the  
11 pools for the period January first, two thousand through December thir-  
12 ty-first, two thousand, up to eighty-five million dollars shall be  
13 reserved and accumulated from year to year from the pools for the period  
14 January first, two thousand one through December thirty-first, two thou-  
15 sand one, up to eighty-six million dollars shall be reserved and accumu-  
16 lated from year to year from the pools for the period January first, two  
17 thousand two through December thirty-first, two thousand two, up to  
18 eighty-six million one hundred fifty thousand dollars shall be reserved  
19 and accumulated from year to year from the pools for the period January  
20 first, two thousand three through December thirty-first, two thousand  
21 three, up to fifty-eight million seven hundred eighty thousand dollars  
22 shall be reserved and accumulated from year to year from the pools for  
23 the period January first, two thousand four through December thirty-  
24 first, two thousand four, up to sixty-eight million seven hundred thirty  
25 thousand dollars shall be reserved and accumulated from year to year  
26 from the pools or the health care reform act (HCRA) resources fund,  
27 whichever is applicable, for the period January first, two thousand five  
28 through December thirty-first, two thousand five, up to ninety-four

1 million three hundred fifty thousand dollars shall be reserved and accu-  
2 mulated from year to year from the health care reform act (HCRA)  
3 resources fund for the period January first, two thousand six through  
4 December thirty-first, two thousand six, up to seventy million nine  
5 hundred thirty-nine thousand dollars shall be reserved and accumulated  
6 from year to year from the health care reform act (HCRA) resources fund  
7 for the period January first, two thousand seven through December thir-  
8 ty-first, two thousand seven, up to fifty-five million six hundred  
9 eighty-nine thousand dollars annually shall be reserved and accumulated  
10 from year to year from the health care reform act (HCRA) resources fund  
11 for the period January first, two thousand eight through December thir-  
12 ty-first, two thousand ten, up to thirteen million nine hundred twenty-  
13 two thousand dollars shall be reserved and accumulated from year to year  
14 from the health care reform act (HCRA) resources fund for the period  
15 January first, two thousand eleven through March thirty-first, two thou-  
16 sand eleven, and for periods on and after April first, two thousand  
17 eleven, up to funding amounts specified below and shall be available,  
18 including income from invested funds, for:

19 (i) deposit by the commissioner, within amounts appropriated, and the  
20 state comptroller is hereby authorized and directed to receive for  
21 deposit to, to the credit of the department of health's special revenue  
22 fund - other, hospital based grants program account or the health care  
23 reform act (HCRA) resources fund, whichever is applicable, for purposes  
24 of services and expenses related to general hospital based grant  
25 programs, up to twenty-two million dollars annually from the nineteen  
26 hundred ninety-seven pool, nineteen hundred ninety-eight pool, nineteen  
27 hundred ninety-nine pool, two thousand pool, two thousand one pool and  
28 two thousand two pool, respectively, up to twenty-two million dollars

1 from the two thousand three pool, up to ten million dollars for the  
2 period January first, two thousand four through December thirty-first,  
3 two thousand four, up to eleven million dollars for the period January  
4 first, two thousand five through December thirty-first, two thousand  
5 five, up to twenty-two million dollars for the period January first, two  
6 thousand six through December thirty-first, two thousand six, up to  
7 twenty-two million ninety-seven thousand dollars annually for the period  
8 January first, two thousand seven through December thirty-first, two  
9 thousand ten, up to five million five hundred twenty-four thousand  
10 dollars for the period January first, two thousand eleven through March  
11 thirty-first, two thousand eleven, up to thirteen million four hundred  
12 forty-five thousand dollars for the period April first, two thousand  
13 eleven through March thirty-first, two thousand twelve, and up to thir-  
14 teen million three hundred seventy-five thousand dollars each state  
15 fiscal year for the period April first, two thousand twelve through  
16 March thirty-first, two thousand fourteen;

17 (ii) deposit by the commissioner, within amounts appropriated, and the  
18 state comptroller is hereby authorized and directed to receive for  
19 deposit to, to the credit of the emergency medical services training  
20 account established in section ninety-seven-q of the state finance law  
21 or the health care reform act (HCRA) resources fund, whichever is appli-  
22 cable, up to sixteen million dollars on an annualized basis for the  
23 periods January first, nineteen hundred ninety-seven through December  
24 thirty-first, nineteen hundred ninety-nine, up to twenty million dollars  
25 for the period January first, two thousand through December thirty-  
26 first, two thousand, up to twenty-one million dollars for the period  
27 January first, two thousand one through December thirty-first, two thou-  
28 sand one, up to twenty-two million dollars for the period January first,

1 two thousand two through December thirty-first, two thousand two, up to  
2 twenty-two million five hundred fifty thousand dollars for the period  
3 January first, two thousand three through December thirty-first, two  
4 thousand three, up to nine million six hundred eighty thousand dollars  
5 for the period January first, two thousand four through December thir-  
6 ty-first, two thousand four, up to twelve million one hundred thirty  
7 thousand dollars for the period January first, two thousand five through  
8 December thirty-first, two thousand five, up to twenty-four million two  
9 hundred fifty thousand dollars for the period January first, two thou-  
10 sand six through December thirty-first, two thousand six, up to twenty  
11 million four hundred ninety-two thousand dollars annually for the period  
12 January first, two thousand seven through December thirty-first, two  
13 thousand ten, up to five million one hundred twenty-three thousand  
14 dollars for the period January first, two thousand eleven through March  
15 thirty-first, two thousand eleven, up to eighteen million three hundred  
16 fifty thousand dollars for the period April first, two thousand eleven  
17 through March thirty-first, two thousand twelve, up to eighteen million  
18 nine hundred fifty thousand dollars for the period April first, two  
19 thousand twelve through March thirty-first, two thousand thirteen, up to  
20 nineteen million four hundred nineteen thousand dollars for the period  
21 April first, two thousand thirteen through March thirty-first, two thou-  
22 sand fourteen, and up to nineteen million six hundred fifty-nine thou-  
23 sand seven hundred dollars each state fiscal year for the period of  
24 April first, two thousand fourteen through March thirty-first, two thou-  
25 sand [twenty-three] twenty-six;

26 (iii) priority distributions by the commissioner up to thirty-two  
27 million dollars on an annualized basis for the period January first, two  
28 thousand through December thirty-first, two thousand four, up to thir-

1 ty-eight million dollars on an annualized basis for the period January  
2 first, two thousand five through December thirty-first, two thousand  
3 six, up to eighteen million two hundred fifty thousand dollars for the  
4 period January first, two thousand seven through December thirty-first,  
5 two thousand seven, up to three million dollars annually for the period  
6 January first, two thousand eight through December thirty-first, two  
7 thousand ten, up to seven hundred fifty thousand dollars for the period  
8 January first, two thousand eleven through March thirty-first, two thou-  
9 sand eleven, up to two million nine hundred thousand dollars each state  
10 fiscal year for the period April first, two thousand eleven through  
11 March thirty-first, two thousand fourteen, and up to two million nine  
12 hundred thousand dollars each state fiscal year for the period April  
13 first, two thousand fourteen through March thirty-first, two thousand  
14 [twenty-three] twenty-six to be allocated (A) for the purposes estab-  
15 lished pursuant to subparagraph (ii) of paragraph (f) of subdivision  
16 nineteen of section twenty-eight hundred seven-c of this article as in  
17 effect on December thirty-first, nineteen hundred ninety-six and as may  
18 thereafter be amended, up to fifteen million dollars annually for the  
19 periods January first, two thousand through December thirty-first, two  
20 thousand four, up to twenty-one million dollars annually for the period  
21 January first, two thousand five through December thirty-first, two  
22 thousand six, and up to seven million five hundred thousand dollars for  
23 the period January first, two thousand seven through March thirty-first,  
24 two thousand seven;

25 (B) pursuant to a memorandum of understanding entered into by the  
26 commissioner, the majority leader of the senate and the speaker of the  
27 assembly, for the purposes outlined in such memorandum upon the recom-  
28 mendation of the majority leader of the senate, up to eight million

1 five hundred thousand dollars annually for the period January first, two  
2 thousand through December thirty-first, two thousand six, and up to four  
3 million two hundred fifty thousand dollars for the period January first,  
4 two thousand seven through June thirtieth, two thousand seven, and for  
5 the purposes outlined in such memorandum upon the recommendation of the  
6 speaker of the assembly, up to eight million five hundred thousand  
7 dollars annually for the periods January first, two thousand through  
8 December thirty-first, two thousand six, and up to four million two  
9 hundred fifty thousand dollars for the period January first, two thou-  
10 sand seven through June thirtieth, two thousand seven; and

11 (C) for services and expenses, including grants, related to emergency  
12 assistance distributions as designated by the commissioner. Notwith-  
13 standing section one hundred twelve or one hundred sixty-three of the  
14 state finance law or any other contrary provision of law, such distrib-  
15 utions shall be limited to providers or programs where, as determined by  
16 the commissioner, emergency assistance is vital to protect the life or  
17 safety of patients, to ensure the retention of facility caregivers or  
18 other staff, or in instances where health facility operations are jeop-  
19 ardized, or where the public health is jeopardized or other emergency  
20 situations exist, up to three million dollars annually for the period  
21 April first, two thousand seven through March thirty-first, two thousand  
22 eleven, up to two million nine hundred thousand dollars each state  
23 fiscal year for the period April first, two thousand eleven through  
24 March thirty-first, two thousand fourteen, up to two million nine  
25 hundred thousand dollars each state fiscal year for the period April  
26 first, two thousand fourteen through March thirty-first, two thousand  
27 seventeen, up to two million nine hundred thousand dollars each state  
28 fiscal year for the period April first, two thousand seventeen through

1 March thirty-first, two thousand twenty, [and] up to two million nine  
2 hundred thousand dollars each state fiscal year for the period April  
3 first, two thousand twenty through March thirty-first, two thousand  
4 twenty-three, and up to two million nine hundred thousand dollars each  
5 state fiscal year for the period April first, two thousand twenty-three  
6 through March thirty-first, two thousand twenty-six. Upon any distrib-  
7 ution of such funds, the commissioner shall immediately notify the chair  
8 and ranking minority member of the senate finance committee, the assem-  
9 bly ways and means committee, the senate committee on health, and the  
10 assembly committee on health;

11 (iv) distributions by the commissioner related to poison control  
12 centers pursuant to subdivision seven of section twenty-five hundred-d  
13 of this chapter, up to five million dollars for the period January  
14 first, nineteen hundred ninety-seven through December thirty-first,  
15 nineteen hundred ninety-seven, up to three million dollars on an annual-  
16 ized basis for the periods during the period January first, nineteen  
17 hundred ninety-eight through December thirty-first, nineteen hundred  
18 ninety-nine, up to five million dollars annually for the periods January  
19 first, two thousand through December thirty-first, two thousand two, up  
20 to four million six hundred thousand dollars annually for the periods  
21 January first, two thousand three through December thirty-first, two  
22 thousand four, up to five million one hundred thousand dollars for the  
23 period January first, two thousand five through December thirty-first,  
24 two thousand six annually, up to five million one hundred thousand  
25 dollars annually for the period January first, two thousand seven  
26 through December thirty-first, two thousand nine, up to three million  
27 six hundred thousand dollars for the period January first, two thousand  
28 ten through December thirty-first, two thousand ten, up to seven hundred

1 seventy-five thousand dollars for the period January first, two thousand  
2 eleven through March thirty-first, two thousand eleven, up to two  
3 million five hundred thousand dollars each state fiscal year for the  
4 period April first, two thousand eleven through March thirty-first, two  
5 thousand fourteen, up to three million dollars each state fiscal year  
6 for the period April first, two thousand fourteen through March thirty-  
7 first, two thousand seventeen, up to three million dollars each state  
8 fiscal year for the period April first, two thousand seventeen through  
9 March thirty-first, two thousand twenty, [and] up to three million  
10 dollars each state fiscal year for the period April first, two thousand  
11 twenty through March thirty-first, two thousand twenty-three, and up to  
12 three million dollars each state fiscal year for the period April first,  
13 two thousand twenty-three through March thirty-first, two thousand twen-  
14 ty-six; and

15 (v) deposit by the commissioner, within amounts appropriated, and the  
16 state comptroller is hereby authorized and directed to receive for  
17 deposit to, to the credit of the department of health's special revenue  
18 fund - other, miscellaneous special revenue fund - 339 maternal and  
19 child HIV services account or the health care reform act (HCRA)  
20 resources fund, whichever is applicable, for purposes of a special  
21 program for HIV services for women and children, including adolescents  
22 pursuant to section twenty-five hundred-f-one of this chapter, up to  
23 five million dollars annually for the periods January first, two thou-  
24 sand through December thirty-first, two thousand two, up to five million  
25 dollars for the period January first, two thousand three through Decem-  
26 ber thirty-first, two thousand three, up to two million five hundred  
27 thousand dollars for the period January first, two thousand four through  
28 December thirty-first, two thousand four, up to two million five hundred

1 thousand dollars for the period January first, two thousand five through  
2 December thirty-first, two thousand five, up to five million dollars for  
3 the period January first, two thousand six through December thirty-  
4 first, two thousand six, up to five million dollars annually for the  
5 period January first, two thousand seven through December thirty-first,  
6 two thousand ten, up to one million two hundred fifty thousand dollars  
7 for the period January first, two thousand eleven through March thirty-  
8 first, two thousand eleven, and up to five million dollars each state  
9 fiscal year for the period April first, two thousand eleven through  
10 March thirty-first, two thousand fourteen;

11 (d) (i) An amount of up to twenty million dollars annually for the  
12 period January first, two thousand through December thirty-first, two  
13 thousand six, up to ten million dollars for the period January first,  
14 two thousand seven through June thirtieth, two thousand seven, up to  
15 twenty million dollars annually for the period January first, two thou-  
16 sand eight through December thirty-first, two thousand ten, up to five  
17 million dollars for the period January first, two thousand eleven  
18 through March thirty-first, two thousand eleven, up to nineteen million  
19 six hundred thousand dollars each state fiscal year for the period April  
20 first, two thousand eleven through March thirty-first, two thousand  
21 fourteen, up to nineteen million six hundred thousand dollars each state  
22 fiscal year for the period April first, two thousand fourteen through  
23 March thirty-first, two thousand seventeen, up to nineteen million six  
24 hundred thousand dollars each state fiscal year for the period of April  
25 first, two thousand seventeen through March thirty-first, two thousand  
26 twenty, [and] up to nineteen million six hundred thousand dollars each  
27 state fiscal year for the period of April first, two thousand twenty  
28 through March thirty-first, two thousand twenty-three, and up to nine-

1 teen million six hundred thousand dollars each state fiscal year for the  
2 period of April first, two thousand twenty-three through March thirty-  
3 first, two thousand twenty-six, shall be transferred to the health  
4 facility restructuring pool established pursuant to section twenty-eight  
5 hundred fifteen of this article;

6 (ii) provided, however, amounts transferred pursuant to subparagraph  
7 (i) of this paragraph may be reduced in an amount to be approved by the  
8 director of the budget to reflect the amount received from the federal  
9 government under the state's 1115 waiver which is directed under its  
10 terms and conditions to the health facility restructuring program.

11 (f) Funds shall be accumulated and transferred from as follows:

12 (i) from the pool for the period January first, nineteen hundred nine-  
13 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
14 (A) thirty-four million six hundred thousand dollars shall be trans-  
15 ferred to funds reserved and accumulated pursuant to paragraph (b) of  
16 subdivision nineteen of section twenty-eight hundred seven-c of this  
17 article, and (B) eighty-two million dollars shall be transferred and  
18 deposited and credited to the credit of the state general fund medical  
19 assistance local assistance account;

20 (ii) from the pool for the period January first, nineteen hundred  
21 ninety-eight through December thirty-first, nineteen hundred ninety-  
22 eight, eighty-two million dollars shall be transferred and deposited and  
23 credited to the credit of the state general fund medical assistance  
24 local assistance account;

25 (iii) from the pool for the period January first, nineteen hundred  
26 ninety-nine through December thirty-first, nineteen hundred ninety-nine,  
27 eighty-two million dollars shall be transferred and deposited and cred-

1 ited to the credit of the state general fund medical assistance local  
2 assistance account;

3 (iv) from the pool or the health care reform act (HCRA) resources  
4 fund, whichever is applicable, for the period January first, two thou-  
5 sand through December thirty-first, two thousand four, eighty-two  
6 million dollars annually, and for the period January first, two thousand  
7 five through December thirty-first, two thousand five, eighty-two  
8 million dollars, and for the period January first, two thousand six  
9 through December thirty-first, two thousand six, eighty-two million  
10 dollars, and for the period January first, two thousand seven through  
11 December thirty-first, two thousand seven, eighty-two million dollars,  
12 and for the period January first, two thousand eight through December  
13 thirty-first, two thousand eight, ninety million seven hundred thousand  
14 dollars shall be deposited by the commissioner, and the state comp-  
15 troller is hereby authorized and directed to receive for deposit to the  
16 credit of the state special revenue fund - other, HCRA transfer fund,  
17 medical assistance account;

18 (v) from the health care reform act (HCRA) resources fund for the  
19 period January first, two thousand nine through December thirty-first,  
20 two thousand nine, one hundred eight million nine hundred seventy-five  
21 thousand dollars, and for the period January first, two thousand ten  
22 through December thirty-first, two thousand ten, one hundred twenty-six  
23 million one hundred thousand dollars, for the period January first, two  
24 thousand eleven through March thirty-first, two thousand eleven, twenty  
25 million five hundred thousand dollars, and for each state fiscal year  
26 for the period April first, two thousand eleven through March thirty-  
27 first, two thousand fourteen, one hundred forty-six million four hundred  
28 thousand dollars, shall be deposited by the commissioner, and the state

1 comptroller is hereby authorized and directed to receive for deposit, to  
2 the credit of the state special revenue fund - other, HCRA transfer  
3 fund, medical assistance account.

4 (g) Funds shall be transferred to primary health care services pools  
5 created by the commissioner, and shall be available, including income  
6 from invested funds, for distributions in accordance with former section  
7 twenty-eight hundred seven-bb of this article from the respective health  
8 care initiatives pools for the following periods in the following  
9 percentage amounts of funds remaining after allocations in accordance  
10 with paragraphs (a) through (f) of this subdivision:

11 (i) from the pool for the period January first, nineteen hundred nine-  
12 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
13 fifteen and eighty-seven-hundredths percent;

14 (ii) from the pool for the period January first, nineteen hundred  
15 ninety-eight through December thirty-first, nineteen hundred ninety-  
16 eight, fifteen and eighty-seven-hundredths percent; and

17 (iii) from the pool for the period January first, nineteen hundred  
18 ninety-nine through December thirty-first, nineteen hundred ninety-nine,  
19 sixteen and thirteen-hundredths percent.

20 (h) Funds shall be reserved and accumulated from year to year by the  
21 commissioner and shall be available, including income from invested  
22 funds, for purposes of primary care education and training pursuant to  
23 article nine of this chapter from the respective health care initiatives  
24 pools established for the following periods in the following percentage  
25 amounts of funds remaining after allocations in accordance with para-  
26 graphs (a) through (f) of this subdivision and shall be available for  
27 distributions as follows:

28 (i) funds shall be reserved and accumulated:

1 (A) from the pool for the period January first, nineteen hundred nine-  
2 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
3 six and thirty-five-hundredths percent;

4 (B) from the pool for the period January first, nineteen hundred nine-  
5 ty-eight through December thirty-first, nineteen hundred ninety-eight,  
6 six and thirty-five-hundredths percent; and

7 (C) from the pool for the period January first, nineteen hundred nine-  
8 ty-nine through December thirty-first, nineteen hundred ninety-nine, six  
9 and forty-five-hundredths percent;

10 (ii) funds shall be available for distributions including income from  
11 invested funds as follows:

12 (A) for purposes of the primary care physician loan repayment program  
13 in accordance with section nine hundred three of this chapter, up to  
14 five million dollars on an annualized basis;

15 (B) for purposes of the primary care practitioner scholarship program  
16 in accordance with section nine hundred four of this chapter, up to two  
17 million dollars on an annualized basis;

18 (C) for purposes of minority participation in medical education grants  
19 in accordance with section nine hundred six of this chapter, up to one  
20 million dollars on an annualized basis; and

21 (D) provided, however, that the commissioner may reallocate any funds  
22 remaining or unallocated for distributions for the primary care practi-  
23 tioner scholarship program in accordance with section nine hundred four  
24 of this chapter.

25 (i) Funds shall be reserved and accumulated from year to year and  
26 shall be available, including income from invested funds, for distrib-  
27 utions in accordance with section twenty-nine hundred fifty-two and  
28 section twenty-nine hundred fifty-eight of this chapter for rural health

1 care delivery development and rural health care access development,  
2 respectively, from the respective health care initiatives pools or the  
3 health care reform act (HCRA) resources fund, whichever is applicable,  
4 for the following periods in the following percentage amounts of funds  
5 remaining after allocations in accordance with paragraphs (a) through  
6 (f) of this subdivision, and for periods on and after January first, two  
7 thousand, in the following amounts:

8 (i) from the pool for the period January first, nineteen hundred nine-  
9 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
10 thirteen and forty-nine-hundredths percent;

11 (ii) from the pool for the period January first, nineteen hundred  
12 ninety-eight through December thirty-first, nineteen hundred ninety-  
13 eight, thirteen and forty-nine-hundredths percent;

14 (iii) from the pool for the period January first, nineteen hundred  
15 ninety-nine through December thirty-first, nineteen hundred ninety-nine,  
16 thirteen and seventy-one-hundredths percent;

17 (iv) from the pool for the periods January first, two thousand through  
18 December thirty-first, two thousand two, seventeen million dollars annu-  
19 ally, and for the period January first, two thousand three through  
20 December thirty-first, two thousand three, up to fifteen million eight  
21 hundred fifty thousand dollars;

22 (v) from the pool or the health care reform act (HCRA) resources fund,  
23 whichever is applicable, for the period January first, two thousand four  
24 through December thirty-first, two thousand four, up to fifteen million  
25 eight hundred fifty thousand dollars, for the period January first, two  
26 thousand five through December thirty-first, two thousand five, up to  
27 nineteen million two hundred thousand dollars, for the period January  
28 first, two thousand six through December thirty-first, two thousand six,

1 up to nineteen million two hundred thousand dollars, for the period  
2 January first, two thousand seven through December thirty-first, two  
3 thousand ten, up to eighteen million one hundred fifty thousand dollars  
4 annually, for the period January first, two thousand eleven through  
5 March thirty-first, two thousand eleven, up to four million five hundred  
6 thirty-eight thousand dollars, for each state fiscal year for the period  
7 April first, two thousand eleven through March thirty-first, two thou-  
8 sand fourteen, up to sixteen million two hundred thousand dollars, up to  
9 sixteen million two hundred thousand dollars each state fiscal year for  
10 the period April first, two thousand fourteen through March thirty-  
11 first, two thousand seventeen, up to sixteen million two hundred thou-  
12 sand dollars each state fiscal year for the period April first, two  
13 thousand seventeen through March thirty-first, two thousand twenty,  
14 [and] up to sixteen million two hundred thousand dollars each state  
15 fiscal year for the period April first, two thousand twenty through  
16 March thirty-first, two thousand twenty-three, and up to sixteen million  
17 two hundred thousand dollars each state fiscal year for the period April  
18 first, two thousand twenty-three through March thirty-first, two thou-  
19 sand twenty-six.

20 (j) Funds shall be reserved and accumulated from year to year and  
21 shall be available, including income from invested funds, for purposes  
22 of distributions related to health information and health care quality  
23 improvement pursuant to former section twenty-eight hundred seven-n of  
24 this article from the respective health care initiatives pools estab-  
25 lished for the following periods in the following percentage amounts of  
26 funds remaining after allocations in accordance with paragraphs (a)  
27 through (f) of this subdivision:

1 (i) from the pool for the period January first, nineteen hundred nine-  
2 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
3 six and thirty-five-hundredths percent;

4 (ii) from the pool for the period January first, nineteen hundred  
5 ninety-eight through December thirty-first, nineteen hundred ninety-  
6 eight, six and thirty-five-hundredths percent; and

7 (iii) from the pool for the period January first, nineteen hundred  
8 ninety-nine through December thirty-first, nineteen hundred ninety-nine,  
9 six and forty-five-hundredths percent.

10 (k) Funds shall be reserved and accumulated from year to year and  
11 shall be available, including income from invested funds, for allo-  
12 cations and distributions in accordance with section twenty-eight  
13 hundred seven-p of this article for diagnostic and treatment center  
14 uncompensated care from the respective health care initiatives pools or  
15 the health care reform act (HCRA) resources fund, whichever is applica-  
16 ble, for the following periods in the following percentage amounts of  
17 funds remaining after allocations in accordance with paragraphs (a)  
18 through (f) of this subdivision, and for periods on and after January  
19 first, two thousand, in the following amounts:

20 (i) from the pool for the period January first, nineteen hundred nine-  
21 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
22 thirty-eight and one-tenth percent;

23 (ii) from the pool for the period January first, nineteen hundred  
24 ninety-eight through December thirty-first, nineteen hundred ninety-  
25 eight, thirty-eight and one-tenth percent;

26 (iii) from the pool for the period January first, nineteen hundred  
27 ninety-nine through December thirty-first, nineteen hundred ninety-nine,  
28 thirty-eight and seventy-one-hundredths percent;

1 (iv) from the pool for the periods January first, two thousand through  
2 December thirty-first, two thousand two, forty-eight million dollars  
3 annually, and for the period January first, two thousand three through  
4 June thirtieth, two thousand three, twenty-four million dollars;

5 (v) (A) from the pool or the health care reform act (HCRA) resources  
6 fund, whichever is applicable, for the period July first, two thousand  
7 three through December thirty-first, two thousand three, up to six  
8 million dollars, for the period January first, two thousand four through  
9 December thirty-first, two thousand six, up to twelve million dollars  
10 annually, for the period January first, two thousand seven through  
11 December thirty-first, two thousand thirteen, up to forty-eight million  
12 dollars annually, for the period January first, two thousand fourteen  
13 through March thirty-first, two thousand fourteen, up to twelve million  
14 dollars for the period April first, two thousand fourteen through March  
15 thirty-first, two thousand seventeen, up to forty-eight million dollars  
16 annually, for the period April first, two thousand seventeen through  
17 March thirty-first, two thousand twenty, up to forty-eight million  
18 dollars annually, [and] for the period April first, two thousand twenty  
19 through March thirty-first, two thousand twenty-three, up to forty-eight  
20 million dollars annually, and for the period April first, two thousand  
21 twenty-three through March thirty-first, two thousand twenty-six, up to  
22 forty-eight million dollars annually;

23 (B) from the health care reform act (HCRA) resources fund for the  
24 period January first, two thousand six through December thirty-first,  
25 two thousand six, an additional seven million five hundred thousand  
26 dollars, for the period January first, two thousand seven through Decem-  
27 ber thirty-first, two thousand thirteen, an additional seven million  
28 five hundred thousand dollars annually, for the period January first,

1 two thousand fourteen through March thirty-first, two thousand fourteen,  
2 an additional one million eight hundred seventy-five thousand dollars,  
3 for the period April first, two thousand fourteen through March thirty-  
4 first, two thousand seventeen, an additional seven million five hundred  
5 thousand dollars annually, for the period April first, two thousand  
6 seventeen through March thirty-first, two thousand twenty, an additional  
7 seven million five hundred thousand dollars annually, [and] for the  
8 period April first, two thousand twenty through March thirty-first, two  
9 thousand twenty-three, an additional seven million five hundred thousand  
10 dollars annually, and for the period April first, two thousand twenty-  
11 three through March thirty-first, two thousand twenty-six, an additional  
12 seven million five hundred thousand dollars annually for voluntary non-  
13 profit diagnostic and treatment center uncompensated care in accordance  
14 with subdivision four-c of section twenty-eight hundred seven-p of this  
15 article; and

16 (vi) funds reserved and accumulated pursuant to this paragraph for  
17 periods on and after July first, two thousand three, shall be deposited  
18 by the commissioner, within amounts appropriated, and the state comp-  
19 troller is hereby authorized and directed to receive for deposit to the  
20 credit of the state special revenue funds - other, HCRA transfer fund,  
21 medical assistance account, for purposes of funding the state share of  
22 rate adjustments made pursuant to section twenty-eight hundred seven-p  
23 of this article, provided, however, that in the event federal financial  
24 participation is not available for rate adjustments made pursuant to  
25 paragraph (b) of subdivision one of section twenty-eight hundred seven-p  
26 of this article, funds shall be distributed pursuant to paragraph (a) of  
27 subdivision one of section twenty-eight hundred seven-p of this article

1 from the respective health care initiatives pools or the health care  
2 reform act (HCRA) resources fund, whichever is applicable.

3 (1) Funds shall be reserved and accumulated from year to year by the  
4 commissioner and shall be available, including income from invested  
5 funds, for transfer to and allocation for services and expenses for the  
6 payment of benefits to recipients of drugs under the AIDS drug assist-  
7 ance program (ADAP) - HIV uninsured care program as administered by  
8 Health Research Incorporated from the respective health care initi-  
9 atives pools or the health care reform act (HCRA) resources fund, which-  
10 ever is applicable, established for the following periods in the follow-  
11 ing percentage amounts of funds remaining after allocations in  
12 accordance with paragraphs (a) through (f) of this subdivision, and for  
13 periods on and after January first, two thousand, in the following  
14 amounts:

15 (i) from the pool for the period January first, nineteen hundred nine-  
16 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
17 nine and fifty-two-hundredths percent;

18 (ii) from the pool for the period January first, nineteen hundred  
19 ninety-eight through December thirty-first, nineteen hundred ninety-  
20 eight, nine and fifty-two-hundredths percent;

21 (iii) from the pool for the period January first, nineteen hundred  
22 ninety-nine and December thirty-first, nineteen hundred ninety-nine,  
23 nine and sixty-eight-hundredths percent;

24 (iv) from the pool for the periods January first, two thousand through  
25 December thirty-first, two thousand two, up to twelve million dollars  
26 annually, and for the period January first, two thousand three through  
27 December thirty-first, two thousand three, up to forty million dollars;  
28 and

1 (v) from the pool or the health care reform act (HCRA) resources fund,  
2 whichever is applicable, for the periods January first, two thousand  
3 four through December thirty-first, two thousand four, up to fifty-six  
4 million dollars, for the period January first, two thousand five through  
5 December thirty-first, two thousand six, up to sixty million dollars  
6 annually, for the period January first, two thousand seven through  
7 December thirty-first, two thousand ten, up to sixty million dollars  
8 annually, for the period January first, two thousand eleven through  
9 March thirty-first, two thousand eleven, up to fifteen million dollars,  
10 each state fiscal year for the period April first, two thousand eleven  
11 through March thirty-first, two thousand fourteen, up to forty-two  
12 million three hundred thousand dollars and up to forty-one million fifty  
13 thousand dollars each state fiscal year for the period April first, two  
14 thousand fourteen through March thirty-first, two thousand [twenty-  
15 three] twenty-six.

16 (m) Funds shall be reserved and accumulated from year to year and  
17 shall be available, including income from invested funds, for purposes  
18 of distributions pursuant to section twenty-eight hundred seven-r of  
19 this article for cancer related services from the respective health care  
20 initiatives pools or the health care reform act (HCRA) resources fund,  
21 whichever is applicable, established for the following periods in the  
22 following percentage amounts of funds remaining after allocations in  
23 accordance with paragraphs (a) through (f) of this subdivision, and for  
24 periods on and after January first, two thousand, in the following  
25 amounts:

26 (i) from the pool for the period January first, nineteen hundred nine-  
27 ty-seven through December thirty-first, nineteen hundred ninety-seven,  
28 seven and ninety-four-hundredths percent;

1 (ii) from the pool for the period January first, nineteen hundred  
2 ninety-eight through December thirty-first, nineteen hundred ninety-  
3 eight, seven and ninety-four-hundredths percent;

4 (iii) from the pool for the period January first, nineteen hundred  
5 ninety-nine and December thirty-first, nineteen hundred ninety-nine, six  
6 and forty-five-hundredths percent;

7 (iv) from the pool for the period January first, two thousand through  
8 December thirty-first, two thousand two, up to ten million dollars on an  
9 annual basis;

10 (v) from the pool for the period January first, two thousand three  
11 through December thirty-first, two thousand four, up to eight million  
12 nine hundred fifty thousand dollars on an annual basis;

13 (vi) from the pool or the health care reform act (HCRA) resources  
14 fund, whichever is applicable, for the period January first, two thou-  
15 sand five through December thirty-first, two thousand six, up to ten  
16 million fifty thousand dollars on an annual basis, for the period Janu-  
17 ary first, two thousand seven through December thirty-first, two thou-  
18 sand ten, up to nineteen million dollars annually, and for the period  
19 January first, two thousand eleven through March thirty-first, two thou-  
20 sand eleven, up to four million seven hundred fifty thousand dollars.

21 (n) Funds shall be accumulated and transferred from the health care  
22 reform act (HCRA) resources fund as follows: for the period April first,  
23 two thousand seven through March thirty-first, two thousand eight, and  
24 on an annual basis for the periods April first, two thousand eight  
25 through November thirtieth, two thousand nine, funds within amounts  
26 appropriated shall be transferred and deposited and credited to the  
27 credit of the state special revenue funds - other, HCRA transfer fund,  
28 medical assistance account, for purposes of funding the state share of

1 rate adjustments made to public and voluntary hospitals in accordance  
2 with paragraphs (i) and (j) of subdivision one of section twenty-eight  
3 hundred seven-c of this article.

4 2. Notwithstanding any inconsistent provision of law, rule or regu-  
5 lation, any funds accumulated in the health care initiatives pools  
6 pursuant to paragraph (b) of subdivision nine of section twenty-eight  
7 hundred seven-j of this article, as a result of surcharges, assessments  
8 or other obligations during the periods January first, nineteen hundred  
9 ninety-seven through December thirty-first, nineteen hundred ninety-  
10 nine, which are unused or uncommitted for distributions pursuant to this  
11 section shall be reserved and accumulated from year to year by the  
12 commissioner and, within amounts appropriated, transferred and deposited  
13 into the special revenue funds - other, miscellaneous special revenue  
14 fund - 339, child health insurance account or any successor fund or  
15 account, for purposes of distributions to implement the child health  
16 insurance program established pursuant to sections twenty-five hundred  
17 ten and twenty-five hundred eleven of this chapter for periods on and  
18 after January first, two thousand one; provided, however, funds reserved  
19 and accumulated for priority distributions pursuant to subparagraph  
20 (iii) of paragraph (c) of subdivision one of this section shall not be  
21 transferred and deposited into such account pursuant to this subdivi-  
22 sion; and provided further, however, that any unused or uncommitted pool  
23 funds accumulated and allocated pursuant to paragraph (j) of subdivision  
24 one of this section shall be distributed for purposes of the health  
25 information and quality improvement act of 2000.

26 3. Revenue from distributions pursuant to this section shall not be  
27 included in gross revenue received for purposes of the assessments  
28 pursuant to subdivision eighteen of section twenty-eight hundred seven-c

1 of this article, subject to the provisions of paragraph (e) of subdivi-  
2 sion eighteen of section twenty-eight hundred seven-c of this article,  
3 and shall not be included in gross revenue received for purposes of the  
4 assessments pursuant to section twenty-eight hundred seven-d of this  
5 article, subject to the provisions of subdivision twelve of section  
6 twenty-eight hundred seven-d of this article.

7 § 6. Subdivision 5-a of section 2807-m of the public health law, as  
8 amended by section 6 of part Y of chapter 56 of the laws of 2020, is  
9 amended to read as follows:

10 5-a. Graduate medical education innovations pool. (a) Supplemental  
11 distributions. (i) Thirty-one million dollars for the period January  
12 first, two thousand eight through December thirty-first, two thousand  
13 eight, shall be set aside and reserved by the commissioner from the  
14 regional pools established pursuant to subdivision two of this section  
15 and shall be available for distributions pursuant to subdivision five of  
16 this section and in accordance with section 86-1.89 of title 10 of the  
17 codes, rules and regulations of the state of New York as in effect on  
18 January first, two thousand eight; provided, however, for purposes of  
19 funding the empire clinical research investigation program (ECRIP) in  
20 accordance with paragraph eight of subdivision (e) and paragraph two of  
21 subdivision (f) of section 86-1.89 of title 10 of the codes, rules and  
22 regulations of the state of New York, distributions shall be made using  
23 two regions defined as New York city and the rest of the state and the  
24 dollar amount set forth in subparagraph (i) of paragraph two of subdivi-  
25 sion (f) of section 86-1.89 of title 10 of the codes, rules and regu-  
26 lations of the state of New York shall be increased from sixty thousand  
27 dollars to seventy-five thousand dollars.

1 (ii) For periods on and after January first, two thousand nine,  
2 supplemental distributions pursuant to subdivision five of this section  
3 and in accordance with section 86-1.89 of title 10 of the codes, rules  
4 and regulations of the state of New York shall no longer be made and the  
5 provisions of section 86-1.89 of title 10 of the codes, rules and regu-  
6 lations of the state of New York shall be null and void.

7 (b) Empire clinical research investigator program (ECRIP). Nine  
8 million one hundred twenty thousand dollars annually for the period  
9 January first, two thousand nine through December thirty-first, two  
10 thousand ten, and two million two hundred eighty thousand dollars for  
11 the period January first, two thousand eleven, through March thirty-  
12 first, two thousand eleven, nine million one hundred twenty thousand  
13 dollars each state fiscal year for the period April first, two thousand  
14 eleven through March thirty-first, two thousand fourteen, up to eight  
15 million six hundred twelve thousand dollars each state fiscal year for  
16 the period April first, two thousand fourteen through March thirty-  
17 first, two thousand seventeen, up to eight million six hundred twelve  
18 thousand dollars each state fiscal year for the period April first, two  
19 thousand seventeen through March thirty-first, two thousand twenty,  
20 [and] up to eight million six hundred twelve thousand dollars each state  
21 fiscal year for the period April first, two thousand twenty through  
22 March thirty-first, two thousand twenty-three, and up to eight million  
23 six hundred twelve thousand dollars each state fiscal year for the peri-  
24 od April first, two thousand twenty-three through March thirty-first,  
25 two thousand twenty-six, shall be set aside and reserved by the commis-  
26 sioner from the regional pools established pursuant to subdivision two  
27 of this section to be allocated regionally with two-thirds of the avail-  
28 able funding going to New York city and one-third of the available fund-

1 ing going to the rest of the state and shall be available for distrib-  
2 ution as follows:

3 Distributions shall first be made to consortia and teaching general  
4 hospitals for the empire clinical research investigator program (ECRIP)  
5 to help secure federal funding for biomedical research, train clinical  
6 researchers, recruit national leaders as faculty to act as mentors, and  
7 train residents and fellows in biomedical research skills based on  
8 hospital-specific data submitted to the commissioner by consortia and  
9 teaching general hospitals in accordance with clause (G) of this subpar-  
10 agraph. Such distributions shall be made in accordance with the follow-  
11 ing methodology:

12 (A) The greatest number of clinical research positions for which a  
13 consortium or teaching general hospital may be funded pursuant to this  
14 subparagraph shall be one percent of the total number of residents  
15 training at the consortium or teaching general hospital on July first,  
16 two thousand eight for the period January first, two thousand nine  
17 through December thirty-first, two thousand nine rounded up to the near-  
18 est one position.

19 (B) Distributions made to a consortium or teaching general hospital  
20 shall equal the product of the total number of clinical research posi-  
21 tions submitted by a consortium or teaching general hospital and  
22 accepted by the commissioner as meeting the criteria set forth in para-  
23 graph (b) of subdivision one of this section, subject to the reduction  
24 calculation set forth in clause (C) of this subparagraph, times one  
25 hundred ten thousand dollars.

26 (C) If the dollar amount for the total number of clinical research  
27 positions in the region calculated pursuant to clause (B) of this  
28 subparagraph exceeds the total amount appropriated for purposes of this

1 paragraph, including clinical research positions that continue from and  
2 were funded in prior distribution periods, the commissioner shall elimi-  
3 nate one-half of the clinical research positions submitted by each  
4 consortium or teaching general hospital rounded down to the nearest one  
5 position. Such reduction shall be repeated until the dollar amount for  
6 the total number of clinical research positions in the region does not  
7 exceed the total amount appropriated for purposes of this paragraph. If  
8 the repeated reduction of the total number of clinical research posi-  
9 tions in the region by one-half does not render a total funding amount  
10 that is equal to or less than the total amount reserved for that region  
11 within the appropriation, the funding for each clinical research posi-  
12 tion in that region shall be reduced proportionally in one thousand  
13 dollar increments until the total dollar amount for the total number of  
14 clinical research positions in that region does not exceed the total  
15 amount reserved for that region within the appropriation. Any reduction  
16 in funding will be effective for the duration of the award. No clinical  
17 research positions that continue from and were funded in prior distrib-  
18 ution periods shall be eliminated or reduced by such methodology.

19 (D) Each consortium or teaching general hospital shall receive its  
20 annual distribution amount in accordance with the following:

21 (I) Each consortium or teaching general hospital with a one-year ECRIP  
22 award shall receive its annual distribution amount in full upon  
23 completion of the requirements set forth in items (I) and (II) of clause  
24 (G) of this subparagraph. The requirements set forth in items (IV) and  
25 (V) of clause (G) of this subparagraph must be completed by the consor-  
26 tium or teaching general hospital in order for the consortium or teach-  
27 ing general hospital to be eligible to apply for ECRIP funding in any  
28 subsequent funding cycle.

1 (II) Each consortium or teaching general hospital with a two-year  
2 ECRIP award shall receive its first annual distribution amount in full  
3 upon completion of the requirements set forth in items (I) and (II) of  
4 clause (G) of this subparagraph. Each consortium or teaching general  
5 hospital will receive its second annual distribution amount in full upon  
6 completion of the requirements set forth in item (III) of clause (G) of  
7 this subparagraph. The requirements set forth in items (IV) and (V) of  
8 clause (G) of this subparagraph must be completed by the consortium or  
9 teaching general hospital in order for the consortium or teaching gener-  
10 al hospital to be eligible to apply for ECRIP funding in any subsequent  
11 funding cycle.

12 (E) Each consortium or teaching general hospital receiving distrib-  
13 utions pursuant to this subparagraph shall reserve seventy-five thousand  
14 dollars to primarily fund salary and fringe benefits of the clinical  
15 research position with the remainder going to fund the development of  
16 faculty who are involved in biomedical research, training and clinical  
17 care.

18 (F) Undistributed or returned funds available to fund clinical  
19 research positions pursuant to this paragraph for a distribution period  
20 shall be available to fund clinical research positions in a subsequent  
21 distribution period.

22 (G) In order to be eligible for distributions pursuant to this subpar-  
23 agraph, each consortium and teaching general hospital shall provide to  
24 the commissioner by July first of each distribution period, the follow-  
25 ing data and information on a hospital-specific basis. Such data and  
26 information shall be certified as to accuracy and completeness by the  
27 chief executive officer, chief financial officer or chair of the consor-  
28 tium governing body of each consortium or teaching general hospital and

1 shall be maintained by each consortium and teaching general hospital for  
2 five years from the date of submission:

3 (I) For each clinical research position, information on the type,  
4 scope, training objectives, institutional support, clinical research  
5 experience of the sponsor-mentor, plans for submitting research outcomes  
6 to peer reviewed journals and at scientific meetings, including a meet-  
7 ing sponsored by the department, the name of a principal contact person  
8 responsible for tracking the career development of researchers placed in  
9 clinical research positions, as defined in paragraph (c) of subdivision  
10 one of this section, and who is authorized to certify to the commission-  
11 er that all the requirements of the clinical research training objec-  
12 tives set forth in this subparagraph shall be met. Such certification  
13 shall be provided by July first of each distribution period;

14 (II) For each clinical research position, information on the name,  
15 citizenship status, medical education and training, and medical license  
16 number of the researcher, if applicable, shall be provided by December  
17 thirty-first of the calendar year following the distribution period;

18 (III) Information on the status of the clinical research plan, accom-  
19 plishments, changes in research activities, progress, and performance of  
20 the researcher shall be provided upon completion of one-half of the  
21 award term;

22 (IV) A final report detailing training experiences, accomplishments,  
23 activities and performance of the clinical researcher, and data, meth-  
24 ods, results and analyses of the clinical research plan shall be  
25 provided three months after the clinical research position ends; and

26 (V) Tracking information concerning past researchers, including but  
27 not limited to (A) background information, (B) employment history, (C)  
28 research status, (D) current research activities, (E) publications and

1 presentations, (F) research support, and (G) any other information  
2 necessary to track the researcher; and

3 (VI) Any other data or information required by the commissioner to  
4 implement this subparagraph.

5 (H) Notwithstanding any inconsistent provision of this subdivision,  
6 for periods on and after April first, two thousand thirteen, ECRIP grant  
7 awards shall be made in accordance with rules and regulations promulgat-  
8 ed by the commissioner. Such regulations shall, at a minimum:

9 (1) provide that ECRIP grant awards shall be made with the objective  
10 of securing federal funding for biomedical research, training clinical  
11 researchers, recruiting national leaders as faculty to act as mentors,  
12 and training residents and fellows in biomedical research skills;

13 (2) provide that ECRIP grant applicants may include interdisciplinary  
14 research teams comprised of teaching general hospitals acting in collab-  
15 oration with entities including but not limited to medical centers,  
16 hospitals, universities and local health departments;

17 (3) provide that applications for ECRIP grant awards shall be based on  
18 such information requested by the commissioner, which shall include but  
19 not be limited to hospital-specific data;

20 (4) establish the qualifications for investigators and other staff  
21 required for grant projects eligible for ECRIP grant awards; and

22 (5) establish a methodology for the distribution of funds under ECRIP  
23 grant awards.

24 (c) Physician loan repayment program. One million nine hundred sixty  
25 thousand dollars for the period January first, two thousand eight  
26 through December thirty-first, two thousand eight, one million nine  
27 hundred sixty thousand dollars for the period January first, two thou-  
28 sand nine through December thirty-first, two thousand nine, one million

1 nine hundred sixty thousand dollars for the period January first, two  
2 thousand ten through December thirty-first, two thousand ten, four  
3 hundred ninety thousand dollars for the period January first, two thou-  
4 sand eleven through March thirty-first, two thousand eleven, one million  
5 seven hundred thousand dollars each state fiscal year for the period  
6 April first, two thousand eleven through March thirty-first, two thou-  
7 sand fourteen, up to one million seven hundred five thousand dollars  
8 each state fiscal year for the period April first, two thousand fourteen  
9 through March thirty-first, two thousand seventeen, up to one million  
10 seven hundred five thousand dollars each state fiscal year for the peri-  
11 od April first, two thousand seventeen through March thirty-first, two  
12 thousand twenty, [and] up to one million seven hundred five thousand  
13 dollars each state fiscal year for the period April first, two thousand  
14 twenty through March thirty-first, two thousand twenty-three, and up to  
15 one million seven hundred five thousand dollars each state fiscal year  
16 for the period April first, two thousand twenty-three through March  
17 thirty-first, two thousand twenty-six, shall be set aside and reserved  
18 by the commissioner from the regional pools established pursuant to  
19 subdivision two of this section and shall be available for purposes of  
20 physician loan repayment in accordance with subdivision ten of this  
21 section. Notwithstanding any contrary provision of this section,  
22 sections one hundred twelve and one hundred sixty-three of the state  
23 finance law, or any other contrary provision of law, such funding shall  
24 be allocated regionally with one-third of available funds going to New  
25 York city and two-thirds of available funds going to the rest of the  
26 state and shall be distributed in a manner to be determined by the  
27 commissioner without a competitive bid or request for proposal process  
28 as follows:

1 (i) Funding shall first be awarded to repay loans of up to twenty-five  
2 physicians who train in primary care or specialty tracks in teaching  
3 general hospitals, and who enter and remain in primary care or specialty  
4 practices in underserved communities, as determined by the commissioner.

5 (ii) After distributions in accordance with subparagraph (i) of this  
6 paragraph, all remaining funds shall be awarded to repay loans of physi-  
7 cians who enter and remain in primary care or specialty practices in  
8 underserved communities, as determined by the commissioner, including  
9 but not limited to physicians working in general hospitals, or other  
10 health care facilities.

11 (iii) In no case shall less than fifty percent of the funds available  
12 pursuant to this paragraph be distributed in accordance with subpara-  
13 graphs (i) and (ii) of this paragraph to physicians identified by gener-  
14 al hospitals.

15 (iv) In addition to the funds allocated under this paragraph, for the  
16 period April first, two thousand fifteen through March thirty-first, two  
17 thousand sixteen, two million dollars shall be available for the  
18 purposes described in subdivision ten of this section;

19 (v) In addition to the funds allocated under this paragraph, for the  
20 period April first, two thousand sixteen through March thirty-first, two  
21 thousand seventeen, two million dollars shall be available for the  
22 purposes described in subdivision ten of this section;

23 (vi) Notwithstanding any provision of law to the contrary, and subject  
24 to the extension of the Health Care Reform Act of 1996, sufficient funds  
25 shall be available for the purposes described in subdivision ten of this  
26 section in amounts necessary to fund the remaining year commitments for  
27 awards made pursuant to subparagraphs (iv) and (v) of this paragraph.

1 (d) Physician practice support. Four million nine hundred thousand  
2 dollars for the period January first, two thousand eight through Decem-  
3 ber thirty-first, two thousand eight, four million nine hundred thousand  
4 dollars annually for the period January first, two thousand nine through  
5 December thirty-first, two thousand ten, one million two hundred twen-  
6 ty-five thousand dollars for the period January first, two thousand  
7 eleven through March thirty-first, two thousand eleven, four million  
8 three hundred thousand dollars each state fiscal year for the period  
9 April first, two thousand eleven through March thirty-first, two thou-  
10 sand fourteen, up to four million three hundred sixty thousand dollars  
11 each state fiscal year for the period April first, two thousand fourteen  
12 through March thirty-first, two thousand seventeen, up to four million  
13 three hundred sixty thousand dollars for each state fiscal year for the  
14 period April first, two thousand seventeen through March thirty-first,  
15 two thousand twenty, [and] up to four million three hundred sixty thou-  
16 sand dollars for each fiscal year for the period April first, two thou-  
17 sand twenty through March thirty-first, two thousand twenty-three, and  
18 up to four million three hundred sixty thousand dollars for each fiscal  
19 year for the period April first, two thousand twenty-three through March  
20 thirty-first, two thousand twenty-six, shall be set aside and reserved  
21 by the commissioner from the regional pools established pursuant to  
22 subdivision two of this section and shall be available for purposes of  
23 physician practice support. Notwithstanding any contrary provision of  
24 this section, sections one hundred twelve and one hundred sixty-three of  
25 the state finance law, or any other contrary provision of law, such  
26 funding shall be allocated regionally with one-third of available funds  
27 going to New York city and two-thirds of available funds going to the  
28 rest of the state and shall be distributed in a manner to be determined

1 by the commissioner without a competitive bid or request for proposal  
2 process as follows:

3 (i) Preference in funding shall first be accorded to teaching general  
4 hospitals for up to twenty-five awards, to support costs incurred by  
5 physicians trained in primary or specialty tracks who thereafter estab-  
6 lish or join practices in underserved communities, as determined by the  
7 commissioner.

8 (ii) After distributions in accordance with subparagraph (i) of this  
9 paragraph, all remaining funds shall be awarded to physicians to support  
10 the cost of establishing or joining practices in underserved communi-  
11 ties, as determined by the commissioner, and to hospitals and other  
12 health care providers to recruit new physicians to provide services in  
13 underserved communities, as determined by the commissioner.

14 (iii) In no case shall less than fifty percent of the funds available  
15 pursuant to this paragraph be distributed to general hospitals in  
16 accordance with subparagraphs (i) and (ii) of this paragraph.

17 (e) Work group. For funding available pursuant to paragraphs (c)  
18 [and], (d) and (e) of this subdivision:

19 (i) The department shall appoint a work group from recommendations  
20 made by associations representing physicians, general hospitals and  
21 other health care facilities to develop a streamlined application proc-  
22 ess by June first, two thousand twelve.

23 (ii) Subject to available funding, applications shall be accepted on a  
24 continuous basis. The department shall provide technical assistance to  
25 applicants to facilitate their completion of applications. An applicant  
26 shall be notified in writing by the department within ten days of  
27 receipt of an application as to whether the application is complete and  
28 if the application is incomplete, what information is outstanding. The

1 department shall act on an application within thirty days of receipt of  
2 a complete application.

3 (f) Study on physician workforce. Five hundred ninety thousand dollars  
4 annually for the period January first, two thousand eight through Decem-  
5 ber thirty-first, two thousand ten, one hundred forty-eight thousand  
6 dollars for the period January first, two thousand eleven through March  
7 thirty-first, two thousand eleven, five hundred sixteen thousand dollars  
8 each state fiscal year for the period April first, two thousand eleven  
9 through March thirty-first, two thousand fourteen, up to four hundred  
10 eighty-seven thousand dollars each state fiscal year for the period  
11 April first, two thousand fourteen through March thirty-first, two thou-  
12 sand seventeen, up to four hundred eighty-seven thousand dollars for  
13 each state fiscal year for the period April first, two thousand seven-  
14 teen through March thirty-first, two thousand twenty, [and] up to four  
15 hundred eighty-seven thousand dollars each state fiscal year for the  
16 period April first, two thousand twenty through March thirty-first, two  
17 thousand twenty-three, and up to four hundred eighty-seven thousand  
18 dollars each state fiscal year for the period April first, two thousand  
19 twenty-three through March thirty-first, two thousand twenty-six, shall  
20 be set aside and reserved by the commissioner from the regional pools  
21 established pursuant to subdivision two of this section and shall be  
22 available to fund a study of physician workforce needs and solutions  
23 including, but not limited to, an analysis of residency programs and  
24 projected physician workforce and community needs. The commissioner  
25 shall enter into agreements with one or more organizations to conduct  
26 such study based on a request for proposal process.

27 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding  
28 any inconsistent provision of section one hundred twelve or one hundred

1 sixty-three of the state finance law or any other law, one million nine  
2 hundred sixty thousand dollars annually for the period January first,  
3 two thousand eight through December thirty-first, two thousand ten, four  
4 hundred ninety thousand dollars for the period January first, two thou-  
5 sand eleven through March thirty-first, two thousand eleven, one million  
6 seven hundred thousand dollars each state fiscal year for the period  
7 April first, two thousand eleven through March thirty-first, two thou-  
8 sand fourteen, up to one million six hundred five thousand dollars each  
9 state fiscal year for the period April first, two thousand fourteen  
10 through March thirty-first, two thousand seventeen, up to one million  
11 six hundred five thousand dollars each state fiscal year for the period  
12 April first, two thousand seventeen through March thirty-first, two  
13 thousand twenty, [and] up to one million six hundred five thousand  
14 dollars each state fiscal year for the period April first, two thousand  
15 twenty through March thirty-first, two thousand twenty-three, and up to  
16 one million six hundred five thousand dollars each state fiscal year for  
17 the period April first, two thousand twenty-three through March thirty-  
18 first, two thousand twenty-six, shall be set aside and reserved by the  
19 commissioner from the regional pools established pursuant to subdivision  
20 two of this section and shall be available for distributions to the  
21 Associated Medical Schools of New York to fund its diversity program  
22 including existing and new post-baccalaureate programs for minority and  
23 economically disadvantaged students and encourage participation from all  
24 medical schools in New York. The associated medical schools of New York  
25 shall report to the commissioner on an annual basis regarding the use of  
26 funds for such purpose in such form and manner as specified by the  
27 commissioner.

1 (h) In the event there are undistributed funds within amounts made  
2 available for distributions pursuant to this subdivision, such funds may  
3 be reallocated and distributed in current or subsequent distribution  
4 periods in a manner determined by the commissioner for any purpose set  
5 forth in this subdivision.

6 § 7. Subdivision 4-c of section 2807-p of the public health law, as  
7 amended by section 10 of part Y of chapter 56 of the laws of 2020, is  
8 amended to read as follows:

9 4-c. Notwithstanding any provision of law to the contrary, the commis-  
10 sioner shall make additional payments for uncompensated care to volun-  
11 tary non-profit diagnostic and treatment centers that are eligible for  
12 distributions under subdivision four of this section in the following  
13 amounts: for the period June first, two thousand six through December  
14 thirty-first, two thousand six, in the amount of seven million five  
15 hundred thousand dollars, for the period January first, two thousand  
16 seven through December thirty-first, two thousand seven, seven million  
17 five hundred thousand dollars, for the period January first, two thou-  
18 sand eight through December thirty-first, two thousand eight, seven  
19 million five hundred thousand dollars, for the period January first, two  
20 thousand nine through December thirty-first, two thousand nine, fifteen  
21 million five hundred thousand dollars, for the period January first, two  
22 thousand ten through December thirty-first, two thousand ten, seven  
23 million five hundred thousand dollars, for the period January first, two  
24 thousand eleven through December thirty-first, two thousand eleven, seven  
25 million five hundred thousand dollars, for the period January first, two  
26 thousand twelve through December thirty-first, two thousand twelve,  
27 seven million five hundred thousand dollars, for the period January  
28 first, two thousand thirteen through December thirty-first, two thousand

1 thirteen, seven million five hundred thousand dollars, for the period  
2 January first, two thousand fourteen through December thirty-first, two  
3 thousand fourteen, seven million five hundred thousand dollars, for the  
4 period January first, two thousand fifteen through December thirty-  
5 first, two thousand fifteen, seven million five hundred thousand  
6 dollars, for the period January first two thousand sixteen through  
7 December thirty-first, two thousand sixteen, seven million five hundred  
8 thousand dollars, for the period January first, two thousand seventeen  
9 through December thirty-first, two thousand seventeen, seven million  
10 five hundred thousand dollars, for the period January first, two thou-  
11 sand eighteen through December thirty-first, two thousand eighteen,  
12 seven million five hundred thousand dollars, for the period January  
13 first, two thousand nineteen through December thirty-first, two thousand  
14 nineteen, seven million five hundred thousand dollars, for the period  
15 January first, two thousand twenty through December thirty-first, two  
16 thousand twenty, seven million five hundred thousand dollars, for the  
17 period January first, two thousand twenty-one through December thirty-  
18 first, two thousand twenty-one, seven million five hundred thousand  
19 dollars, for the period January first, two thousand twenty-two through  
20 December thirty-first, two thousand twenty-two, seven million five  
21 hundred thousand dollars, for the period January first, two thousand  
22 twenty-three through December thirty-first, two thousand twenty-three,  
23 seven million five hundred thousand dollars, for the period January  
24 first, two thousand twenty-four through December thirty-first, two thou-  
25 sand twenty-four, seven million five hundred thousand dollars, for the  
26 period January first, two thousand twenty-five through December thirty-  
27 first, two thousand twenty-five, seven million five hundred thousand  
28 dollars, and for the period January first, two thousand [twenty-three]

1 twenty-six through March thirty-first, two thousand [twenty-three] twen-  
2 ty-six, in the amount of one million six hundred thousand dollars,  
3 provided, however, that for periods on and after January first, two  
4 thousand eight, such additional payments shall be distributed to volun-  
5 tary, non-profit diagnostic and treatment centers and to public diagnos-  
6 tic and treatment centers in accordance with paragraph (g) of subdivi-  
7 sion four of this section. In the event that federal financial  
8 participation is available for rate adjustments pursuant to this  
9 section, the commissioner shall make such payments as additional adjust-  
10 ments to rates of payment for voluntary non-profit diagnostic and treat-  
11 ment centers that are eligible for distributions under subdivision  
12 four-a of this section in the following amounts: for the period June  
13 first, two thousand six through December thirty-first, two thousand six,  
14 fifteen million dollars in the aggregate, and for the period January  
15 first, two thousand seven through June thirtieth, two thousand seven,  
16 seven million five hundred thousand dollars in the aggregate. The  
17 amounts allocated pursuant to this paragraph shall be aggregated with  
18 and distributed pursuant to the same methodology applicable to the  
19 amounts allocated to such diagnostic and treatment centers for such  
20 periods pursuant to subdivision four of this section if federal finan-  
21 cial participation is not available, or pursuant to subdivision four-a  
22 of this section if federal financial participation is available.  
23 Notwithstanding section three hundred sixty-eight-a of the social  
24 services law, there shall be no local share in a medical assistance  
25 payment adjustment under this subdivision.

26 § 8. Subparagraph (xv) of paragraph (a) of subdivision 6 of section  
27 2807-s of the public health law, as amended by section 11 of part Y of

1 chapter 56 of the laws of 2020, is amended and a new subparagraph (xvi)  
2 is added to read as follows:

3 (xv) A gross annual statewide amount for the period January first, two  
4 thousand fifteen through December thirty-first, two thousand [twenty-  
5 three] twenty-two, shall be one billion forty-five million dollars.

6 (xvi) A gross annual statewide amount for the period January first,  
7 two thousand twenty-three to December thirty-first, two thousand twen-  
8 ty-six shall be one billion eighty-five million dollars, forty million  
9 dollars annually of which shall be allocated under section twenty-eight  
10 hundred seven-o of this article among the municipalities of and the  
11 state of New York based on each municipality's share and the state's  
12 share of early intervention program expenditures not reimbursable by the  
13 medical assistance program for the latest twelve month period for which  
14 such data is available.

15 § 9. Paragraph (g) of subdivision 6 of section 2807-s of the public  
16 health law, as added by chapter 820 of the laws of 2021, is amended to  
17 read as follows:

18 (g) A further gross statewide amount for the state fiscal year two  
19 thousand twenty-two [and each state fiscal year thereafter] shall be  
20 forty million dollars.

21 § 10. Subparagraph (xiii) of paragraph (a) of subdivision 7 of section  
22 2807-s of the public health law, as amended by section 12 of part Y of  
23 chapter 56 of the laws of 2020, is amended to read as follows:

24 (xiii) twenty-three million eight hundred thirty-six thousand dollars  
25 each state fiscal year for the period April first, two thousand twelve  
26 through March thirty-first, two thousand [twenty-three] twenty-six;

1 § 11. Subdivision 6 of section 2807-t of the public health law, as  
2 amended by section 13 of part Y of chapter 56 of the laws of 2020, is  
3 amended to read as follows:

4 6. Prospective adjustments. (a) The commissioner shall annually recon-  
5 cile the sum of the actual payments made to the commissioner or the  
6 commissioner's designee for each region pursuant to section twenty-eight  
7 hundred seven-s of this article and pursuant to this section for the  
8 prior year with the regional allocation of the gross annual statewide  
9 amount specified in subdivision six of section twenty-eight hundred  
10 seven-s of this article for such prior year. The difference between the  
11 actual amount raised for a region and the regional allocation of the  
12 specified gross annual amount for such prior year shall be applied as a  
13 prospective adjustment to the regional allocation of the specified gross  
14 annual payment amount for such region for the year next following the  
15 calculation of the reconciliation. The authorized dollar value of the  
16 adjustments shall be the same as if calculated retrospectively.

17 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
18 sion, for covered lives assessment rate periods on and after January  
19 first, two thousand fifteen through December thirty-first, two thousand  
20 [twenty-three] twenty-one, for amounts collected in the aggregate in  
21 excess of one billion forty-five million dollars on an annual basis, and  
22 for the period January first, two thousand twenty-two to December thir-  
23 ty-first, two thousand twenty-six for amounts collected in the aggregate  
24 in excess of one billion eighty-five million dollars on an annual basis,  
25 prospective adjustments shall be suspended if the annual reconciliation  
26 calculation from the prior year would otherwise result in a decrease to  
27 the regional allocation of the specified gross annual payment amount for  
28 that region, provided, however, that such suspension shall be lifted

1 upon a determination by the commissioner, in consultation with the  
2 director of the budget, that sixty-five million dollars in aggregate  
3 collections on an annual basis over and above one billion forty-five  
4 million dollars on an annual basis for the period on and after January  
5 first, two thousand fifteen through December thirty-first, two thousand  
6 twenty-one and for the period January first, two thousand twenty-two to  
7 December thirty-first, two thousand twenty-six for amounts collected in  
8 the aggregate in excess of one billion eighty-five million dollars on an  
9 annual basis have been reserved and set aside for deposit in the HCRA  
10 resources fund. Any amounts collected in the aggregate at or below one  
11 billion forty-five million dollars on an annual basis for the period on  
12 and after January first, two thousand fifteen through December thirty-  
13 first, two thousand twenty-two, and for the period January first, two  
14 thousand twenty-three to December thirty-first, two thousand twenty-six  
15 for amounts collected in the aggregate in excess of one billion eighty-  
16 five million dollars on an annual basis, shall be subject to regional  
17 adjustments reconciling any decreases or increases to the regional allo-  
18 cation in accordance with paragraph (a) of this subdivision.

19 § 12. Section 2807-v of the public health law, as amended by section  
20 14 of part Y of chapter 56 of the laws of 2020, is amended to read as  
21 follows:

22 § 2807-v. Tobacco control and insurance initiatives pool distrib-  
23 utions. 1. Funds accumulated in the tobacco control and insurance  
24 initiatives pool or in the health care reform act (HCRA) resources fund  
25 established pursuant to section ninety-two-dd of the state finance law,  
26 whichever is applicable, including income from invested funds, shall be  
27 distributed or retained by the commissioner or by the state comptroller,  
28 as applicable, in accordance with the following:

1 (a) Funds shall be deposited by the commissioner, within amounts  
2 appropriated, and the state comptroller is hereby authorized and  
3 directed to receive for deposit to the credit of the state special  
4 revenue funds - other, HCRA transfer fund, medicaid fraud hotline and  
5 medicaid administration account, or any successor fund or account, for  
6 purposes of services and expenses related to the toll-free medicaid  
7 fraud hotline established pursuant to section one hundred eight of chap-  
8 ter one of the laws of nineteen hundred ninety-nine from the tobacco  
9 control and insurance initiatives pool established for the following  
10 periods in the following amounts: four hundred thousand dollars annually  
11 for the periods January first, two thousand through December thirty-  
12 first, two thousand two, up to four hundred thousand dollars for the  
13 period January first, two thousand three through December thirty-first,  
14 two thousand three, up to four hundred thousand dollars for the period  
15 January first, two thousand four through December thirty-first, two  
16 thousand four, up to four hundred thousand dollars for the period Janu-  
17 ary first, two thousand five through December thirty-first, two thousand  
18 five, up to four hundred thousand dollars for the period January first,  
19 two thousand six through December thirty-first, two thousand six, up to  
20 four hundred thousand dollars for the period January first, two thousand  
21 seven through December thirty-first, two thousand seven, up to four  
22 hundred thousand dollars for the period January first, two thousand  
23 eight through December thirty-first, two thousand eight, up to four  
24 hundred thousand dollars for the period January first, two thousand nine  
25 through December thirty-first, two thousand nine, up to four hundred  
26 thousand dollars for the period January first, two thousand ten through  
27 December thirty-first, two thousand ten, up to one hundred thousand  
28 dollars for the period January first, two thousand eleven through March

1 thirty-first, two thousand eleven and within amounts appropriated on and  
2 after April first, two thousand eleven.

3 (b) Funds shall be reserved and accumulated from year to year and  
4 shall be available, including income from invested funds, for purposes  
5 of payment of audits or audit contracts necessary to determine payor and  
6 provider compliance with requirements set forth in sections twenty-eight  
7 hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred  
8 seven-t of this article from the tobacco control and insurance initi-  
9 atives pool established for the following periods in the following  
10 amounts: five million six hundred thousand dollars annually for the  
11 periods January first, two thousand through December thirty-first, two  
12 thousand two, up to five million dollars for the period January first,  
13 two thousand three through December thirty-first, two thousand three, up  
14 to five million dollars for the period January first, two thousand four  
15 through December thirty-first, two thousand four, up to five million  
16 dollars for the period January first, two thousand five through December  
17 thirty-first, two thousand five, up to five million dollars for the  
18 period January first, two thousand six through December thirty-first,  
19 two thousand six, up to seven million eight hundred thousand dollars for  
20 the period January first, two thousand seven through December thirty-  
21 first, two thousand seven, and up to eight million three hundred twen-  
22 ty-five thousand dollars for the period January first, two thousand  
23 eight through December thirty-first, two thousand eight, up to eight  
24 million five hundred thousand dollars for the period January first, two  
25 thousand nine through December thirty-first, two thousand nine, up to  
26 eight million five hundred thousand dollars for the period January  
27 first, two thousand ten through December thirty-first, two thousand ten,  
28 up to two million one hundred twenty-five thousand dollars for the peri-

1 od January first, two thousand eleven through March thirty-first, two  
2 thousand eleven, up to fourteen million seven hundred thousand dollars  
3 each state fiscal year for the period April first, two thousand eleven  
4 through March thirty-first, two thousand fourteen, up to eleven million  
5 one hundred thousand dollars each state fiscal year for the period April  
6 first, two thousand fourteen through March thirty-first, two thousand  
7 seventeen, up to eleven million one hundred thousand dollars each state  
8 fiscal year for the period April first, two thousand seventeen through  
9 March thirty-first, two thousand twenty, [and] up to eleven million one  
10 hundred thousand dollars each state fiscal year for the period April  
11 first, two thousand twenty through March thirty-first, two thousand  
12 twenty-three, and up to eleven million one hundred thousand dollars each  
13 state fiscal year for the period April first, two thousand twenty-three  
14 through March thirty-first, two thousand twenty-six.

15 (c) Funds shall be deposited by the commissioner, within amounts  
16 appropriated, and the state comptroller is hereby authorized and  
17 directed to receive for deposit to the credit of the state special  
18 revenue funds - other, HCRA transfer fund, enhanced community services  
19 account, or any successor fund or account, for mental health services  
20 programs for case management services for adults and children; supported  
21 housing; home and community based waiver services; family based treat-  
22 ment; family support services; mobile mental health teams; transitional  
23 housing; and community oversight, established pursuant to articles seven  
24 and forty-one of the mental hygiene law and subdivision nine of section  
25 three hundred sixty-six of the social services law; and for comprehen-  
26 sive care centers for eating disorders pursuant to the former section  
27 twenty-seven hundred ninety-nine-1 of this chapter, provided however  
28 that, for such centers, funds in the amount of five hundred thousand

1 dollars on an annualized basis shall be transferred from the enhanced  
2 community services account, or any successor fund or account, and depos-  
3 ited into the fund established by section ninety-five-e of the state  
4 finance law; from the tobacco control and insurance initiatives pool  
5 established for the following periods in the following amounts:

6 (i) forty-eight million dollars to be reserved, to be retained or for  
7 distribution pursuant to a chapter of the laws of two thousand, for the  
8 period January first, two thousand through December thirty-first, two  
9 thousand;

10 (ii) eighty-seven million dollars to be reserved, to be retained or  
11 for distribution pursuant to a chapter of the laws of two thousand one,  
12 for the period January first, two thousand one through December thirty-  
13 first, two thousand one;

14 (iii) eighty-seven million dollars to be reserved, to be retained or  
15 for distribution pursuant to a chapter of the laws of two thousand two,  
16 for the period January first, two thousand two through December thirty-  
17 first, two thousand two;

18 (iv) eighty-eight million dollars to be reserved, to be retained or  
19 for distribution pursuant to a chapter of the laws of two thousand  
20 three, for the period January first, two thousand three through December  
21 thirty-first, two thousand three;

22 (v) eighty-eight million dollars, plus five hundred thousand dollars,  
23 to be reserved, to be retained or for distribution pursuant to a chapter  
24 of the laws of two thousand four, and pursuant to the former section  
25 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-  
26 ary first, two thousand four through December thirty-first, two thousand  
27 four;

1 (vi) eighty-eight million dollars, plus five hundred thousand dollars,  
2 to be reserved, to be retained or for distribution pursuant to a chapter  
3 of the laws of two thousand five, and pursuant to the former section  
4 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-  
5 ary first, two thousand five through December thirty-first, two thousand  
6 five;

7 (vii) eighty-eight million dollars, plus five hundred thousand  
8 dollars, to be reserved, to be retained or for distribution pursuant to  
9 a chapter of the laws of two thousand six, and pursuant to former  
10 section twenty-seven hundred ninety-nine-1 of this chapter, for the  
11 period January first, two thousand six through December thirty-first,  
12 two thousand six;

13 (viii) eighty-six million four hundred thousand dollars, plus five  
14 hundred thousand dollars, to be reserved, to be retained or for distrib-  
15 ution pursuant to a chapter of the laws of two thousand seven and pursu-  
16 ant to the former section twenty-seven hundred ninety-nine-1 of this  
17 chapter, for the period January first, two thousand seven through Decem-  
18 ber thirty-first, two thousand seven; and

19 (ix) twenty-two million nine hundred thirteen thousand dollars, plus  
20 one hundred twenty-five thousand dollars, to be reserved, to be retained  
21 or for distribution pursuant to a chapter of the laws of two thousand  
22 eight and pursuant to the former section twenty-seven hundred ninety-  
23 nine-1 of this chapter, for the period January first, two thousand eight  
24 through March thirty-first, two thousand eight.

25 (d) Funds shall be deposited by the commissioner, within amounts  
26 appropriated, and the state comptroller is hereby authorized and  
27 directed to receive for deposit to the credit of the state special  
28 revenue funds - other, HCRA transfer fund, medical assistance account,

1 or any successor fund or account, for purposes of funding the state  
2 share of services and expenses related to the family health plus program  
3 including up to two and one-half million dollars annually for the period  
4 January first, two thousand through December thirty-first, two thousand  
5 two, for administration and marketing costs associated with such program  
6 established pursuant to clause (A) of subparagraph (v) of paragraph (a)  
7 of subdivision two of section three hundred sixty-nine-ee of the social  
8 services law from the tobacco control and insurance initiatives pool  
9 established for the following periods in the following amounts:

10 (i) three million five hundred thousand dollars for the period January  
11 first, two thousand through December thirty-first, two thousand;

12 (ii) twenty-seven million dollars for the period January first, two  
13 thousand one through December thirty-first, two thousand one; and

14 (iii) fifty-seven million dollars for the period January first, two  
15 thousand two through December thirty-first, two thousand two.

16 (e) Funds shall be deposited by the commissioner, within amounts  
17 appropriated, and the state comptroller is hereby authorized and  
18 directed to receive for deposit to the credit of the state special  
19 revenue funds - other, HCRA transfer fund, medical assistance account,  
20 or any successor fund or account, for purposes of funding the state  
21 share of services and expenses related to the family health plus program  
22 including up to two and one-half million dollars annually for the period  
23 January first, two thousand through December thirty-first, two thousand  
24 two for administration and marketing costs associated with such program  
25 established pursuant to clause (B) of subparagraph (v) of paragraph (a)  
26 of subdivision two of section three hundred sixty-nine-ee of the social  
27 services law from the tobacco control and insurance initiatives pool  
28 established for the following periods in the following amounts:

1 (i) two million five hundred thousand dollars for the period January  
2 first, two thousand through December thirty-first, two thousand;

3 (ii) thirty million five hundred thousand dollars for the period Janu-  
4 ary first, two thousand one through December thirty-first, two thousand  
5 one; and

6 (iii) sixty-six million dollars for the period January first, two  
7 thousand two through December thirty-first, two thousand two.

8 (f) Funds shall be deposited by the commissioner, within amounts  
9 appropriated, and the state comptroller is hereby authorized and  
10 directed to receive for deposit to the credit of the state special  
11 revenue funds - other, HCRA transfer fund, medicaid fraud hotline and  
12 medicaid administration account, or any successor fund or account, for  
13 purposes of payment of administrative expenses of the department related  
14 to the family health plus program established pursuant to section three  
15 hundred sixty-nine-ee of the social services law from the tobacco  
16 control and insurance initiatives pool established for the following  
17 periods in the following amounts: five hundred thousand dollars on an  
18 annual basis for the periods January first, two thousand through Decem-  
19 ber thirty-first, two thousand six, five hundred thousand dollars for  
20 the period January first, two thousand seven through December thirty-  
21 first, two thousand seven, and five hundred thousand dollars for the  
22 period January first, two thousand eight through December thirty-first,  
23 two thousand eight, five hundred thousand dollars for the period January  
24 first, two thousand nine through December thirty-first, two thousand  
25 nine, five hundred thousand dollars for the period January first, two  
26 thousand ten through December thirty-first, two thousand ten, one  
27 hundred twenty-five thousand dollars for the period January first, two  
28 thousand eleven through March thirty-first, two thousand eleven and

1 within amounts appropriated on and after April first, two thousand elev-  
2 en.

3 (g) Funds shall be reserved and accumulated from year to year and  
4 shall be available, including income from invested funds, for purposes  
5 of services and expenses related to the health maintenance organization  
6 direct pay market program established pursuant to sections forty-three  
7 hundred twenty-one-a and forty-three hundred twenty-two-a of the insur-  
8 ance law from the tobacco control and insurance initiatives pool estab-  
9 lished for the following periods in the following amounts:

10 (i) up to thirty-five million dollars for the period January first,  
11 two thousand through December thirty-first, two thousand of which fifty  
12 percentum shall be allocated to the program pursuant to section four  
13 thousand three hundred twenty-one-a of the insurance law and fifty  
14 percentum to the program pursuant to section four thousand three hundred  
15 twenty-two-a of the insurance law;

16 (ii) up to thirty-six million dollars for the period January first,  
17 two thousand one through December thirty-first, two thousand one of  
18 which fifty percentum shall be allocated to the program pursuant to  
19 section four thousand three hundred twenty-one-a of the insurance law  
20 and fifty percentum to the program pursuant to section four thousand  
21 three hundred twenty-two-a of the insurance law;

22 (iii) up to thirty-nine million dollars for the period January first,  
23 two thousand two through December thirty-first, two thousand two of  
24 which fifty percentum shall be allocated to the program pursuant to  
25 section four thousand three hundred twenty-one-a of the insurance law  
26 and fifty percentum to the program pursuant to section four thousand  
27 three hundred twenty-two-a of the insurance law;

1 (iv) up to forty million dollars for the period January first, two  
2 thousand three through December thirty-first, two thousand three of  
3 which fifty percentum shall be allocated to the program pursuant to  
4 section four thousand three hundred twenty-one-a of the insurance law  
5 and fifty percentum to the program pursuant to section four thousand  
6 three hundred twenty-two-a of the insurance law;

7 (v) up to forty million dollars for the period January first, two  
8 thousand four through December thirty-first, two thousand four of which  
9 fifty percentum shall be allocated to the program pursuant to section  
10 four thousand three hundred twenty-one-a of the insurance law and fifty  
11 percentum to the program pursuant to section four thousand three hundred  
12 twenty-two-a of the insurance law;

13 (vi) up to forty million dollars for the period January first, two  
14 thousand five through December thirty-first, two thousand five of which  
15 fifty percentum shall be allocated to the program pursuant to section  
16 four thousand three hundred twenty-one-a of the insurance law and fifty  
17 percentum to the program pursuant to section four thousand three hundred  
18 twenty-two-a of the insurance law;

19 (vii) up to forty million dollars for the period January first, two  
20 thousand six through December thirty-first, two thousand six of which  
21 fifty percentum shall be allocated to the program pursuant to section  
22 four thousand three hundred twenty-one-a of the insurance law and fifty  
23 percentum shall be allocated to the program pursuant to section four  
24 thousand three hundred twenty-two-a of the insurance law;

25 (viii) up to forty million dollars for the period January first, two  
26 thousand seven through December thirty-first, two thousand seven of  
27 which fifty percentum shall be allocated to the program pursuant to  
28 section four thousand three hundred twenty-one-a of the insurance law

1 and fifty percentum shall be allocated to the program pursuant to  
2 section four thousand three hundred twenty-two-a of the insurance law;  
3 and

4 (ix) up to forty million dollars for the period January first, two  
5 thousand eight through December thirty-first, two thousand eight of  
6 which fifty per centum shall be allocated to the program pursuant to  
7 section four thousand three hundred twenty-one-a of the insurance law  
8 and fifty per centum shall be allocated to the program pursuant to  
9 section four thousand three hundred twenty-two-a of the insurance law.

10 (h) Funds shall be reserved and accumulated from year to year and  
11 shall be available, including income from invested funds, for purposes  
12 of services and expenses related to the healthy New York individual  
13 program established pursuant to sections four thousand three hundred  
14 twenty-six and four thousand three hundred twenty-seven of the insurance  
15 law from the tobacco control and insurance initiatives pool established  
16 for the following periods in the following amounts:

17 (i) up to six million dollars for the period January first, two thou-  
18 sand one through December thirty-first, two thousand one;

19 (ii) up to twenty-nine million dollars for the period January first,  
20 two thousand two through December thirty-first, two thousand two;

21 (iii) up to five million one hundred thousand dollars for the period  
22 January first, two thousand three through December thirty-first, two  
23 thousand three;

24 (iv) up to twenty-four million six hundred thousand dollars for the  
25 period January first, two thousand four through December thirty-first,  
26 two thousand four;

1 (v) up to thirty-four million six hundred thousand dollars for the  
2 period January first, two thousand five through December thirty-first,  
3 two thousand five;

4 (vi) up to fifty-four million eight hundred thousand dollars for the  
5 period January first, two thousand six through December thirty-first,  
6 two thousand six;

7 (vii) up to sixty-one million seven hundred thousand dollars for the  
8 period January first, two thousand seven through December thirty-first,  
9 two thousand seven; and

10 (viii) up to one hundred three million seven hundred fifty thousand  
11 dollars for the period January first, two thousand eight through Decem-  
12 ber thirty-first, two thousand eight.

13 (i) Funds shall be reserved and accumulated from year to year and  
14 shall be available, including income from invested funds, for purposes  
15 of services and expenses related to the healthy New York group program  
16 established pursuant to sections four thousand three hundred twenty-six  
17 and four thousand three hundred twenty-seven of the insurance law from  
18 the tobacco control and insurance initiatives pool established for the  
19 following periods in the following amounts:

20 (i) up to thirty-four million dollars for the period January first,  
21 two thousand one through December thirty-first, two thousand one;

22 (ii) up to seventy-seven million dollars for the period January first,  
23 two thousand two through December thirty-first, two thousand two;

24 (iii) up to ten million five hundred thousand dollars for the period  
25 January first, two thousand three through December thirty-first, two  
26 thousand three;

1 (iv) up to twenty-four million six hundred thousand dollars for the  
2 period January first, two thousand four through December thirty-first,  
3 two thousand four;

4 (v) up to thirty-four million six hundred thousand dollars for the  
5 period January first, two thousand five through December thirty-first,  
6 two thousand five;

7 (vi) up to fifty-four million eight hundred thousand dollars for the  
8 period January first, two thousand six through December thirty-first,  
9 two thousand six;

10 (vii) up to sixty-one million seven hundred thousand dollars for the  
11 period January first, two thousand seven through December thirty-first,  
12 two thousand seven; and

13 (viii) up to one hundred three million seven hundred fifty thousand  
14 dollars for the period January first, two thousand eight through Decem-  
15 ber thirty-first, two thousand eight.

16 (i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this  
17 subdivision, the commissioner shall reserve and accumulate up to two  
18 million five hundred thousand dollars annually for the periods January  
19 first, two thousand four through December thirty-first, two thousand  
20 six, one million four hundred thousand dollars for the period January  
21 first, two thousand seven through December thirty-first, two thousand  
22 seven, two million dollars for the period January first, two thousand  
23 eight through December thirty-first, two thousand eight, from funds  
24 otherwise available for distribution under such paragraphs for the  
25 services and expenses related to the pilot program for entertainment  
26 industry employees included in subsection (b) of section one thousand  
27 one hundred twenty-two of the insurance law, and an additional seven  
28 hundred thousand dollars annually for the periods January first, two

1 thousand four through December thirty-first, two thousand six, an addi-  
2 tional three hundred thousand dollars for the period January first, two  
3 thousand seven through June thirtieth, two thousand seven for services  
4 and expenses related to the pilot program for displaced workers included  
5 in subsection (c) of section one thousand one hundred twenty-two of the  
6 insurance law.

7 (j) Funds shall be reserved and accumulated from year to year and  
8 shall be available, including income from invested funds, for purposes  
9 of services and expenses related to the tobacco use prevention and  
10 control program established pursuant to sections thirteen hundred nine-  
11 ty-nine-ii and thirteen hundred ninety-nine-jj of this chapter, from the  
12 tobacco control and insurance initiatives pool established for the  
13 following periods in the following amounts:

14 (i) up to thirty million dollars for the period January first, two  
15 thousand through December thirty-first, two thousand;

16 (ii) up to forty million dollars for the period January first, two  
17 thousand one through December thirty-first, two thousand one;

18 (iii) up to forty million dollars for the period January first, two  
19 thousand two through December thirty-first, two thousand two;

20 (iv) up to thirty-six million nine hundred fifty thousand dollars for  
21 the period January first, two thousand three through December thirty-  
22 first, two thousand three;

23 (v) up to thirty-six million nine hundred fifty thousand dollars for  
24 the period January first, two thousand four through December thirty-  
25 first, two thousand four;

26 (vi) up to forty million six hundred thousand dollars for the period  
27 January first, two thousand five through December thirty-first, two  
28 thousand five;

1 (vii) up to eighty-one million nine hundred thousand dollars for the  
2 period January first, two thousand six through December thirty-first,  
3 two thousand six, provided, however, that within amounts appropriated, a  
4 portion of such funds may be transferred to the Roswell Park Cancer  
5 Institute Corporation to support costs associated with cancer research;

6 (viii) up to ninety-four million one hundred fifty thousand dollars  
7 for the period January first, two thousand seven through December thir-  
8 ty-first, two thousand seven, provided, however, that within amounts  
9 appropriated, a portion of such funds may be transferred to the Roswell  
10 Park Cancer Institute Corporation to support costs associated with  
11 cancer research;

12 (ix) up to ninety-four million one hundred fifty thousand dollars for  
13 the period January first, two thousand eight through December thirty-  
14 first, two thousand eight;

15 (x) up to ninety-four million one hundred fifty thousand dollars for  
16 the period January first, two thousand nine through December thirty-  
17 first, two thousand nine;

18 (xi) up to eighty-seven million seven hundred seventy-five thousand  
19 dollars for the period January first, two thousand ten through December  
20 thirty-first, two thousand ten;

21 (xii) up to twenty-one million four hundred twelve thousand dollars  
22 for the period January first, two thousand eleven through March thirty-  
23 first, two thousand eleven;

24 (xiii) up to fifty-two million one hundred thousand dollars each state  
25 fiscal year for the period April first, two thousand eleven through  
26 March thirty-first, two thousand fourteen;

1 (xiv) up to six million dollars each state fiscal year for the period  
2 April first, two thousand fourteen through March thirty-first, two thou-  
3 sand seventeen;

4 (xv) up to six million dollars each state fiscal year for the period  
5 April first, two thousand seventeen through March thirty-first, two  
6 thousand twenty; [and]

7 (xvi) up to six million dollars each state fiscal year for the period  
8 April first, two thousand twenty through March thirty-first, two thou-  
9 sand twenty-three; and

10 (xvii) up to six million dollars each state fiscal year for the period  
11 April first, two thousand twenty-three through March thirty-first, two  
12 thousand twenty-six.

13 (k) Funds shall be deposited by the commissioner, within amounts  
14 appropriated, and the state comptroller is hereby authorized and  
15 directed to receive for deposit to the credit of the state special  
16 revenue fund - other, HCRA transfer fund, health care services account,  
17 or any successor fund or account, for purposes of services and expenses  
18 related to public health programs, including comprehensive care centers  
19 for eating disorders pursuant to the former section twenty-seven hundred  
20 ninety-nine-1 of this chapter, provided however that, for such centers,  
21 funds in the amount of five hundred thousand dollars on an annualized  
22 basis shall be transferred from the health care services account, or any  
23 successor fund or account, and deposited into the fund established by  
24 section ninety-five-e of the state finance law for periods prior to  
25 March thirty-first, two thousand eleven, from the tobacco control and  
26 insurance initiatives pool established for the following periods in the  
27 following amounts:

1 (i) up to thirty-one million dollars for the period January first, two  
2 thousand through December thirty-first, two thousand;

3 (ii) up to forty-one million dollars for the period January first, two  
4 thousand one through December thirty-first, two thousand one;

5 (iii) up to eighty-one million dollars for the period January first,  
6 two thousand two through December thirty-first, two thousand two;

7 (iv) one hundred twenty-two million five hundred thousand dollars for  
8 the period January first, two thousand three through December thirty-  
9 first, two thousand three;

10 (v) one hundred eight million five hundred seventy-five thousand  
11 dollars, plus an additional five hundred thousand dollars, for the peri-  
12 od January first, two thousand four through December thirty-first, two  
13 thousand four;

14 (vi) ninety-one million eight hundred thousand dollars, plus an addi-  
15 tional five hundred thousand dollars, for the period January first, two  
16 thousand five through December thirty-first, two thousand five;

17 (vii) one hundred fifty-six million six hundred thousand dollars, plus  
18 an additional five hundred thousand dollars, for the period January  
19 first, two thousand six through December thirty-first, two thousand six;

20 (viii) one hundred fifty-one million four hundred thousand dollars,  
21 plus an additional five hundred thousand dollars, for the period January  
22 first, two thousand seven through December thirty-first, two thousand  
23 seven;

24 (ix) one hundred sixteen million nine hundred forty-nine thousand  
25 dollars, plus an additional five hundred thousand dollars, for the peri-  
26 od January first, two thousand eight through December thirty-first, two  
27 thousand eight;

1 (x) one hundred sixteen million nine hundred forty-nine thousand  
2 dollars, plus an additional five hundred thousand dollars, for the peri-  
3 od January first, two thousand nine through December thirty-first, two  
4 thousand nine;

5 (xi) one hundred sixteen million nine hundred forty-nine thousand  
6 dollars, plus an additional five hundred thousand dollars, for the peri-  
7 od January first, two thousand ten through December thirty-first, two  
8 thousand ten;

9 (xii) twenty-nine million two hundred thirty-seven thousand two  
10 hundred fifty dollars, plus an additional one hundred twenty-five thou-  
11 sand dollars, for the period January first, two thousand eleven through  
12 March thirty-first, two thousand eleven;

13 (xiii) one hundred twenty million thirty-eight thousand dollars for  
14 the period April first, two thousand eleven through March thirty-first,  
15 two thousand twelve; and

16 (xiv) one hundred nineteen million four hundred seven thousand dollars  
17 each state fiscal year for the period April first, two thousand twelve  
18 through March thirty-first, two thousand fourteen.

19 (1) Funds shall be deposited by the commissioner, within amounts  
20 appropriated, and the state comptroller is hereby authorized and  
21 directed to receive for deposit to the credit of the state special  
22 revenue funds - other, HCRA transfer fund, medical assistance account,  
23 or any successor fund or account, for purposes of funding the state  
24 share of the personal care and certified home health agency rate or fee  
25 increases established pursuant to subdivision three of section three  
26 hundred sixty-seven-o of the social services law from the tobacco  
27 control and insurance initiatives pool established for the following  
28 periods in the following amounts:

1 (i) twenty-three million two hundred thousand dollars for the period  
2 January first, two thousand through December thirty-first, two thousand;

3 (ii) twenty-three million two hundred thousand dollars for the period  
4 January first, two thousand one through December thirty-first, two thou-  
5 sand one;

6 (iii) twenty-three million two hundred thousand dollars for the period  
7 January first, two thousand two through December thirty-first, two thou-  
8 sand two;

9 (iv) up to sixty-five million two hundred thousand dollars for the  
10 period January first, two thousand three through December thirty-first,  
11 two thousand three;

12 (v) up to sixty-five million two hundred thousand dollars for the  
13 period January first, two thousand four through December thirty-first,  
14 two thousand four;

15 (vi) up to sixty-five million two hundred thousand dollars for the  
16 period January first, two thousand five through December thirty-first,  
17 two thousand five;

18 (vii) up to sixty-five million two hundred thousand dollars for the  
19 period January first, two thousand six through December thirty-first,  
20 two thousand six;

21 (viii) up to sixty-five million two hundred thousand dollars for the  
22 period January first, two thousand seven through December thirty-first,  
23 two thousand seven; and

24 (ix) up to sixteen million three hundred thousand dollars for the  
25 period January first, two thousand eight through March thirty-first, two  
26 thousand eight.

27 (m) Funds shall be deposited by the commissioner, within amounts  
28 appropriated, and the state comptroller is hereby authorized and

1 directed to receive for deposit to the credit of the state special  
2 revenue funds - other, HCRA transfer fund, medical assistance account,  
3 or any successor fund or account, for purposes of funding the state  
4 share of services and expenses related to home care workers insurance  
5 pilot demonstration programs established pursuant to subdivision two of  
6 section three hundred sixty-seven-o of the social services law from the  
7 tobacco control and insurance initiatives pool established for the  
8 following periods in the following amounts:

9 (i) three million eight hundred thousand dollars for the period Janu-  
10 ary first, two thousand through December thirty-first, two thousand;

11 (ii) three million eight hundred thousand dollars for the period Janu-  
12 ary first, two thousand one through December thirty-first, two thousand  
13 one;

14 (iii) three million eight hundred thousand dollars for the period  
15 January first, two thousand two through December thirty-first, two thou-  
16 sand two;

17 (iv) up to three million eight hundred thousand dollars for the period  
18 January first, two thousand three through December thirty-first, two  
19 thousand three;

20 (v) up to three million eight hundred thousand dollars for the period  
21 January first, two thousand four through December thirty-first, two  
22 thousand four;

23 (vi) up to three million eight hundred thousand dollars for the period  
24 January first, two thousand five through December thirty-first, two  
25 thousand five;

26 (vii) up to three million eight hundred thousand dollars for the peri-  
27 od January first, two thousand six through December thirty-first, two  
28 thousand six;

1 (viii) up to three million eight hundred thousand dollars for the  
2 period January first, two thousand seven through December thirty-first,  
3 two thousand seven; and

4 (ix) up to nine hundred fifty thousand dollars for the period January  
5 first, two thousand eight through March thirty-first, two thousand  
6 eight.

7 (n) Funds shall be transferred by the commissioner and shall be depos-  
8 ited to the credit of the special revenue funds - other, miscellaneous  
9 special revenue fund - 339, elderly pharmaceutical insurance coverage  
10 program premium account authorized pursuant to the provisions of title  
11 three of article two of the elder law, or any successor fund or account,  
12 for funding state expenses relating to the program from the tobacco  
13 control and insurance initiatives pool established for the following  
14 periods in the following amounts:

15 (i) one hundred seven million dollars for the period January first,  
16 two thousand through December thirty-first, two thousand;

17 (ii) one hundred sixty-four million dollars for the period January  
18 first, two thousand one through December thirty-first, two thousand one;

19 (iii) three hundred twenty-two million seven hundred thousand dollars  
20 for the period January first, two thousand two through December thirty-  
21 first, two thousand two;

22 (iv) four hundred thirty-three million three hundred thousand dollars  
23 for the period January first, two thousand three through December thir-  
24 ty-first, two thousand three;

25 (v) five hundred four million one hundred fifty thousand dollars for  
26 the period January first, two thousand four through December thirty-  
27 first, two thousand four;

1 (vi) five hundred sixty-six million eight hundred thousand dollars for  
2 the period January first, two thousand five through December thirty-  
3 first, two thousand five;

4 (vii) six hundred three million one hundred fifty thousand dollars for  
5 the period January first, two thousand six through December thirty-  
6 first, two thousand six;

7 (viii) six hundred sixty million eight hundred thousand dollars for  
8 the period January first, two thousand seven through December thirty-  
9 first, two thousand seven;

10 (ix) three hundred sixty-seven million four hundred sixty-three thou-  
11 sand dollars for the period January first, two thousand eight through  
12 December thirty-first, two thousand eight;

13 (x) three hundred thirty-four million eight hundred twenty-five thou-  
14 sand dollars for the period January first, two thousand nine through  
15 December thirty-first, two thousand nine;

16 (xi) three hundred forty-four million nine hundred thousand dollars  
17 for the period January first, two thousand ten through December thirty-  
18 first, two thousand ten;

19 (xii) eighty-seven million seven hundred eighty-eight thousand dollars  
20 for the period January first, two thousand eleven through March thirty-  
21 first, two thousand eleven;

22 (xiii) one hundred forty-three million one hundred fifty thousand  
23 dollars for the period April first, two thousand eleven through March  
24 thirty-first, two thousand twelve;

25 (xiv) one hundred twenty million nine hundred fifty thousand dollars  
26 for the period April first, two thousand twelve through March thirty-  
27 first, two thousand thirteen;

1 (xv) one hundred twenty-eight million eight hundred fifty thousand  
2 dollars for the period April first, two thousand thirteen through March  
3 thirty-first, two thousand fourteen;

4 (xvi) one hundred twenty-seven million four hundred sixteen thousand  
5 dollars each state fiscal year for the period April first, two thousand  
6 fourteen through March thirty-first, two thousand seventeen;

7 (xvii) one hundred twenty-seven million four hundred sixteen thousand  
8 dollars each state fiscal year for the period April first, two thousand  
9 seventeen through March thirty-first, two thousand twenty; [and]

10 (xviii) one hundred twenty-seven million four hundred sixteen thousand  
11 dollars each state fiscal year for the period April first, two thousand  
12 twenty through March thirty-first, two thousand twenty-three; and

13 (xix) one hundred twenty-seven million four hundred sixteen thousand  
14 dollars each state fiscal year for the period April first, two thousand  
15 twenty-three through March thirty-first, two thousand twenty-six.

16 (o) Funds shall be reserved and accumulated and shall be transferred  
17 to the Roswell Park Cancer Institute Corporation, from the tobacco  
18 control and insurance initiatives pool established for the following  
19 periods in the following amounts:

20 (i) up to ninety million dollars for the period January first, two  
21 thousand through December thirty-first, two thousand;

22 (ii) up to sixty million dollars for the period January first, two  
23 thousand one through December thirty-first, two thousand one;

24 (iii) up to eighty-five million dollars for the period January first,  
25 two thousand two through December thirty-first, two thousand two;

26 (iv) eighty-five million two hundred fifty thousand dollars for the  
27 period January first, two thousand three through December thirty-first,  
28 two thousand three;

- 1 (v) seventy-eight million dollars for the period January first, two  
2 thousand four through December thirty-first, two thousand four;
- 3 (vi) seventy-eight million dollars for the period January first, two  
4 thousand five through December thirty-first, two thousand five;
- 5 (vii) ninety-one million dollars for the period January first, two  
6 thousand six through December thirty-first, two thousand six;
- 7 (viii) seventy-eight million dollars for the period January first, two  
8 thousand seven through December thirty-first, two thousand seven;
- 9 (ix) seventy-eight million dollars for the period January first, two  
10 thousand eight through December thirty-first, two thousand eight;
- 11 (x) seventy-eight million dollars for the period January first, two  
12 thousand nine through December thirty-first, two thousand nine;
- 13 (xi) seventy-eight million dollars for the period January first, two  
14 thousand ten through December thirty-first, two thousand ten;
- 15 (xii) nineteen million five hundred thousand dollars for the period  
16 January first, two thousand eleven through March thirty-first, two thou-  
17 sand eleven;
- 18 (xiii) sixty-nine million eight hundred forty thousand dollars each  
19 state fiscal year for the period April first, two thousand eleven  
20 through March thirty-first, two thousand fourteen;
- 21 (xiv) up to ninety-six million six hundred thousand dollars each state  
22 fiscal year for the period April first, two thousand fourteen through  
23 March thirty-first, two thousand seventeen;
- 24 (xv) up to ninety-six million six hundred thousand dollars each state  
25 fiscal year for the period April first, two thousand seventeen through  
26 March thirty-first, two thousand twenty; [and]

1 (xvi) up to ninety-six million six hundred thousand dollars each state  
2 fiscal year for the period April first, two thousand twenty through  
3 March thirty-first, two thousand twenty-three; and

4 (xvii) up to ninety-six million six hundred thousand dollars each  
5 state fiscal year for the period April first, two thousand twenty-three  
6 through March thirty-first, two thousand twenty-six.

7 (p) Funds shall be deposited by the commissioner, within amounts  
8 appropriated, and the state comptroller is hereby authorized and  
9 directed to receive for deposit to the credit of the state special  
10 revenue funds - other, indigent care fund - 068, indigent care account,  
11 or any successor fund or account, for purposes of providing a medicaid  
12 disproportionate share payment from the high need indigent care adjust-  
13 ment pool established pursuant to section twenty-eight hundred seven-w  
14 of this article, from the tobacco control and insurance initiatives pool  
15 established for the following periods in the following amounts:

16 (i) eighty-two million dollars annually for the periods January first,  
17 two thousand through December thirty-first, two thousand two;

18 (ii) up to eighty-two million dollars for the period January first,  
19 two thousand three through December thirty-first, two thousand three;

20 (iii) up to eighty-two million dollars for the period January first,  
21 two thousand four through December thirty-first, two thousand four;

22 (iv) up to eighty-two million dollars for the period January first,  
23 two thousand five through December thirty-first, two thousand five;

24 (v) up to eighty-two million dollars for the period January first, two  
25 thousand six through December thirty-first, two thousand six;

26 (vi) up to eighty-two million dollars for the period January first,  
27 two thousand seven through December thirty-first, two thousand seven;

1 (vii) up to eighty-two million dollars for the period January first,  
2 two thousand eight through December thirty-first, two thousand eight;

3 (viii) up to eighty-two million dollars for the period January first,  
4 two thousand nine through December thirty-first, two thousand nine;

5 (ix) up to eighty-two million dollars for the period January first,  
6 two thousand ten through December thirty-first, two thousand ten;

7 (x) up to twenty million five hundred thousand dollars for the period  
8 January first, two thousand eleven through March thirty-first, two thou-  
9 sand eleven; and

10 (xi) up to eighty-two million dollars each state fiscal year for the  
11 period April first, two thousand eleven through March thirty-first, two  
12 thousand fourteen.

13 (q) Funds shall be reserved and accumulated from year to year and  
14 shall be available, including income from invested funds, for purposes  
15 of providing distributions to eligible school based health centers  
16 established pursuant to section eighty-eight of chapter one of the laws  
17 of nineteen hundred ninety-nine, from the tobacco control and insurance  
18 initiatives pool established for the following periods in the following  
19 amounts:

20 (i) seven million dollars annually for the period January first, two  
21 thousand through December thirty-first, two thousand two;

22 (ii) up to seven million dollars for the period January first, two  
23 thousand three through December thirty-first, two thousand three;

24 (iii) up to seven million dollars for the period January first, two  
25 thousand four through December thirty-first, two thousand four;

26 (iv) up to seven million dollars for the period January first, two  
27 thousand five through December thirty-first, two thousand five;

1 (v) up to seven million dollars for the period January first, two  
2 thousand six through December thirty-first, two thousand six;

3 (vi) up to seven million dollars for the period January first, two  
4 thousand seven through December thirty-first, two thousand seven;

5 (vii) up to seven million dollars for the period January first, two  
6 thousand eight through December thirty-first, two thousand eight;

7 (viii) up to seven million dollars for the period January first, two  
8 thousand nine through December thirty-first, two thousand nine;

9 (ix) up to seven million dollars for the period January first, two  
10 thousand ten through December thirty-first, two thousand ten;

11 (x) up to one million seven hundred fifty thousand dollars for the  
12 period January first, two thousand eleven through March thirty-first,  
13 two thousand eleven;

14 (xi) up to five million six hundred thousand dollars each state fiscal  
15 year for the period April first, two thousand eleven through March thir-  
16 ty-first, two thousand fourteen;

17 (xii) up to five million two hundred eighty-eight thousand dollars  
18 each state fiscal year for the period April first, two thousand fourteen  
19 through March thirty-first, two thousand seventeen;

20 (xiii) up to five million two hundred eighty-eight thousand dollars  
21 each state fiscal year for the period April first, two thousand seven-  
22 teen through March thirty-first, two thousand twenty; [and]

23 (xiv) up to five million two hundred eighty-eight thousand dollars  
24 each state fiscal year for the period April first, two thousand twenty  
25 through March thirty-first, two thousand twenty-three; and

26 (xv) up to five million two hundred eighty-eight thousand dollars each  
27 state fiscal year for the period April first, two thousand twenty-three  
28 through March thirty-first, two thousand twenty-six.

1 (r) Funds shall be deposited by the commissioner within amounts appro-  
2 priated, and the state comptroller is hereby authorized and directed to  
3 receive for deposit to the credit of the state special revenue funds -  
4 other, HCRA transfer fund, medical assistance account, or any successor  
5 fund or account, for purposes of providing distributions for supplemen-  
6 tary medical insurance for Medicare part B premiums, physicians  
7 services, outpatient services, medical equipment, supplies and other  
8 health services, from the tobacco control and insurance initiatives pool  
9 established for the following periods in the following amounts:

10 (i) forty-three million dollars for the period January first, two  
11 thousand through December thirty-first, two thousand;

12 (ii) sixty-one million dollars for the period January first, two thou-  
13 sand one through December thirty-first, two thousand one;

14 (iii) sixty-five million dollars for the period January first, two  
15 thousand two through December thirty-first, two thousand two;

16 (iv) sixty-seven million five hundred thousand dollars for the period  
17 January first, two thousand three through December thirty-first, two  
18 thousand three;

19 (v) sixty-eight million dollars for the period January first, two  
20 thousand four through December thirty-first, two thousand four;

21 (vi) sixty-eight million dollars for the period January first, two  
22 thousand five through December thirty-first, two thousand five;

23 (vii) sixty-eight million dollars for the period January first, two  
24 thousand six through December thirty-first, two thousand six;

25 (viii) seventeen million five hundred thousand dollars for the period  
26 January first, two thousand seven through December thirty-first, two  
27 thousand seven;

1 (ix) sixty-eight million dollars for the period January first, two  
2 thousand eight through December thirty-first, two thousand eight;

3 (x) sixty-eight million dollars for the period January first, two  
4 thousand nine through December thirty-first, two thousand nine;

5 (xi) sixty-eight million dollars for the period January first, two  
6 thousand ten through December thirty-first, two thousand ten;

7 (xii) seventeen million dollars for the period January first, two  
8 thousand eleven through March thirty-first, two thousand eleven; and

9 (xiii) sixty-eight million dollars each state fiscal year for the  
10 period April first, two thousand eleven through March thirty-first, two  
11 thousand fourteen.

12 (s) Funds shall be deposited by the commissioner within amounts appro-  
13 priated, and the state comptroller is hereby authorized and directed to  
14 receive for deposit to the credit of the state special revenue funds -  
15 other, HCRA transfer fund, medical assistance account, or any successor  
16 fund or account, for purposes of providing distributions pursuant to  
17 paragraphs (s-5), (s-6), (s-7) and (s-8) of subdivision eleven of  
18 section twenty-eight hundred seven-c of this article from the tobacco  
19 control and insurance initiatives pool established for the following  
20 periods in the following amounts:

21 (i) eighteen million dollars for the period January first, two thou-  
22 sand through December thirty-first, two thousand;

23 (ii) twenty-four million dollars annually for the periods January  
24 first, two thousand one through December thirty-first, two thousand two;

25 (iii) up to twenty-four million dollars for the period January first,  
26 two thousand three through December thirty-first, two thousand three;

27 (iv) up to twenty-four million dollars for the period January first,  
28 two thousand four through December thirty-first, two thousand four;

1 (v) up to twenty-four million dollars for the period January first,  
2 two thousand five through December thirty-first, two thousand five;

3 (vi) up to twenty-four million dollars for the period January first,  
4 two thousand six through December thirty-first, two thousand six;

5 (vii) up to twenty-four million dollars for the period January first,  
6 two thousand seven through December thirty-first, two thousand seven;

7 (viii) up to twenty-four million dollars for the period January first,  
8 two thousand eight through December thirty-first, two thousand eight;

9 and

10 (ix) up to twenty-two million dollars for the period January first,  
11 two thousand nine through November thirtieth, two thousand nine.

12 (t) Funds shall be reserved and accumulated from year to year by the  
13 commissioner and shall be made available, including income from invested  
14 funds:

15 (i) For the purpose of making grants to a state owned and operated  
16 medical school which does not have a state owned and operated hospital  
17 on site and available for teaching purposes. Notwithstanding sections  
18 one hundred twelve and one hundred sixty-three of the state finance law,  
19 such grants shall be made in the amount of up to five hundred thousand  
20 dollars for the period January first, two thousand through December  
21 thirty-first, two thousand;

22 (ii) For the purpose of making grants to medical schools pursuant to  
23 section eighty-six-a of chapter one of the laws of nineteen hundred  
24 ninety-nine in the sum of up to four million dollars for the period  
25 January first, two thousand through December thirty-first, two thousand;  
26 and

27 (iii) The funds disbursed pursuant to subparagraphs (i) and (ii) of  
28 this paragraph from the tobacco control and insurance initiatives pool

1 are contingent upon meeting all funding amounts established pursuant to  
2 paragraphs (a), (b), (c), (d), (e), (f), (l), (m), (n), (p), (q), (r)  
3 and (s) of this subdivision, paragraph (a) of subdivision nine of  
4 section twenty-eight hundred seven-j of this article, and paragraphs  
5 (a), (i) and (k) of subdivision one of section twenty-eight hundred  
6 seven-1 of this article.

7 (u) Funds shall be deposited by the commissioner, within amounts  
8 appropriated, and the state comptroller is hereby authorized and  
9 directed to receive for deposit to the credit of the state special  
10 revenue funds - other, HCRA transfer fund, medical assistance account,  
11 or any successor fund or account, for purposes of funding the state  
12 share of services and expenses related to the nursing home quality  
13 improvement demonstration program established pursuant to section twen-  
14 ty-eight hundred eight-d of this article from the tobacco control and  
15 insurance initiatives pool established for the following periods in the  
16 following amounts:

17 (i) up to twenty-five million dollars for the period beginning April  
18 first, two thousand two and ending December thirty-first, two thousand  
19 two, and on an annualized basis, for each annual period thereafter  
20 beginning January first, two thousand three and ending December thirty-  
21 first, two thousand four;

22 (ii) up to eighteen million seven hundred fifty thousand dollars for  
23 the period January first, two thousand five through December thirty-  
24 first, two thousand five; and

25 (iii) up to fifty-six million five hundred thousand dollars for the  
26 period January first, two thousand six through December thirty-first,  
27 two thousand six.

1 (v) Funds shall be transferred by the commissioner and shall be depos-  
2 ited to the credit of the hospital excess liability pool created pursu-  
3 ant to section eighteen of chapter two hundred sixty-six of the laws of  
4 nineteen hundred eighty-six, or any successor fund or account, for  
5 purposes of expenses related to the purchase of excess medical malprac-  
6 tice insurance and the cost of administrating the pool, including costs  
7 associated with the risk management program established pursuant to  
8 section forty-two of part A of chapter one of the laws of two thousand  
9 two required by paragraph (a) of subdivision one of section eighteen of  
10 chapter two hundred sixty-six of the laws of nineteen hundred eighty-six  
11 as may be amended from time to time, from the tobacco control and insur-  
12 ance initiatives pool established for the following periods in the  
13 following amounts:

14 (i) up to fifty million dollars or so much as is needed for the period  
15 January first, two thousand two through December thirty-first, two thou-  
16 sand two;

17 (ii) up to seventy-six million seven hundred thousand dollars for the  
18 period January first, two thousand three through December thirty-first,  
19 two thousand three;

20 (iii) up to sixty-five million dollars for the period January first,  
21 two thousand four through December thirty-first, two thousand four;

22 (iv) up to sixty-five million dollars for the period January first,  
23 two thousand five through December thirty-first, two thousand five;

24 (v) up to one hundred thirteen million eight hundred thousand dollars  
25 for the period January first, two thousand six through December thirty-  
26 first, two thousand six;

1 (vi) up to one hundred thirty million dollars for the period January  
2 first, two thousand seven through December thirty-first, two thousand  
3 seven;

4 (vii) up to one hundred thirty million dollars for the period January  
5 first, two thousand eight through December thirty-first, two thousand  
6 eight;

7 (viii) up to one hundred thirty million dollars for the period January  
8 first, two thousand nine through December thirty-first, two thousand  
9 nine;

10 (ix) up to one hundred thirty million dollars for the period January  
11 first, two thousand ten through December thirty-first, two thousand ten;

12 (x) up to thirty-two million five hundred thousand dollars for the  
13 period January first, two thousand eleven through March thirty-first,  
14 two thousand eleven;

15 (xi) up to one hundred twenty-seven million four hundred thousand  
16 dollars each state fiscal year for the period April first, two thousand  
17 eleven through March thirty-first, two thousand fourteen;

18 (xii) up to one hundred twenty-seven million four hundred thousand  
19 dollars each state fiscal year for the period April first, two thousand  
20 fourteen through March thirty-first, two thousand seventeen;

21 (xiii) up to one hundred twenty-seven million four hundred thousand  
22 dollars each state fiscal year for the period April first, two thousand  
23 seventeen through March thirty-first, two thousand twenty; [and]

24 (xiv) up to one hundred twenty-seven million four hundred thousand  
25 dollars each state fiscal year for the period April first, two thousand  
26 twenty through March thirty-first, two thousand twenty-three; and

1 (xv) up to one hundred twenty-seven million four hundred thousand  
2 dollars each state fiscal year for the period April first, two thousand  
3 twenty-three through March thirty-first, two thousand twenty-six.

4 (w) Funds shall be deposited by the commissioner, within amounts  
5 appropriated, and the state comptroller is hereby authorized and  
6 directed to receive for deposit to the credit of the state special  
7 revenue funds - other, HCRA transfer fund, medical assistance account,  
8 or any successor fund or account, for purposes of funding the state  
9 share of the treatment of breast and cervical cancer pursuant to para-  
10 graph (d) of subdivision four of section three hundred sixty-six of the  
11 social services law, from the tobacco control and insurance initiatives  
12 pool established for the following periods in the following amounts:

13 (i) up to four hundred fifty thousand dollars for the period January  
14 first, two thousand two through December thirty-first, two thousand two;

15 (ii) up to two million one hundred thousand dollars for the period  
16 January first, two thousand three through December thirty-first, two  
17 thousand three;

18 (iii) up to two million one hundred thousand dollars for the period  
19 January first, two thousand four through December thirty-first, two  
20 thousand four;

21 (iv) up to two million one hundred thousand dollars for the period  
22 January first, two thousand five through December thirty-first, two  
23 thousand five;

24 (v) up to two million one hundred thousand dollars for the period  
25 January first, two thousand six through December thirty-first, two thou-  
26 sand six;

1 (vi) up to two million one hundred thousand dollars for the period  
2 January first, two thousand seven through December thirty-first, two  
3 thousand seven;

4 (vii) up to two million one hundred thousand dollars for the period  
5 January first, two thousand eight through December thirty-first, two  
6 thousand eight;

7 (viii) up to two million one hundred thousand dollars for the period  
8 January first, two thousand nine through December thirty-first, two  
9 thousand nine;

10 (ix) up to two million one hundred thousand dollars for the period  
11 January first, two thousand ten through December thirty-first, two thou-  
12 sand ten;

13 (x) up to five hundred twenty-five thousand dollars for the period  
14 January first, two thousand eleven through March thirty-first, two thou-  
15 sand eleven;

16 (xi) up to two million one hundred thousand dollars each state fiscal  
17 year for the period April first, two thousand eleven through March thir-  
18 ty-first, two thousand fourteen;

19 (xii) up to two million one hundred thousand dollars each state fiscal  
20 year for the period April first, two thousand fourteen through March  
21 thirty-first, two thousand seventeen;

22 (xiii) up to two million one hundred thousand dollars each state  
23 fiscal year for the period April first, two thousand seventeen through  
24 March thirty-first, two thousand twenty; [and]

25 (xiv) up to two million one hundred thousand dollars each state fiscal  
26 year for the period April first, two thousand twenty through March thir-  
27 ty-first, two thousand twenty-three; and

1 (xv) up to two million one hundred thousand dollars each state fiscal  
2 year for the period April first, two thousand twenty-three through March  
3 thirty-first, two thousand twenty-six.

4 (x) Funds shall be deposited by the commissioner, within amounts  
5 appropriated, and the state comptroller is hereby authorized and  
6 directed to receive for deposit to the credit of the state special  
7 revenue funds - other, HCRA transfer fund, medical assistance account,  
8 or any successor fund or account, for purposes of funding the state  
9 share of the non-public general hospital rates increases for recruitment  
10 and retention of health care workers from the tobacco control and insur-  
11 ance initiatives pool established for the following periods in the  
12 following amounts:

13 (i) twenty-seven million one hundred thousand dollars on an annualized  
14 basis for the period January first, two thousand two through December  
15 thirty-first, two thousand two;

16 (ii) fifty million eight hundred thousand dollars on an annualized  
17 basis for the period January first, two thousand three through December  
18 thirty-first, two thousand three;

19 (iii) sixty-nine million three hundred thousand dollars on an annual-  
20 ized basis for the period January first, two thousand four through  
21 December thirty-first, two thousand four;

22 (iv) sixty-nine million three hundred thousand dollars for the period  
23 January first, two thousand five through December thirty-first, two  
24 thousand five;

25 (v) sixty-nine million three hundred thousand dollars for the period  
26 January first, two thousand six through December thirty-first, two thou-  
27 sand six;

1 (vi) sixty-five million three hundred thousand dollars for the period  
2 January first, two thousand seven through December thirty-first, two  
3 thousand seven;

4 (vii) sixty-one million one hundred fifty thousand dollars for the  
5 period January first, two thousand eight through December thirty-first,  
6 two thousand eight; and

7 (viii) forty-eight million seven hundred twenty-one thousand dollars  
8 for the period January first, two thousand nine through November thirti-  
9 eth, two thousand nine.

10 (y) Funds shall be reserved and accumulated from year to year and  
11 shall be available, including income from invested funds, for purposes  
12 of grants to public general hospitals for recruitment and retention of  
13 health care workers pursuant to paragraph (b) of subdivision thirty of  
14 section twenty-eight hundred seven-c of this article from the tobacco  
15 control and insurance initiatives pool established for the following  
16 periods in the following amounts:

17 (i) eighteen million five hundred thousand dollars on an annualized  
18 basis for the period January first, two thousand two through December  
19 thirty-first, two thousand two;

20 (ii) thirty-seven million four hundred thousand dollars on an annual-  
21 ized basis for the period January first, two thousand three through  
22 December thirty-first, two thousand three;

23 (iii) fifty-two million two hundred thousand dollars on an annualized  
24 basis for the period January first, two thousand four through December  
25 thirty-first, two thousand four;

26 (iv) fifty-two million two hundred thousand dollars for the period  
27 January first, two thousand five through December thirty-first, two  
28 thousand five;

1 (v) fifty-two million two hundred thousand dollars for the period  
2 January first, two thousand six through December thirty-first, two thou-  
3 sand six;

4 (vi) forty-nine million dollars for the period January first, two  
5 thousand seven through December thirty-first, two thousand seven;

6 (vii) forty-nine million dollars for the period January first, two  
7 thousand eight through December thirty-first, two thousand eight; and

8 (viii) twelve million two hundred fifty thousand dollars for the peri-  
9 od January first, two thousand nine through March thirty-first, two  
10 thousand nine.

11 Provided, however, amounts pursuant to this paragraph may be reduced  
12 in an amount to be approved by the director of the budget to reflect  
13 amounts received from the federal government under the state's 1115  
14 waiver which are directed under its terms and conditions to the health  
15 workforce recruitment and retention program.

16 (z) Funds shall be deposited by the commissioner, within amounts  
17 appropriated, and the state comptroller is hereby authorized and  
18 directed to receive for deposit to the credit of the state special  
19 revenue funds - other, HCRA transfer fund, medical assistance account,  
20 or any successor fund or account, for purposes of funding the state  
21 share of the non-public residential health care facility rate increases  
22 for recruitment and retention of health care workers pursuant to para-  
23 graph (a) of subdivision eighteen of section twenty-eight hundred eight  
24 of this article from the tobacco control and insurance initiatives pool  
25 established for the following periods in the following amounts:

26 (i) twenty-one million five hundred thousand dollars on an annualized  
27 basis for the period January first, two thousand two through December  
28 thirty-first, two thousand two;

1 (ii) thirty-three million three hundred thousand dollars on an annual-  
2 ized basis for the period January first, two thousand three through  
3 December thirty-first, two thousand three;

4 (iii) forty-six million three hundred thousand dollars on an annual-  
5 ized basis for the period January first, two thousand four through  
6 December thirty-first, two thousand four;

7 (iv) forty-six million three hundred thousand dollars for the period  
8 January first, two thousand five through December thirty-first, two  
9 thousand five;

10 (v) forty-six million three hundred thousand dollars for the period  
11 January first, two thousand six through December thirty-first, two thou-  
12 sand six;

13 (vi) thirty million nine hundred thousand dollars for the period Janu-  
14 ary first, two thousand seven through December thirty-first, two thou-  
15 sand seven;

16 (vii) twenty-four million seven hundred thousand dollars for the peri-  
17 od January first, two thousand eight through December thirty-first, two  
18 thousand eight;

19 (viii) twelve million three hundred seventy-five thousand dollars for  
20 the period January first, two thousand nine through December thirty-  
21 first, two thousand nine;

22 (ix) nine million three hundred thousand dollars for the period Janu-  
23 ary first, two thousand ten through December thirty-first, two thousand  
24 ten; and

25 (x) two million three hundred twenty-five thousand dollars for the  
26 period January first, two thousand eleven through March thirty-first,  
27 two thousand eleven.

1 (aa) Funds shall be reserved and accumulated from year to year and  
2 shall be available, including income from invested funds, for purposes  
3 of grants to public residential health care facilities for recruitment  
4 and retention of health care workers pursuant to paragraph (b) of subdi-  
5 vision eighteen of section twenty-eight hundred eight of this article  
6 from the tobacco control and insurance initiatives pool established for  
7 the following periods in the following amounts:

8 (i) seven million five hundred thousand dollars on an annualized basis  
9 for the period January first, two thousand two through December thirty-  
10 first, two thousand two;

11 (ii) eleven million seven hundred thousand dollars on an annualized  
12 basis for the period January first, two thousand three through December  
13 thirty-first, two thousand three;

14 (iii) sixteen million two hundred thousand dollars on an annualized  
15 basis for the period January first, two thousand four through December  
16 thirty-first, two thousand four;

17 (iv) sixteen million two hundred thousand dollars for the period Janu-  
18 ary first, two thousand five through December thirty-first, two thousand  
19 five;

20 (v) sixteen million two hundred thousand dollars for the period Janu-  
21 ary first, two thousand six through December thirty-first, two thousand  
22 six;

23 (vi) ten million eight hundred thousand dollars for the period January  
24 first, two thousand seven through December thirty-first, two thousand  
25 seven;

26 (vii) six million seven hundred fifty thousand dollars for the period  
27 January first, two thousand eight through December thirty-first, two  
28 thousand eight; and

1 (viii) one million three hundred fifty thousand dollars for the period  
2 January first, two thousand nine through December thirty-first, two  
3 thousand nine.

4 (bb) (i) Funds shall be deposited by the commissioner, within amounts  
5 appropriated, and subject to the availability of federal financial  
6 participation, and the state comptroller is hereby authorized and  
7 directed to receive for deposit to the credit of the state special  
8 revenue funds - other, HCRA transfer fund, medical assistance account,  
9 or any successor fund or account, for the purpose of supporting the  
10 state share of adjustments to Medicaid rates of payment for personal  
11 care services provided pursuant to paragraph (e) of subdivision two of  
12 section three hundred sixty-five-a of the social services law, for local  
13 social service districts which include a city with a population of over  
14 one million persons and computed and distributed in accordance with  
15 memorandums of understanding to be entered into between the state of New  
16 York and such local social service districts for the purpose of support-  
17 ing the recruitment and retention of personal care service workers or  
18 any worker with direct patient care responsibility, from the tobacco  
19 control and insurance initiatives pool established for the following  
20 periods and the following amounts:

21 (A) forty-four million dollars, on an annualized basis, for the period  
22 April first, two thousand two through December thirty-first, two thou-  
23 sand two;

24 (B) seventy-four million dollars, on an annualized basis, for the  
25 period January first, two thousand three through December thirty-first,  
26 two thousand three;

1 (C) one hundred four million dollars, on an annualized basis, for the  
2 period January first, two thousand four through December thirty-first,  
3 two thousand four;

4 (D) one hundred thirty-six million dollars, on an annualized basis,  
5 for the period January first, two thousand five through December thir-  
6 ty-first, two thousand five;

7 (E) one hundred thirty-six million dollars, on an annualized basis,  
8 for the period January first, two thousand six through December thirty-  
9 first, two thousand six;

10 (F) one hundred thirty-six million dollars for the period January  
11 first, two thousand seven through December thirty-first, two thousand  
12 seven;

13 (G) one hundred thirty-six million dollars for the period January  
14 first, two thousand eight through December thirty-first, two thousand  
15 eight;

16 (H) one hundred thirty-six million dollars for the period January  
17 first, two thousand nine through December thirty-first, two thousand  
18 nine;

19 (I) one hundred thirty-six million dollars for the period January  
20 first, two thousand ten through December thirty-first, two thousand ten;

21 (J) thirty-four million dollars for the period January first, two  
22 thousand eleven through March thirty-first, two thousand eleven;

23 (K) up to one hundred thirty-six million dollars each state fiscal  
24 year for the period April first, two thousand eleven through March thir-  
25 ty-first, two thousand fourteen;

26 (L) up to one hundred thirty-six million dollars each state fiscal  
27 year for the period March thirty-first, two thousand fourteen through  
28 April first, two thousand seventeen;

1 (M) up to one hundred thirty-six million dollars each state fiscal  
2 year for the period April first, two thousand seventeen through March  
3 thirty-first, two thousand twenty; [and]

4 (N) up to one hundred thirty-six million dollars each state fiscal  
5 year for the period April first, two thousand twenty through March thir-  
6 ty-first, two thousand twenty-three; and

7 (O) up to one hundred thirty-six million dollars each state fiscal  
8 year for the period April first, two thousand twenty-three through March  
9 thirty-first, two thousand twenty-six.

10 (ii) Adjustments to Medicaid rates made pursuant to this paragraph  
11 shall not, in aggregate, exceed the following amounts for the following  
12 periods:

13 (A) for the period April first, two thousand two through December  
14 thirty-first, two thousand two, one hundred ten million dollars;

15 (B) for the period January first, two thousand three through December  
16 thirty-first, two thousand three, one hundred eighty-five million  
17 dollars;

18 (C) for the period January first, two thousand four through December  
19 thirty-first, two thousand four, two hundred sixty million dollars;

20 (D) for the period January first, two thousand five through December  
21 thirty-first, two thousand five, three hundred forty million dollars;

22 (E) for the period January first, two thousand six through December  
23 thirty-first, two thousand six, three hundred forty million dollars;

24 (F) for the period January first, two thousand seven through December  
25 thirty-first, two thousand seven, three hundred forty million dollars;

26 (G) for the period January first, two thousand eight through December  
27 thirty-first, two thousand eight, three hundred forty million dollars;

1 (H) for the period January first, two thousand nine through December  
2 thirty-first, two thousand nine, three hundred forty million dollars;

3 (I) for the period January first, two thousand ten through December  
4 thirty-first, two thousand ten, three hundred forty million dollars;

5 (J) for the period January first, two thousand eleven through March  
6 thirty-first, two thousand eleven, eighty-five million dollars;

7 (K) for each state fiscal year within the period April first, two  
8 thousand eleven through March thirty-first, two thousand fourteen, three  
9 hundred forty million dollars;

10 (L) for each state fiscal year within the period April first, two  
11 thousand fourteen through March thirty-first, two thousand seventeen,  
12 three hundred forty million dollars;

13 (M) for each state fiscal year within the period April first, two  
14 thousand seventeen through March thirty-first, two thousand twenty,  
15 three hundred forty million dollars; [and]

16 (N) for each state fiscal year within the period April first, two  
17 thousand twenty through March thirty-first, two thousand twenty-three,  
18 three hundred forty million dollars; and

19 (O) for each state fiscal year within the period April first, two  
20 thousand twenty-three through March thirty-first, two thousand twenty-  
21 six, three hundred forty million dollars.

22 (iii) Personal care service providers which have their rates adjusted  
23 pursuant to this paragraph shall use such funds for the purpose of  
24 recruitment and retention of non-supervisory personal care services  
25 workers or any worker with direct patient care responsibility only and  
26 are prohibited from using such funds for any other purpose. Each such  
27 personal care services provider shall submit, at a time and in a manner  
28 to be determined by the commissioner, a written certification attesting

1 that such funds will be used solely for the purpose of recruitment and  
2 retention of non-supervisory personal care services workers or any work-  
3 er with direct patient care responsibility. The commissioner is author-  
4 ized to audit each such provider to ensure compliance with the written  
5 certification required by this subdivision and shall recoup any funds  
6 determined to have been used for purposes other than recruitment and  
7 retention of non-supervisory personal care services workers or any work-  
8 er with direct patient care responsibility. Such recoupment shall be in  
9 addition to any other penalties provided by law.

10 (cc) Funds shall be deposited by the commissioner, within amounts  
11 appropriated, and the state comptroller is hereby authorized and  
12 directed to receive for deposit to the credit of the state special  
13 revenue funds - other, HCRA transfer fund, medical assistance account,  
14 or any successor fund or account, for the purpose of supporting the  
15 state share of adjustments to Medicaid rates of payment for personal  
16 care services provided pursuant to paragraph (e) of subdivision two of  
17 section three hundred sixty-five-a of the social services law, for local  
18 social service districts which shall not include a city with a popu-  
19 lation of over one million persons for the purpose of supporting the  
20 personal care services worker recruitment and retention program as  
21 established pursuant to section three hundred sixty-seven-q of the  
22 social services law, from the tobacco control and insurance initiatives  
23 pool established for the following periods and the following amounts:

24 (i) two million eight hundred thousand dollars for the period April  
25 first, two thousand two through December thirty-first, two thousand two;

26 (ii) five million six hundred thousand dollars, on an annualized  
27 basis, for the period January first, two thousand three through December  
28 thirty-first, two thousand three;

1 (iii) eight million four hundred thousand dollars, on an annualized  
2 basis, for the period January first, two thousand four through December  
3 thirty-first, two thousand four;

4 (iv) ten million eight hundred thousand dollars, on an annualized  
5 basis, for the period January first, two thousand five through December  
6 thirty-first, two thousand five;

7 (v) ten million eight hundred thousand dollars, on an annualized  
8 basis, for the period January first, two thousand six through December  
9 thirty-first, two thousand six;

10 (vi) eleven million two hundred thousand dollars for the period Janu-  
11 ary first, two thousand seven through December thirty-first, two thou-  
12 sand seven;

13 (vii) eleven million two hundred thousand dollars for the period Janu-  
14 ary first, two thousand eight through December thirty-first, two thou-  
15 sand eight;

16 (viii) eleven million two hundred thousand dollars for the period  
17 January first, two thousand nine through December thirty-first, two  
18 thousand nine;

19 (ix) eleven million two hundred thousand dollars for the period Janu-  
20 ary first, two thousand ten through December thirty-first, two thousand  
21 ten;

22 (x) two million eight hundred thousand dollars for the period January  
23 first, two thousand eleven through March thirty-first, two thousand  
24 eleven;

25 (xi) up to eleven million two hundred thousand dollars each state  
26 fiscal year for the period April first, two thousand eleven through  
27 March thirty-first, two thousand fourteen;

1 (xii) up to eleven million two hundred thousand dollars each state  
2 fiscal year for the period April first, two thousand fourteen through  
3 March thirty-first, two thousand seventeen;

4 (xiii) up to eleven million two hundred thousand dollars each state  
5 fiscal year for the period April first, two thousand seventeen through  
6 March thirty-first, two thousand twenty; [and]

7 (xiv) up to eleven million two hundred thousand dollars each state  
8 fiscal year for the period April first, two thousand twenty through  
9 March thirty-first, two thousand twenty-three; and

10 (xv) up to eleven million two hundred thousand dollars each state  
11 fiscal year for the period April first, two thousand twenty-three  
12 through March thirty-first, two thousand twenty-six.

13 (dd) Funds shall be deposited by the commissioner, within amounts  
14 appropriated, and the state comptroller is hereby authorized and  
15 directed to receive for deposit to the credit of the state special  
16 revenue fund - other, HCRA transfer fund, medical assistance account, or  
17 any successor fund or account, for purposes of funding the state share  
18 of Medicaid expenditures for physician services from the tobacco control  
19 and insurance initiatives pool established for the following periods in  
20 the following amounts:

21 (i) up to fifty-two million dollars for the period January first, two  
22 thousand two through December thirty-first, two thousand two;

23 (ii) eighty-one million two hundred thousand dollars for the period  
24 January first, two thousand three through December thirty-first, two  
25 thousand three;

26 (iii) eighty-five million two hundred thousand dollars for the period  
27 January first, two thousand four through December thirty-first, two  
28 thousand four;

1 (iv) eighty-five million two hundred thousand dollars for the period  
2 January first, two thousand five through December thirty-first, two  
3 thousand five;

4 (v) eighty-five million two hundred thousand dollars for the period  
5 January first, two thousand six through December thirty-first, two thou-  
6 sand six;

7 (vi) eighty-five million two hundred thousand dollars for the period  
8 January first, two thousand seven through December thirty-first, two  
9 thousand seven;

10 (vii) eighty-five million two hundred thousand dollars for the period  
11 January first, two thousand eight through December thirty-first, two  
12 thousand eight;

13 (viii) eighty-five million two hundred thousand dollars for the period  
14 January first, two thousand nine through December thirty-first, two  
15 thousand nine;

16 (ix) eighty-five million two hundred thousand dollars for the period  
17 January first, two thousand ten through December thirty-first, two thou-  
18 sand ten;

19 (x) twenty-one million three hundred thousand dollars for the period  
20 January first, two thousand eleven through March thirty-first, two thou-  
21 sand eleven; and

22 (xi) eighty-five million two hundred thousand dollars each state  
23 fiscal year for the period April first, two thousand eleven through  
24 March thirty-first, two thousand fourteen.

25 (ee) Funds shall be deposited by the commissioner, within amounts  
26 appropriated, and the state comptroller is hereby authorized and  
27 directed to receive for deposit to the credit of the state special  
28 revenue fund - other, HCRA transfer fund, medical assistance account, or

1 any successor fund or account, for purposes of funding the state share  
2 of the free-standing diagnostic and treatment center rate increases for  
3 recruitment and retention of health care workers pursuant to subdivision  
4 seventeen of section twenty-eight hundred seven of this article from the  
5 tobacco control and insurance initiatives pool established for the  
6 following periods in the following amounts:

7 (i) three million two hundred fifty thousand dollars for the period  
8 April first, two thousand two through December thirty-first, two thou-  
9 sand two;

10 (ii) three million two hundred fifty thousand dollars on an annualized  
11 basis for the period January first, two thousand three through December  
12 thirty-first, two thousand three;

13 (iii) three million two hundred fifty thousand dollars on an annual-  
14 ized basis for the period January first, two thousand four through  
15 December thirty-first, two thousand four;

16 (iv) three million two hundred fifty thousand dollars for the period  
17 January first, two thousand five through December thirty-first, two  
18 thousand five;

19 (v) three million two hundred fifty thousand dollars for the period  
20 January first, two thousand six through December thirty-first, two thou-  
21 sand six;

22 (vi) three million two hundred fifty thousand dollars for the period  
23 January first, two thousand seven through December thirty-first, two  
24 thousand seven;

25 (vii) three million four hundred thirty-eight thousand dollars for the  
26 period January first, two thousand eight through December thirty-first,  
27 two thousand eight;

1 (viii) two million four hundred fifty thousand dollars for the period  
2 January first, two thousand nine through December thirty-first, two  
3 thousand nine;

4 (ix) one million five hundred thousand dollars for the period January  
5 first, two thousand ten through December thirty-first, two thousand ten;  
6 and

7 (x) three hundred twenty-five thousand dollars for the period January  
8 first, two thousand eleven through March thirty-first, two thousand  
9 eleven.

10 (ff) Funds shall be deposited by the commissioner, within amounts  
11 appropriated, and the state comptroller is hereby authorized and  
12 directed to receive for deposit to the credit of the state special  
13 revenue fund - other, HCRA transfer fund, medical assistance account, or  
14 any successor fund or account, for purposes of funding the state share  
15 of Medicaid expenditures for disabled persons as authorized pursuant to  
16 former subparagraphs twelve and thirteen of paragraph (a) of subdivision  
17 one of section three hundred sixty-six of the social services law from  
18 the tobacco control and insurance initiatives pool established for the  
19 following periods in the following amounts:

20 (i) one million eight hundred thousand dollars for the period April  
21 first, two thousand two through December thirty-first, two thousand two;

22 (ii) sixteen million four hundred thousand dollars on an annualized  
23 basis for the period January first, two thousand three through December  
24 thirty-first, two thousand three;

25 (iii) eighteen million seven hundred thousand dollars on an annualized  
26 basis for the period January first, two thousand four through December  
27 thirty-first, two thousand four;

1 (iv) thirty million six hundred thousand dollars for the period Janu-  
2 ary first, two thousand five through December thirty-first, two thousand  
3 five;

4 (v) thirty million six hundred thousand dollars for the period January  
5 first, two thousand six through December thirty-first, two thousand six;

6 (vi) thirty million six hundred thousand dollars for the period Janu-  
7 ary first, two thousand seven through December thirty-first, two thou-  
8 sand seven;

9 (vii) fifteen million dollars for the period January first, two thou-  
10 sand eight through December thirty-first, two thousand eight;

11 (viii) fifteen million dollars for the period January first, two thou-  
12 sand nine through December thirty-first, two thousand nine;

13 (ix) fifteen million dollars for the period January first, two thou-  
14 sand ten through December thirty-first, two thousand ten;

15 (x) three million seven hundred fifty thousand dollars for the period  
16 January first, two thousand eleven through March thirty-first, two thou-  
17 sand eleven;

18 (xi) fifteen million dollars each state fiscal year for the period  
19 April first, two thousand eleven through March thirty-first, two thou-  
20 sand fourteen;

21 (xii) fifteen million dollars each state fiscal year for the period  
22 April first, two thousand fourteen through March thirty-first, two thou-  
23 sand seventeen;

24 (xiii) fifteen million dollars each state fiscal year for the period  
25 April first, two thousand seventeen through March thirty-first, two  
26 thousand twenty; [and]

1 (xiv) fifteen million dollars each state fiscal year for the period  
2 April first, two thousand twenty through March thirty-first, two thou-  
3 sand twenty-three; and

4 (xv) fifteen million dollars each state fiscal year for the period  
5 April first, two thousand twenty-three through March thirty-first, two  
6 thousand twenty-six.

7 (gg) Funds shall be reserved and accumulated from year to year and  
8 shall be available, including income from invested funds, for purposes  
9 of grants to non-public general hospitals pursuant to paragraph (c) of  
10 subdivision thirty of section twenty-eight hundred seven-c of this arti-  
11 cle from the tobacco control and insurance initiatives pool established  
12 for the following periods in the following amounts:

13 (i) up to one million three hundred thousand dollars on an annualized  
14 basis for the period January first, two thousand two through December  
15 thirty-first, two thousand two;

16 (ii) up to three million two hundred thousand dollars on an annualized  
17 basis for the period January first, two thousand three through December  
18 thirty-first, two thousand three;

19 (iii) up to five million six hundred thousand dollars on an annualized  
20 basis for the period January first, two thousand four through December  
21 thirty-first, two thousand four;

22 (iv) up to eight million six hundred thousand dollars for the period  
23 January first, two thousand five through December thirty-first, two  
24 thousand five;

25 (v) up to eight million six hundred thousand dollars on an annualized  
26 basis for the period January first, two thousand six through December  
27 thirty-first, two thousand six;

1 (vi) up to two million six hundred thousand dollars for the period  
2 January first, two thousand seven through December thirty-first, two  
3 thousand seven;

4 (vii) up to two million six hundred thousand dollars for the period  
5 January first, two thousand eight through December thirty-first, two  
6 thousand eight;

7 (viii) up to two million six hundred thousand dollars for the period  
8 January first, two thousand nine through December thirty-first, two  
9 thousand nine;

10 (ix) up to two million six hundred thousand dollars for the period  
11 January first, two thousand ten through December thirty-first, two thou-  
12 sand ten; and

13 (x) up to six hundred fifty thousand dollars for the period January  
14 first, two thousand eleven through March thirty-first, two thousand  
15 eleven.

16 (hh) Funds shall be deposited by the commissioner, within amounts  
17 appropriated, and the state comptroller is hereby authorized and  
18 directed to receive for deposit to the credit of the special revenue  
19 fund - other, HCRA transfer fund, medical assistance account for  
20 purposes of providing financial assistance to residential health care  
21 facilities pursuant to subdivisions nineteen and twenty-one of section  
22 twenty-eight hundred eight of this article, from the tobacco control and  
23 insurance initiatives pool established for the following periods in the  
24 following amounts:

25 (i) for the period April first, two thousand two through December  
26 thirty-first, two thousand two, ten million dollars;

1 (ii) for the period January first, two thousand three through December  
2 thirty-first, two thousand three, nine million four hundred fifty thou-  
3 sand dollars;

4 (iii) for the period January first, two thousand four through December  
5 thirty-first, two thousand four, nine million three hundred fifty thou-  
6 sand dollars;

7 (iv) up to fifteen million dollars for the period January first, two  
8 thousand five through December thirty-first, two thousand five;

9 (v) up to fifteen million dollars for the period January first, two  
10 thousand six through December thirty-first, two thousand six;

11 (vi) up to fifteen million dollars for the period January first, two  
12 thousand seven through December thirty-first, two thousand seven;

13 (vii) up to fifteen million dollars for the period January first, two  
14 thousand eight through December thirty-first, two thousand eight;

15 (viii) up to fifteen million dollars for the period January first, two  
16 thousand nine through December thirty-first, two thousand nine;

17 (ix) up to fifteen million dollars for the period January first, two  
18 thousand ten through December thirty-first, two thousand ten;

19 (x) up to three million seven hundred fifty thousand dollars for the  
20 period January first, two thousand eleven through March thirty-first,  
21 two thousand eleven; and

22 (xi) fifteen million dollars each state fiscal year for the period  
23 April first, two thousand eleven through March thirty-first, two thou-  
24 sand fourteen.

25 (ii) Funds shall be deposited by the commissioner, within amounts  
26 appropriated, and the state comptroller is hereby authorized and  
27 directed to receive for deposit to the credit of the state special  
28 revenue funds - other, HCRA transfer fund, medical assistance account,

1 or any successor fund or account, for the purpose of supporting the  
2 state share of Medicaid expenditures for disabled persons as authorized  
3 by sections 1619 (a) and (b) of the federal social security act pursuant  
4 to the tobacco control and insurance initiatives pool established for  
5 the following periods in the following amounts:

6 (i) six million four hundred thousand dollars for the period April  
7 first, two thousand two through December thirty-first, two thousand two;

8 (ii) eight million five hundred thousand dollars, for the period Janu-  
9 ary first, two thousand three through December thirty-first, two thou-  
10 sand three;

11 (iii) eight million five hundred thousand dollars for the period Janu-  
12 ary first, two thousand four through December thirty-first, two thousand  
13 four;

14 (iv) eight million five hundred thousand dollars for the period Janu-  
15 ary first, two thousand five through December thirty-first, two thousand  
16 five;

17 (v) eight million five hundred thousand dollars for the period January  
18 first, two thousand six through December thirty-first, two thousand six;

19 (vi) eight million six hundred thousand dollars for the period January  
20 first, two thousand seven through December thirty-first, two thousand  
21 seven;

22 (vii) eight million five hundred thousand dollars for the period Janu-  
23 ary first, two thousand eight through December thirty-first, two thou-  
24 sand eight;

25 (viii) eight million five hundred thousand dollars for the period  
26 January first, two thousand nine through December thirty-first, two  
27 thousand nine;

1 (ix) eight million five hundred thousand dollars for the period Janu-  
2 ary first, two thousand ten through December thirty-first, two thousand  
3 ten;

4 (x) two million one hundred twenty-five thousand dollars for the peri-  
5 od January first, two thousand eleven through March thirty-first, two  
6 thousand eleven;

7 (xi) eight million five hundred thousand dollars each state fiscal  
8 year for the period April first, two thousand eleven through March thir-  
9 ty-first, two thousand fourteen;

10 (xii) eight million five hundred thousand dollars each state fiscal  
11 year for the period April first, two thousand fourteen through March  
12 thirty-first, two thousand seventeen;

13 (xiii) eight million five hundred thousand dollars each state fiscal  
14 year for the period April first, two thousand seventeen through March  
15 thirty-first, two thousand twenty; [and]

16 (xiv) eight million five hundred thousand dollars each state fiscal  
17 year for the period April first, two thousand twenty through March thir-  
18 ty-first, two thousand twenty-three; and

19 (xv) eight million five hundred thousand dollars each state fiscal  
20 year for the period April first, two thousand twenty-three through March  
21 thirty-first, two thousand twenty-six.

22 (jj) Funds shall be reserved and accumulated from year to year and  
23 shall be available, including income from invested funds, for the  
24 purposes of a grant program to improve access to infertility services,  
25 treatments and procedures, from the tobacco control and insurance initi-  
26 atives pool established for the period January first, two thousand two  
27 through December thirty-first, two thousand two in the amount of nine  
28 million one hundred seventy-five thousand dollars, for the period April

1 first, two thousand six through March thirty-first, two thousand seven  
2 in the amount of five million dollars, for the period April first, two  
3 thousand seven through March thirty-first, two thousand eight in the  
4 amount of five million dollars, for the period April first, two thousand  
5 eight through March thirty-first, two thousand nine in the amount of  
6 five million dollars, and for the period April first, two thousand nine  
7 through March thirty-first, two thousand ten in the amount of five  
8 million dollars, for the period April first, two thousand ten through  
9 March thirty-first, two thousand eleven in the amount of two million two  
10 hundred thousand dollars, and for the period April first, two thousand  
11 eleven through March thirty-first, two thousand twelve up to one million  
12 one hundred thousand dollars.

13 (kk) Funds shall be deposited by the commissioner, within amounts  
14 appropriated, and the state comptroller is hereby authorized and  
15 directed to receive for deposit to the credit of the state special  
16 revenue funds -- other, HCRA transfer fund, medical assistance account,  
17 or any successor fund or account, for purposes of funding the state  
18 share of Medical Assistance Program expenditures from the tobacco  
19 control and insurance initiatives pool established for the following  
20 periods in the following amounts:

21 (i) thirty-eight million eight hundred thousand dollars for the period  
22 January first, two thousand two through December thirty-first, two thou-  
23 sand two;

24 (ii) up to two hundred ninety-five million dollars for the period  
25 January first, two thousand three through December thirty-first, two  
26 thousand three;

1 (iii) up to four hundred seventy-two million dollars for the period  
2 January first, two thousand four through December thirty-first, two  
3 thousand four;

4 (iv) up to nine hundred million dollars for the period January first,  
5 two thousand five through December thirty-first, two thousand five;

6 (v) up to eight hundred sixty-six million three hundred thousand  
7 dollars for the period January first, two thousand six through December  
8 thirty-first, two thousand six;

9 (vi) up to six hundred sixteen million seven hundred thousand dollars  
10 for the period January first, two thousand seven through December thir-  
11 ty-first, two thousand seven;

12 (vii) up to five hundred seventy-eight million nine hundred twenty-  
13 five thousand dollars for the period January first, two thousand eight  
14 through December thirty-first, two thousand eight; and

15 (viii) within amounts appropriated on and after January first, two  
16 thousand nine.

17 (11) Funds shall be deposited by the commissioner, within amounts  
18 appropriated, and the state comptroller is hereby authorized and  
19 directed to receive for deposit to the credit of the state special  
20 revenue funds -- other, HCRA transfer fund, medical assistance account,  
21 or any successor fund or account, for purposes of funding the state  
22 share of Medicaid expenditures related to the city of New York from the  
23 tobacco control and insurance initiatives pool established for the  
24 following periods in the following amounts:

25 (i) eighty-two million seven hundred thousand dollars for the period  
26 January first, two thousand two through December thirty-first, two thou-  
27 sand two;

1 (ii) one hundred twenty-four million six hundred thousand dollars for  
2 the period January first, two thousand three through December thirty-  
3 first, two thousand three;

4 (iii) one hundred twenty-four million seven hundred thousand dollars  
5 for the period January first, two thousand four through December thir-  
6 ty-first, two thousand four;

7 (iv) one hundred twenty-four million seven hundred thousand dollars  
8 for the period January first, two thousand five through December thir-  
9 ty-first, two thousand five;

10 (v) one hundred twenty-four million seven hundred thousand dollars for  
11 the period January first, two thousand six through December thirty-  
12 first, two thousand six;

13 (vi) one hundred twenty-four million seven hundred thousand dollars  
14 for the period January first, two thousand seven through December thir-  
15 ty-first, two thousand seven;

16 (vii) one hundred twenty-four million seven hundred thousand dollars  
17 for the period January first, two thousand eight through December thir-  
18 ty-first, two thousand eight;

19 (viii) one hundred twenty-four million seven hundred thousand dollars  
20 for the period January first, two thousand nine through December thir-  
21 ty-first, two thousand nine;

22 (ix) one hundred twenty-four million seven hundred thousand dollars  
23 for the period January first, two thousand ten through December thirty-  
24 first, two thousand ten;

25 (x) thirty-one million one hundred seventy-five thousand dollars for  
26 the period January first, two thousand eleven through March thirty-  
27 first, two thousand eleven; and

1 (xi) one hundred twenty-four million seven hundred thousand dollars  
2 each state fiscal year for the period April first, two thousand eleven  
3 through March thirty-first, two thousand fourteen.

4 (mm) Funds shall be deposited by the commissioner, within amounts  
5 appropriated, and the state comptroller is hereby authorized and  
6 directed to receive for deposit to the credit of the state special  
7 revenue funds - other, HCRA transfer fund, medical assistance account,  
8 or any successor fund or account, for purposes of funding specified  
9 percentages of the state share of services and expenses related to the  
10 family health plus program in accordance with the following schedule:

11 (i) (A) for the period January first, two thousand three through  
12 December thirty-first, two thousand four, one hundred percent of the  
13 state share;

14 (B) for the period January first, two thousand five through December  
15 thirty-first, two thousand five, seventy-five percent of the state  
16 share; and

17 (C) for periods beginning on and after January first, two thousand  
18 six, fifty percent of the state share.

19 (ii) Funding for the family health plus program will include up to  
20 five million dollars annually for the period January first, two thousand  
21 three through December thirty-first, two thousand six, up to five  
22 million dollars for the period January first, two thousand seven through  
23 December thirty-first, two thousand seven, up to seven million two  
24 hundred thousand dollars for the period January first, two thousand  
25 eight through December thirty-first, two thousand eight, up to seven  
26 million two hundred thousand dollars for the period January first, two  
27 thousand nine through December thirty-first, two thousand nine, up to  
28 seven million two hundred thousand dollars for the period January first,

1 two thousand ten through December thirty-first, two thousand ten, up to  
2 one million eight hundred thousand dollars for the period January first,  
3 two thousand eleven through March thirty-first, two thousand eleven, up  
4 to six million forty-nine thousand dollars for the period April first,  
5 two thousand eleven through March thirty-first, two thousand twelve, up  
6 to six million two hundred eighty-nine thousand dollars for the period  
7 April first, two thousand twelve through March thirty-first, two thou-  
8 sand thirteen, and up to six million four hundred sixty-one thousand  
9 dollars for the period April first, two thousand thirteen through March  
10 thirty-first, two thousand fourteen, for administration and marketing  
11 costs associated with such program established pursuant to clauses (A)  
12 and (B) of subparagraph (v) of paragraph (a) of subdivision two of the  
13 former section three hundred sixty-nine-ee of the social services law  
14 from the tobacco control and insurance initiatives pool established for  
15 the following periods in the following amounts:

16 (A) one hundred ninety million six hundred thousand dollars for the  
17 period January first, two thousand three through December thirty-first,  
18 two thousand three;

19 (B) three hundred seventy-four million dollars for the period January  
20 first, two thousand four through December thirty-first, two thousand  
21 four;

22 (C) five hundred thirty-eight million four hundred thousand dollars  
23 for the period January first, two thousand five through December thir-  
24 ty-first, two thousand five;

25 (D) three hundred eighteen million seven hundred seventy-five thousand  
26 dollars for the period January first, two thousand six through December  
27 thirty-first, two thousand six;

1 (E) four hundred eighty-two million eight hundred thousand dollars for  
2 the period January first, two thousand seven through December thirty-  
3 first, two thousand seven;

4 (F) five hundred seventy million twenty-five thousand dollars for the  
5 period January first, two thousand eight through December thirty-first,  
6 two thousand eight;

7 (G) six hundred ten million seven hundred twenty-five thousand dollars  
8 for the period January first, two thousand nine through December thir-  
9 ty-first, two thousand nine;

10 (H) six hundred twenty-seven million two hundred seventy-five thousand  
11 dollars for the period January first, two thousand ten through December  
12 thirty-first, two thousand ten;

13 (I) one hundred fifty-seven million eight hundred seventy-five thou-  
14 sand dollars for the period January first, two thousand eleven through  
15 March thirty-first, two thousand eleven;

16 (J) six hundred twenty-eight million four hundred thousand dollars for  
17 the period April first, two thousand eleven through March thirty-first,  
18 two thousand twelve;

19 (K) six hundred fifty million four hundred thousand dollars for the  
20 period April first, two thousand twelve through March thirty-first, two  
21 thousand thirteen;

22 (L) six hundred fifty million four hundred thousand dollars for the  
23 period April first, two thousand thirteen through March thirty-first,  
24 two thousand fourteen; and

25 (M) up to three hundred ten million five hundred ninety-five thousand  
26 dollars for the period April first, two thousand fourteen through March  
27 thirty-first, two thousand fifteen.

1 (nn) Funds shall be deposited by the commissioner, within amounts  
2 appropriated, and the state comptroller is hereby authorized and  
3 directed to receive for deposit to the credit of the state special  
4 revenue fund - other, HCRA transfer fund, health care services account,  
5 or any successor fund or account, for purposes related to adult home  
6 initiatives for medicaid eligible residents of residential facilities  
7 licensed pursuant to section four hundred sixty-b of the social services  
8 law from the tobacco control and insurance initiatives pool established  
9 for the following periods in the following amounts:

10 (i) up to four million dollars for the period January first, two thou-  
11 sand three through December thirty-first, two thousand three;

12 (ii) up to six million dollars for the period January first, two thou-  
13 sand four through December thirty-first, two thousand four;

14 (iii) up to eight million dollars for the period January first, two  
15 thousand five through December thirty-first, two thousand five,  
16 provided, however, that up to five million two hundred fifty thousand  
17 dollars of such funds shall be received by the comptroller and deposited  
18 to the credit of the special revenue fund - other / aid to localities,  
19 HCRA transfer fund - 061, enhanced community services account - 05, or  
20 any successor fund or account, for the purposes set forth in this para-  
21 graph;

22 (iv) up to eight million dollars for the period January first, two  
23 thousand six through December thirty-first, two thousand six, provided,  
24 however, that up to five million two hundred fifty thousand dollars of  
25 such funds shall be received by the comptroller and deposited to the  
26 credit of the special revenue fund - other / aid to localities, HCRA  
27 transfer fund - 061, enhanced community services account - 05, or any  
28 successor fund or account, for the purposes set forth in this paragraph;

1 (v) up to eight million dollars for the period January first, two  
2 thousand seven through December thirty-first, two thousand seven,  
3 provided, however, that up to five million two hundred fifty thousand  
4 dollars of such funds shall be received by the comptroller and deposited  
5 to the credit of the special revenue fund - other / aid to localities,  
6 HCRA transfer fund - 061, enhanced community services account - 05, or  
7 any successor fund or account, for the purposes set forth in this para-  
8 graph;

9 (vi) up to two million seven hundred fifty thousand dollars for the  
10 period January first, two thousand eight through December thirty-first,  
11 two thousand eight;

12 (vii) up to two million seven hundred fifty thousand dollars for the  
13 period January first, two thousand nine through December thirty-first,  
14 two thousand nine;

15 (viii) up to two million seven hundred fifty thousand dollars for the  
16 period January first, two thousand ten through December thirty-first,  
17 two thousand ten; and

18 (ix) up to six hundred eighty-eight thousand dollars for the period  
19 January first, two thousand eleven through March thirty-first, two thou-  
20 sand eleven.

21 (oo) Funds shall be reserved and accumulated from year to year and  
22 shall be available, including income from invested funds, for purposes  
23 of grants to non-public general hospitals pursuant to paragraph (e) of  
24 subdivision twenty-five of section twenty-eight hundred seven-c of this  
25 article from the tobacco control and insurance initiatives pool estab-  
26 lished for the following periods in the following amounts:

1 (i) up to five million dollars on an annualized basis for the period  
2 January first, two thousand four through December thirty-first, two  
3 thousand four;

4 (ii) up to five million dollars for the period January first, two  
5 thousand five through December thirty-first, two thousand five;

6 (iii) up to five million dollars for the period January first, two  
7 thousand six through December thirty-first, two thousand six;

8 (iv) up to five million dollars for the period January first, two  
9 thousand seven through December thirty-first, two thousand seven;

10 (v) up to five million dollars for the period January first, two thou-  
11 sand eight through December thirty-first, two thousand eight;

12 (vi) up to five million dollars for the period January first, two  
13 thousand nine through December thirty-first, two thousand nine;

14 (vii) up to five million dollars for the period January first, two  
15 thousand ten through December thirty-first, two thousand ten; and

16 (viii) up to one million two hundred fifty thousand dollars for the  
17 period January first, two thousand eleven through March thirty-first,  
18 two thousand eleven.

19 (pp) Funds shall be reserved and accumulated from year to year and  
20 shall be available, including income from invested funds, for the  
21 purpose of supporting the provision of tax credits for long term care  
22 insurance pursuant to subdivision one of section one hundred ninety of  
23 the tax law, paragraph (a) of subdivision fourteen of section two  
24 hundred ten-B of such law, subsection (aa) of section six hundred six of  
25 such law and paragraph one of subdivision (m) of section fifteen hundred  
26 eleven of such law, in the following amounts:

27 (i) ten million dollars for the period January first, two thousand  
28 four through December thirty-first, two thousand four;

1 (ii) ten million dollars for the period January first, two thousand  
2 five through December thirty-first, two thousand five;

3 (iii) ten million dollars for the period January first, two thousand  
4 six through December thirty-first, two thousand six; and

5 (iv) five million dollars for the period January first, two thousand  
6 seven through June thirtieth, two thousand seven.

7 (qq) Funds shall be reserved and accumulated from year to year and  
8 shall be available, including income from invested funds, for the  
9 purpose of supporting the long-term care insurance education and  
10 outreach program established pursuant to section two hundred seventeen-a  
11 of the elder law for the following periods in the following amounts:

12 (i) up to five million dollars for the period January first, two thou-  
13 sand four through December thirty-first, two thousand four; of such  
14 funds one million nine hundred fifty thousand dollars shall be made  
15 available to the department for the purpose of developing, implementing  
16 and administering the long-term care insurance education and outreach  
17 program and three million fifty thousand dollars shall be deposited by  
18 the commissioner, within amounts appropriated, and the comptroller is  
19 hereby authorized and directed to receive for deposit to the credit of  
20 the special revenue funds - other, HCRA transfer fund, long term care  
21 insurance resource center account of the state office for the aging or  
22 any future account designated for the purpose of implementing the long  
23 term care insurance education and outreach program and providing the  
24 long term care insurance resource centers with the necessary resources  
25 to carry out their operations;

26 (ii) up to five million dollars for the period January first, two  
27 thousand five through December thirty-first, two thousand five; of such  
28 funds one million nine hundred fifty thousand dollars shall be made

1 available to the department for the purpose of developing, implementing  
2 and administering the long-term care insurance education and outreach  
3 program and three million fifty thousand dollars shall be deposited by  
4 the commissioner, within amounts appropriated, and the comptroller is  
5 hereby authorized and directed to receive for deposit to the credit of  
6 the special revenue funds - other, HCRA transfer fund, long term care  
7 insurance resource center account of the state office for the aging or  
8 any future account designated for the purpose of implementing the long  
9 term care insurance education and outreach program and providing the  
10 long term care insurance resource centers with the necessary resources  
11 to carry out their operations;

12 (iii) up to five million dollars for the period January first, two  
13 thousand six through December thirty-first, two thousand six; of such  
14 funds one million nine hundred fifty thousand dollars shall be made  
15 available to the department for the purpose of developing, implementing  
16 and administering the long-term care insurance education and outreach  
17 program and three million fifty thousand dollars shall be made available  
18 to the office for the aging for the purpose of providing the long term  
19 care insurance resource centers with the necessary resources to carry  
20 out their operations;

21 (iv) up to five million dollars for the period January first, two  
22 thousand seven through December thirty-first, two thousand seven; of  
23 such funds one million nine hundred fifty thousand dollars shall be made  
24 available to the department for the purpose of developing, implementing  
25 and administering the long-term care insurance education and outreach  
26 program and three million fifty thousand dollars shall be made available  
27 to the office for the aging for the purpose of providing the long term

1 care insurance resource centers with the necessary resources to carry  
2 out their operations;

3 (v) up to five million dollars for the period January first, two thou-  
4 sand eight through December thirty-first, two thousand eight; of such  
5 funds one million nine hundred fifty thousand dollars shall be made  
6 available to the department for the purpose of developing, implementing  
7 and administering the long term care insurance education and outreach  
8 program and three million fifty thousand dollars shall be made available  
9 to the office for the aging for the purpose of providing the long term  
10 care insurance resource centers with the necessary resources to carry  
11 out their operations;

12 (vi) up to five million dollars for the period January first, two  
13 thousand nine through December thirty-first, two thousand nine; of such  
14 funds one million nine hundred fifty thousand dollars shall be made  
15 available to the department for the purpose of developing, implementing  
16 and administering the long-term care insurance education and outreach  
17 program and three million fifty thousand dollars shall be made available  
18 to the office for the aging for the purpose of providing the long-term  
19 care insurance resource centers with the necessary resources to carry  
20 out their operations;

21 (vii) up to four hundred eighty-eight thousand dollars for the period  
22 January first, two thousand ten through March thirty-first, two thousand  
23 ten; of such funds four hundred eighty-eight thousand dollars shall be  
24 made available to the department for the purpose of developing, imple-  
25 menting and administering the long-term care insurance education and  
26 outreach program.

27 (rr) Funds shall be reserved and accumulated from the tobacco control  
28 and insurance initiatives pool and shall be available, including income

1 from invested funds, for the purpose of supporting expenses related to  
2 implementation of the provisions of title three of article twenty-nine-D  
3 of this chapter, for the following periods and in the following amounts:

4 (i) up to ten million dollars for the period January first, two thou-  
5 sand six through December thirty-first, two thousand six;

6 (ii) up to ten million dollars for the period January first, two thou-  
7 sand seven through December thirty-first, two thousand seven;

8 (iii) up to ten million dollars for the period January first, two  
9 thousand eight through December thirty-first, two thousand eight;

10 (iv) up to ten million dollars for the period January first, two thou-  
11 sand nine through December thirty-first, two thousand nine;

12 (v) up to ten million dollars for the period January first, two thou-  
13 sand ten through December thirty-first, two thousand ten; and

14 (vi) up to two million five hundred thousand dollars for the period  
15 January first, two thousand eleven through March thirty-first, two thou-  
16 sand eleven.

17 (ss) Funds shall be reserved and accumulated from the tobacco control  
18 and insurance initiatives pool and used for a health care stabilization  
19 program established by the commissioner for the purposes of stabilizing  
20 critical health care providers and health care programs whose ability to  
21 continue to provide appropriate services are threatened by financial or  
22 other challenges, in the amount of up to twenty-eight million dollars  
23 for the period July first, two thousand four through June thirtieth, two  
24 thousand five. Notwithstanding the provisions of section one hundred  
25 twelve of the state finance law or any other inconsistent provision of  
26 the state finance law or any other law, funds available for distribution  
27 pursuant to this paragraph may be allocated and distributed by the  
28 commissioner, or the state comptroller as applicable without a compet-

1 itive bid or request for proposal process. Considerations relied upon by  
2 the commissioner in determining the allocation and distribution of these  
3 funds shall include, but not be limited to, the following: (i) the  
4 importance of the provider or program in meeting critical health care  
5 needs in the community in which it operates; (ii) the provider or  
6 program provision of care to under-served populations; (iii) the quality  
7 of the care or services the provider or program delivers; (iv) the abil-  
8 ity of the provider or program to continue to deliver an appropriate  
9 level of care or services if additional funding is made available; (v)  
10 the ability of the provider or program to access, in a timely manner,  
11 alternative sources of funding, including other sources of government  
12 funding; (vi) the ability of other providers or programs in the communi-  
13 ty to meet the community health care needs; (vii) whether the provider  
14 or program has an appropriate plan to improve its financial condition;  
15 and (viii) whether additional funding would permit the provider or  
16 program to consolidate, relocate, or close programs or services where  
17 such actions would result in greater stability and efficiency in the  
18 delivery of needed health care services or programs.

19 (tt) Funds shall be reserved and accumulated from year to year and  
20 shall be available, including income from invested funds, for purposes  
21 of providing grants for two long term care demonstration projects  
22 designed to test new models for the delivery of long term care services  
23 established pursuant to section twenty-eight hundred seven-x of this  
24 chapter, for the following periods and in the following amounts:

25 (i) up to five hundred thousand dollars for the period January first,  
26 two thousand four through December thirty-first, two thousand four;

27 (ii) up to five hundred thousand dollars for the period January first,  
28 two thousand five through December thirty-first, two thousand five;

1 (iii) up to five hundred thousand dollars for the period January  
2 first, two thousand six through December thirty-first, two thousand six;

3 (iv) up to one million dollars for the period January first, two thou-  
4 sand seven through December thirty-first, two thousand seven; and

5 (v) up to two hundred fifty thousand dollars for the period January  
6 first, two thousand eight through March thirty-first, two thousand  
7 eight.

8 (uu) Funds shall be reserved and accumulated from year to year and  
9 shall be available, including income from invested funds, for the  
10 purpose of supporting disease management and telemedicine demonstration  
11 programs authorized pursuant to section twenty-one hundred eleven of  
12 this chapter for the following periods in the following amounts:

13 (i) five million dollars for the period January first, two thousand  
14 four through December thirty-first, two thousand four, of which three  
15 million dollars shall be available for disease management demonstration  
16 programs and two million dollars shall be available for telemedicine  
17 demonstration programs;

18 (ii) five million dollars for the period January first, two thousand  
19 five through December thirty-first, two thousand five, of which three  
20 million dollars shall be available for disease management demonstration  
21 programs and two million dollars shall be available for telemedicine  
22 demonstration programs;

23 (iii) nine million five hundred thousand dollars for the period Janu-  
24 ary first, two thousand six through December thirty-first, two thousand  
25 six, of which seven million five hundred thousand dollars shall be  
26 available for disease management demonstration programs and two million  
27 dollars shall be available for telemedicine demonstration programs;

1 (iv) nine million five hundred thousand dollars for the period January  
2 first, two thousand seven through December thirty-first, two thousand  
3 seven, of which seven million five hundred thousand dollars shall be  
4 available for disease management demonstration programs and one million  
5 dollars shall be available for telemedicine demonstration programs;

6 (v) nine million five hundred thousand dollars for the period January  
7 first, two thousand eight through December thirty-first, two thousand  
8 eight, of which seven million five hundred thousand dollars shall be  
9 available for disease management demonstration programs and two million  
10 dollars shall be available for telemedicine demonstration programs;

11 (vi) seven million eight hundred thirty-three thousand three hundred  
12 thirty-three dollars for the period January first, two thousand nine  
13 through December thirty-first, two thousand nine, of which seven million  
14 five hundred thousand dollars shall be available for disease management  
15 demonstration programs and three hundred thirty-three thousand three  
16 hundred thirty-three dollars shall be available for telemedicine demon-  
17 stration programs for the period January first, two thousand nine  
18 through March first, two thousand nine;

19 (vii) one million eight hundred seventy-five thousand dollars for the  
20 period January first, two thousand ten through March thirty-first, two  
21 thousand ten shall be available for disease management demonstration  
22 programs.

23 (ww) Funds shall be deposited by the commissioner, within amounts  
24 appropriated, and the state comptroller is hereby authorized and  
25 directed to receive for the deposit to the credit of the state special  
26 revenue funds - other, HCRA transfer fund, medical assistance account,  
27 or any successor fund or account, for purposes of funding the state  
28 share of the general hospital rates increases for recruitment and

1 retention of health care workers pursuant to paragraph (e) of subdivi-  
2 sion thirty of section twenty-eight hundred seven-c of this article from  
3 the tobacco control and insurance initiatives pool established for the  
4 following periods in the following amounts:

5 (i) sixty million five hundred thousand dollars for the period January  
6 first, two thousand five through December thirty-first, two thousand  
7 five; and

8 (ii) sixty million five hundred thousand dollars for the period Janu-  
9 ary first, two thousand six through December thirty-first, two thousand  
10 six.

11 (xx) Funds shall be deposited by the commissioner, within amounts  
12 appropriated, and the state comptroller is hereby authorized and  
13 directed to receive for the deposit to the credit of the state special  
14 revenue funds - other, HCRA transfer fund, medical assistance account,  
15 or any successor fund or account, for purposes of funding the state  
16 share of the general hospital rates increases for rural hospitals pursu-  
17 ant to subdivision thirty-two of section twenty-eight hundred seven-c of  
18 this article from the tobacco control and insurance initiatives pool  
19 established for the following periods in the following amounts:

20 (i) three million five hundred thousand dollars for the period January  
21 first, two thousand five through December thirty-first, two thousand  
22 five;

23 (ii) three million five hundred thousand dollars for the period Janu-  
24 ary first, two thousand six through December thirty-first, two thousand  
25 six;

26 (iii) three million five hundred thousand dollars for the period Janu-  
27 ary first, two thousand seven through December thirty-first, two thou-  
28 sand seven;

1 (iv) three million five hundred thousand dollars for the period Janu-  
2 ary first, two thousand eight through December thirty-first, two thou-  
3 sand eight; and

4 (v) three million two hundred eight thousand dollars for the period  
5 January first, two thousand nine through November thirtieth, two thou-  
6 sand nine.

7 (yy) Funds shall be reserved and accumulated from year to year and  
8 shall be available, within amounts appropriated and notwithstanding  
9 section one hundred twelve of the state finance law and any other  
10 contrary provision of law, for the purpose of supporting grants not to  
11 exceed five million dollars to be made by the commissioner without a  
12 competitive bid or request for proposal process, in support of the  
13 delivery of critically needed health care services, to health care  
14 providers located in the counties of Erie and Niagara which executed a  
15 memorandum of closing and conducted a merger closing in escrow on Novem-  
16 ber twenty-fourth, nineteen hundred ninety-seven and which entered into  
17 a settlement dated December thirtieth, two thousand four for a loss on  
18 disposal of assets under the provisions of title XVIII of the federal  
19 social security act applicable to mergers occurring prior to December  
20 first, nineteen hundred ninety-seven.

21 (zz) Funds shall be reserved and accumulated from year to year and  
22 shall be available, within amounts appropriated, for the purpose of  
23 supporting expenditures authorized pursuant to section twenty-eight  
24 hundred eighteen of this article from the tobacco control and insurance  
25 initiatives pool established for the following periods in the following  
26 amounts:

1 (i) six million five hundred thousand dollars for the period January  
2 first, two thousand five through December thirty-first, two thousand  
3 five;

4 (ii) one hundred eight million three hundred thousand dollars for the  
5 period January first, two thousand six through December thirty-first,  
6 two thousand six, provided, however, that within amounts appropriated in  
7 the two thousand six through two thousand seven state fiscal year, a  
8 portion of such funds may be transferred to the Roswell Park Cancer  
9 Institute Corporation to fund capital costs;

10 (iii) one hundred seventy-one million dollars for the period January  
11 first, two thousand seven through December thirty-first, two thousand  
12 seven, provided, however, that within amounts appropriated in the two  
13 thousand six through two thousand seven state fiscal year, a portion of  
14 such funds may be transferred to the Roswell Park Cancer Institute  
15 Corporation to fund capital costs;

16 (iv) one hundred seventy-one million five hundred thousand dollars for  
17 the period January first, two thousand eight through December thirty-  
18 first, two thousand eight;

19 (v) one hundred twenty-eight million seven hundred fifty thousand  
20 dollars for the period January first, two thousand nine through December  
21 thirty-first, two thousand nine;

22 (vi) one hundred thirty-one million three hundred seventy-five thou-  
23 sand dollars for the period January first, two thousand ten through  
24 December thirty-first, two thousand ten;

25 (vii) thirty-four million two hundred fifty thousand dollars for the  
26 period January first, two thousand eleven through March thirty-first,  
27 two thousand eleven;

1 (viii) four hundred thirty-three million three hundred sixty-six thou-  
2 sand dollars for the period April first, two thousand eleven through  
3 March thirty-first, two thousand twelve;

4 (ix) one hundred fifty million eight hundred six thousand dollars for  
5 the period April first, two thousand twelve through March thirty-first,  
6 two thousand thirteen;

7 (x) seventy-eight million seventy-one thousand dollars for the period  
8 April first, two thousand thirteen through March thirty-first, two thou-  
9 sand fourteen.

10 (aaa) Funds shall be reserved and accumulated from year to year and  
11 shall be available, including income from invested funds, for services  
12 and expenses related to school based health centers, in an amount up to  
13 three million five hundred thousand dollars for the period April first,  
14 two thousand six through March thirty-first, two thousand seven, up to  
15 three million five hundred thousand dollars for the period April first,  
16 two thousand seven through March thirty-first, two thousand eight, up to  
17 three million five hundred thousand dollars for the period April first,  
18 two thousand eight through March thirty-first, two thousand nine, up to  
19 three million five hundred thousand dollars for the period April first,  
20 two thousand nine through March thirty-first, two thousand ten, up to  
21 three million five hundred thousand dollars for the period April first,  
22 two thousand ten through March thirty-first, two thousand eleven, up to  
23 two million eight hundred thousand dollars each state fiscal year for  
24 the period April first, two thousand eleven through March thirty-first,  
25 two thousand fourteen, up to two million six hundred forty-four thousand  
26 dollars each state fiscal year for the period April first, two thousand  
27 fourteen through March thirty-first, two thousand seventeen, up to two  
28 million six hundred forty-four thousand dollars each state fiscal year

1 for the period April first, two thousand seventeen through March thir-  
2 ty-first, two thousand twenty, [and] up to two million six hundred  
3 forty-four thousand dollars each state fiscal year for the period April  
4 first, two thousand twenty through March thirty-first, two thousand  
5 twenty-three, and up to two million six hundred forty-four thousand  
6 dollars each state fiscal year for the period April first, two thousand  
7 twenty-three through March thirty-first, two thousand twenty-six. The  
8 total amount of funds provided herein shall be distributed as grants  
9 based on the ratio of each provider's total enrollment for all sites to  
10 the total enrollment of all providers. This formula shall be applied to  
11 the total amount provided herein.

12 (bbb) Funds shall be reserved and accumulated from year to year and  
13 shall be available, including income from invested funds, for purposes  
14 of awarding grants to operators of adult homes, enriched housing  
15 programs and residences through the enhancing abilities and life experi-  
16 ence (EnAbLe) program to provide for the installation, operation and  
17 maintenance of air conditioning in resident rooms, consistent with this  
18 paragraph, in an amount up to two million dollars for the period April  
19 first, two thousand six through March thirty-first, two thousand seven,  
20 up to three million eight hundred thousand dollars for the period April  
21 first, two thousand seven through March thirty-first, two thousand  
22 eight, up to three million eight hundred thousand dollars for the period  
23 April first, two thousand eight through March thirty-first, two thousand  
24 nine, up to three million eight hundred thousand dollars for the period  
25 April first, two thousand nine through March thirty-first, two thousand  
26 ten, and up to three million eight hundred thousand dollars for the  
27 period April first, two thousand ten through March thirty-first, two  
28 thousand eleven. Residents shall not be charged utility cost for the use

1 of air conditioners supplied under the EnAbLe program. All such air  
2 conditioners must be operated in occupied resident rooms consistent with  
3 requirements applicable to common areas.

4 (ccc) Funds shall be deposited by the commissioner, within amounts  
5 appropriated, and the state comptroller is hereby authorized and  
6 directed to receive for the deposit to the credit of the state special  
7 revenue funds - other, HCRA transfer fund, medical assistance account,  
8 or any successor fund or account, for purposes of funding the state  
9 share of increases in the rates for certified home health agencies, long  
10 term home health care programs, AIDS home care programs, hospice  
11 programs and managed long term care plans and approved managed long term  
12 care operating demonstrations as defined in section forty-four hundred  
13 three-f of this chapter for recruitment and retention of health care  
14 workers pursuant to subdivisions nine and ten of section thirty-six  
15 hundred fourteen of this chapter from the tobacco control and insurance  
16 initiatives pool established for the following periods in the following  
17 amounts:

18 (i) twenty-five million dollars for the period June first, two thou-  
19 sand six through December thirty-first, two thousand six;

20 (ii) fifty million dollars for the period January first, two thousand  
21 seven through December thirty-first, two thousand seven;

22 (iii) fifty million dollars for the period January first, two thousand  
23 eight through December thirty-first, two thousand eight;

24 (iv) fifty million dollars for the period January first, two thousand  
25 nine through December thirty-first, two thousand nine;

26 (v) fifty million dollars for the period January first, two thousand  
27 ten through December thirty-first, two thousand ten;

1 (vi) twelve million five hundred thousand dollars for the period Janu-  
2 ary first, two thousand eleven through March thirty-first, two thousand  
3 eleven;

4 (vii) up to fifty million dollars each state fiscal year for the peri-  
5 od April first, two thousand eleven through March thirty-first, two  
6 thousand fourteen;

7 (viii) up to fifty million dollars each state fiscal year for the  
8 period April first, two thousand fourteen through March thirty-first,  
9 two thousand seventeen;

10 (ix) up to fifty million dollars each state fiscal year for the period  
11 April first, two thousand seventeen through March thirty-first, two  
12 thousand twenty; [and]

13 (x) up to fifty million dollars each state fiscal year for the period  
14 April first, two thousand twenty through March thirty-first, two thou-  
15 sand twenty-three; and

16 (xi) up to fifty million dollars each state fiscal year for the period  
17 April first, two thousand twenty-three through March thirty-first, two  
18 thousand twenty-six.

19 (ddd) Funds shall be deposited by the commissioner, within amounts  
20 appropriated, and the state comptroller is hereby authorized and  
21 directed to receive for the deposit to the credit of the state special  
22 revenue funds - other, HCRA transfer fund, medical assistance account,  
23 or any successor fund or account, for purposes of funding the state  
24 share of increases in the medical assistance rates for providers for  
25 purposes of enhancing the provision, quality and/or efficiency of home  
26 care services pursuant to subdivision eleven of section thirty-six  
27 hundred fourteen of this chapter from the tobacco control and insurance  
28 initiatives pool established for the following period in the amount of

1 eight million dollars for the period April first, two thousand six  
2 through December thirty-first, two thousand six.

3 (eee) Funds shall be reserved and accumulated from year to year and  
4 shall be available, including income from invested funds, to the Center  
5 for Functional Genomics at the State University of New York at Albany,  
6 for the purposes of the Adirondack network for cancer education and  
7 research in rural communities grant program to improve access to health  
8 care and shall be made available from the tobacco control and insurance  
9 initiatives pool established for the following period in the amount of  
10 up to five million dollars for the period January first, two thousand  
11 six through December thirty-first, two thousand six.

12 (fff) Funds shall be made available to the empire state stem cell  
13 trust fund established by section ninety-nine-p of the state finance law  
14 within amounts appropriated up to fifty million dollars annually and  
15 shall not exceed five hundred million dollars in total.

16 (ggg) Funds shall be deposited by the commissioner, within amounts  
17 appropriated, and the state comptroller is hereby authorized and  
18 directed to receive for deposit to the credit of the state special  
19 revenue fund - other, HCRA transfer fund, medical assistance account, or  
20 any successor fund or account, for the purpose of supporting the state  
21 share of Medicaid expenditures for hospital translation services as  
22 authorized pursuant to paragraph (k) of subdivision one of section twen-  
23 ty-eight hundred seven-c of this article from the tobacco control and  
24 initiatives pool established for the following periods in the following  
25 amounts:

26 (i) sixteen million dollars for the period July first, two thousand  
27 eight through December thirty-first, two thousand eight; and

1 (ii) fourteen million seven hundred thousand dollars for the period  
2 January first, two thousand nine through November thirtieth, two thou-  
3 sand nine.

4 (hhh) Funds shall be deposited by the commissioner, within amounts  
5 appropriated, and the state comptroller is hereby authorized and  
6 directed to receive for deposit to the credit of the state special  
7 revenue fund - other, HCRA transfer fund, medical assistance account, or  
8 any successor fund or account, for the purpose of supporting the state  
9 share of Medicaid expenditures for adjustments to inpatient rates of  
10 payment for general hospitals located in the counties of Nassau and  
11 Suffolk as authorized pursuant to paragraph (1) of subdivision one of  
12 section twenty-eight hundred seven-c of this article from the tobacco  
13 control and initiatives pool established for the following periods in  
14 the following amounts:

15 (i) two million five hundred thousand dollars for the period April  
16 first, two thousand eight through December thirty-first, two thousand  
17 eight; and

18 (ii) two million two hundred ninety-two thousand dollars for the peri-  
19 od January first, two thousand nine through November thirtieth, two  
20 thousand nine.

21 (iii) Funds shall be reserved and set aside and accumulated from year  
22 to year and shall be made available, including income from investment  
23 funds, for the purpose of supporting the New York state medical indem-  
24 nity fund as authorized pursuant to title four of article twenty-nine-D  
25 of this chapter, for the following periods and in the following amounts,  
26 provided, however, that the commissioner is authorized to seek waiver  
27 authority from the federal centers for medicare and Medicaid for the  
28 purpose of securing Medicaid federal financial participation for such

1 program, in which case the funding authorized pursuant to this paragraph  
2 shall be utilized as the non-federal share for such payments:

3 Thirty million dollars for the period April first, two thousand eleven  
4 through March thirty-first, two thousand twelve.

5 2. (a) For periods prior to January first, two thousand five, the  
6 commissioner is authorized to contract with the article forty-three  
7 insurance law plans, or such other contractors as the commissioner shall  
8 designate, to receive and distribute funds from the tobacco control and  
9 insurance initiatives pool established pursuant to this section. In the  
10 event contracts with the article forty-three insurance law plans or  
11 other commissioner's designees are effectuated, the commissioner shall  
12 conduct annual audits of the receipt and distribution of such funds. The  
13 reasonable costs and expenses of an administrator as approved by the  
14 commissioner, not to exceed for personnel services on an annual basis  
15 five hundred thousand dollars, for collection and distribution of funds  
16 pursuant to this section shall be paid from such funds.

17 (b) Notwithstanding any inconsistent provision of section one hundred  
18 twelve or one hundred sixty-three of the state finance law or any other  
19 law, at the discretion of the commissioner without a competitive bid or  
20 request for proposal process, contracts in effect for administration of  
21 pools established pursuant to sections twenty-eight hundred seven-k,  
22 twenty-eight hundred seven-l and twenty-eight hundred seven-m of this  
23 article for the period January first, nineteen hundred ninety-nine  
24 through December thirty-first, nineteen hundred ninety-nine may be  
25 extended to provide for administration pursuant to this section and may  
26 be amended as may be necessary.

1 § 13. Paragraph (a) of subdivision 12 of section 367-b of the social  
2 services law, as amended by section 15 of part Y of chapter 56 of the  
3 laws of 2020, is amended to read as follows:

4 (a) For the purpose of regulating cash flow for general hospitals, the  
5 department shall develop and implement a payment methodology to provide  
6 for timely payments for inpatient hospital services eligible for case  
7 based payments per discharge based on diagnosis-related groups provided  
8 during the period January first, nineteen hundred eighty-eight through  
9 March thirty-first two thousand [twenty-three] twenty-six, by such  
10 hospitals which elect to participate in the system.

11 § 14. Paragraph (r) of subdivision 9 of section 3614 of the public  
12 health law, as added by section 16 of part Y of chapter 56 of the laws  
13 of 2020, is amended and three new paragraphs (s), (t) and (u) are added  
14 to read as follows:

15 (r) for the period April first, two thousand twenty-two through March  
16 thirty-first, two thousand twenty-three, up to one hundred million  
17 dollars[.];

18 (s) for the period April first, two thousand twenty-three through  
19 March thirty-first, two thousand twenty-four, up to one hundred million  
20 dollars;

21 (t) for the period April first, two thousand twenty-four through March  
22 thirty-first, two thousand twenty-five, up to one hundred million  
23 dollars;

24 (u) for the period April first, two thousand twenty-five through March  
25 thirty-first, two thousand twenty-six, up to one hundred million  
26 dollars.

27 § 15. Paragraph (v) of subdivision 1 of section 367-q of the social  
28 services law, as added by section 17 of part Y of chapter 56 of the laws

1 of 2020, is amended and three new paragraphs (w), (x) and (y) are added  
2 to read as follows:

3 (v) for the period April first, two thousand twenty-two through March  
4 thirty-first, two thousand twenty-three, up to twenty-eight million five  
5 hundred thousand dollars[.];

6 (w) for the period April first, two thousand twenty-three through  
7 March thirty-first, two thousand twenty-four, up to twenty-eight million  
8 five hundred thousand dollars;

9 (x) for the period April first, two thousand twenty-four through March  
10 thirty-first, two thousand twenty-five, up to twenty-eight million five  
11 hundred thousand dollars;

12 (y) for the period April first, two thousand twenty-five through March  
13 thirty-first, two thousand twenty-six, up to twenty-eight million five  
14 hundred thousand dollars.

15 § 16. This act shall take effect April 1, 2023; provided, however, if  
16 this act shall become a law after such date it shall take effect imme-  
17 diately and shall be deemed to have been in full force and effect on and  
18 after April 1, 2023; and further provided, that:

19 (a) the amendments to sections 2807-j and 2807-s of the public health  
20 law made by sections two, eight, nine, and ten of this act shall not  
21 affect the expiration of such sections and shall expire therewith;

22 (b) the amendments to subdivision 6 of section 2807-t of the public  
23 health law made by section eleven of this act shall not affect the expi-  
24 ration of such section and shall be deemed to expire therewith; and

25 (c) the amendments to paragraph (i-1) of subdivision 1 of section  
26 2807-v of the public health law made by section twelve of this act shall  
27 not affect the repeal of such paragraph and shall be deemed repealed  
28 therewith.

1

## PART D

2 Section 1. Paragraph (a) of subdivision 4 of section 365-a of the  
3 social services law, as amended by chapter 493 of the laws of 2010, is  
4 amended to read as follows:

5 (a) drugs which may be dispensed without a prescription as required by  
6 section sixty-eight hundred ten of the education law; provided, however,  
7 that the state commissioner of health may by regulation specify certain  
8 of such drugs which may be reimbursed as an item of medical assistance  
9 in accordance with the price schedule established by such commissioner.  
10 Notwithstanding any other provision of law, [additions] modifications to  
11 the list of drugs reimbursable under this paragraph may be filed as  
12 regulations by the commissioner of health without prior notice and  
13 comment;

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

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

1 § 3. Subdivisions 25 and 25-a of section 364-j of the social services  
2 law are REPEALED.

3 § 4. This act shall take effect October 1, 2023; provided that  
4 sections two and three of this act shall take effect April 1, 2024.

5 PART E

6 Section 1. Subdivision 5-d of section 2807-k of the public health  
7 law, as amended by section 3 of part KK of chapter 56 of the laws of  
8 2020, is amended to read as follows:

9 5-d. (a) Notwithstanding any inconsistent provision of this section,  
10 section twenty-eight hundred seven-w of this article or any other  
11 contrary provision of law, and subject to the availability of federal  
12 financial participation, for periods on and after January first, two  
13 thousand twenty, through March thirty-first, two thousand [twenty-three]  
14 twenty-six, all funds available for distribution pursuant to this  
15 section, except for funds distributed pursuant to [subparagraph (v) of]  
16 paragraph (b) of subdivision five-b of this section, and all funds  
17 available for distribution pursuant to section twenty-eight hundred  
18 seven-w of this article, shall be reserved and set aside and distributed  
19 in accordance with the provisions of this subdivision.

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

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

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

8 (ii) Annual distributions pursuant to such regulations for the two  
9 thousand twenty through two thousand [twenty-two] twenty-five calendar  
10 years shall be in accord with the following:

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

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

17 For the calendar years two thousand twenty through two thousand twen-  
18 ty-two, the total distributions to eligible general hospitals, other  
19 than major public general hospitals, shall be subject to an aggregate  
20 reduction of one hundred fifty million dollars annually, provided that  
21 eligible general hospitals, other than major public general hospitals,  
22 that qualify as enhanced safety net hospitals under section two thousand  
23 eight hundred seven-c of this article shall not be subject to such  
24 reduction.

25 For the calendar years two thousand twenty-three through two thousand  
26 twenty-five, the total distributions to eligible general hospitals,  
27 other than major public general hospitals, shall be subject to an aggre-  
28 gate reduction of two hundred thirty-five million four hundred thousand

1 dollars annually, provided that eligible general hospitals, other than  
2 major public general hospitals that qualify as enhanced safety net  
3 hospitals under section two thousand eight hundred seven-c of this arti-  
4 cle as of April first, two thousand twenty, shall not be subject to such  
5 reduction.

6 Such [reduction] reductions shall be determined by a methodology to be  
7 established by the commissioner. Such [methodology] methodologies may  
8 take into account the payor mix of each non-public general hospital,  
9 including the percentage of inpatient days paid by Medicaid.

10 (iii) For calendar years two thousand twenty through two thousand  
11 [twenty-two] twenty-five, sixty-four million six hundred thousand  
12 dollars shall be distributed to eligible general hospitals, other than  
13 major public general hospitals, that experience a reduction in indigent  
14 care pool payments pursuant to this subdivision, and that qualify as  
15 enhanced safety net hospitals under section two thousand eight hundred  
16 seven-c of this article as of April first, two thousand twenty. Such  
17 distribution shall be established pursuant to regulations promulgated by  
18 the commissioner and shall be proportional to the reduction experienced  
19 by the facility.

20 (iv) Such regulations shall reserve one percent of the funds available  
21 for distribution in the two thousand fourteen and two thousand fifteen  
22 calendar years, and for calendar years thereafter, pursuant to this  
23 subdivision, subdivision fourteen-f of section twenty-eight hundred  
24 seven-c of this article, and sections two hundred eleven and two hundred  
25 twelve of chapter four hundred seventy-four of the laws of nineteen  
26 hundred ninety-six, in a "financial assistance compliance pool" and  
27 shall establish methodologies for the distribution of such pool funds to

1 facilities based on their level of compliance, as determined by the  
2 commissioner, with the provisions of subdivision nine-a of this section.

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

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

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

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

11 § 2. Subdivision 1 of section 2801 of the public health law, as  
12 amended by section 1 of part Z of chapter 57 of the laws of 2019, is  
13 amended to read as follows:

14 1. "Hospital" means a facility or institution engaged principally in  
15 providing services by or under the supervision of a physician or, in the  
16 case of a dental clinic or dental dispensary, of a dentist, or, in the  
17 case of a midwifery birth center, of a midwife, for the prevention,  
18 diagnosis or treatment of human disease, pain, injury, deformity or  
19 physical condition, including, but not limited to, a general hospital,  
20 public health center, diagnostic center, treatment center, a rural emer-  
21 gency hospital under 42 USC 1395x(kkk), or successor provisions, dental  
22 clinic, dental dispensary, rehabilitation center other than a facility  
23 used solely for vocational rehabilitation, nursing home, tuberculosis  
24 hospital, chronic disease hospital, maternity hospital, midwifery birth  
25 center, lying-in-asylum, out-patient department, out-patient lodge,  
26 dispensary and a laboratory or central service facility serving one or  
27 more such institutions, but the term hospital shall not include an  
28 institution, sanitarium or other facility engaged principally in provid-

1 ing services for the prevention, diagnosis or treatment of mental disa-  
2 bility and which is subject to the powers of visitation, examination,  
3 inspection and investigation of the department of mental hygiene except  
4 for those distinct parts of such a facility which provide hospital  
5 service. The provisions of this article shall not apply to a facility or  
6 institution engaged principally in providing services by or under the  
7 supervision of the bona fide members and adherents of a recognized reli-  
8 gious organization whose teachings include reliance on spiritual means  
9 through prayer alone for healing in the practice of the religion of such  
10 organization and where services are provided in accordance with those  
11 teachings. No provision of this article or any other provision of law  
12 shall be construed to: (a) limit the volume of mental health, substance  
13 use disorder services or developmental disability services that can be  
14 provided by a provider of primary care services licensed under this  
15 article and authorized to provide integrated services in accordance with  
16 regulations issued by the commissioner in consultation with the commis-  
17 sioner of the office of mental health, the commissioner of the office of  
18 alcoholism and substance abuse services and the commissioner of the  
19 office for people with developmental disabilities, including regulations  
20 issued pursuant to subdivision seven of section three hundred sixty-  
21 five-1 of the social services law or part L of chapter fifty-six of the  
22 laws of two thousand twelve; (b) require a provider licensed pursuant to  
23 article thirty-one of the mental hygiene law or certified pursuant to  
24 article sixteen or article thirty-two of the mental hygiene law to  
25 obtain an operating certificate from the department if such provider has  
26 been authorized to provide integrated services in accordance with regu-  
27 lations issued by the commissioner in consultation with the commissioner  
28 of the office of mental health, the commissioner of the office of alco-

1 holism and substance abuse services and the commissioner of the office  
2 for people with developmental disabilities, including regulations issued  
3 pursuant to subdivision seven of section three hundred sixty-five-1 of  
4 the social services law or part L of chapter fifty-six of the laws of  
5 two thousand twelve.

6 § 3. Section 2801-g of the public health law is amended by adding a  
7 new subdivision 4 to read as follows:

8 4. At least thirty days prior to a general hospital applying to the  
9 federal centers for medicare and medicaid services to convert from a  
10 general hospital with inpatients to a rural emergency hospital under 42  
11 USC 1395x(kkk), or successor provisions, such hospital shall hold a  
12 public community forum for the purpose of obtaining public input  
13 concerning the anticipated impact of the hospital's closure of inpatient  
14 units, including but not limited to, the impact on recipients of medical  
15 assistance for needy persons, the uninsured, and medically underserved  
16 populations, and options and proposals to ameliorate such anticipated  
17 impact. The hospital shall afford all public participants a reasonable  
18 opportunity to speak about relevant matters at such community forum.  
19 Prior to any community forum and as soon as practicable, the hospital  
20 shall be required to:

21 (a) notify the office of mental health and the local director of  
22 community services in the event such general hospital has psychiatric  
23 inpatient beds licensed under article thirty-one of the mental hygiene  
24 law or designated pursuant to section 9.39 of the mental hygiene law,  
25 and

26 (b) notify the office of addiction services and supports in the event  
27 such general hospital has inpatient substance use disorder treatment

1 programs or inpatient chemical dependence treatment programs licensed  
2 under article thirty-two of the mental hygiene law.

3 § 4. The opening paragraph of subdivision (g) of section 2826 of the  
4 public health law, as amended by section 3 of part M of chapter 57 of  
5 the laws of 2022, is amended to read as follows:

6 Notwithstanding subdivision (a) of this section, and within amounts  
7 appropriated for such purposes as described herein, [for the period of  
8 April first, two thousand twenty-two through March thirty-first, two  
9 thousand twenty-three,] the commissioner may award a temporary adjust-  
10 ment to the non-capital components of rates, or make temporary lump-sum  
11 Medicaid payments to eligible facilities in severe financial distress to  
12 enable such facilities to maintain operations and vital services while  
13 such facilities establish long term solutions to achieve sustainable  
14 health services. Provided, however, the commissioner is authorized to  
15 make such a temporary adjustment or make such temporary lump sum payment  
16 only pursuant to criteria, an application, and an evaluation process[,  
17 and transformation plan] acceptable to the commissioner in consultation  
18 with the director of the division of the budget. The department shall  
19 publish on its website the criteria, application, and evaluation process  
20 [and guidance for transformation plans] and notification of any award  
21 recipients.

22 § 5. Subparagraph (F) of paragraph (i) of subdivision (g) of section  
23 2826 of the public health law, as added by section 3 of part M of chap-  
24 ter 57 of the laws of 2022, is amended to read as follows:

25 (F) an independent practice association or accountable care organiza-  
26 tion authorized under applicable regulations that participate in managed  
27 care provider network arrangements with any of the provider types in  
28 subparagraphs (A) through (F) of this paragraph; or an entity that was

1 formed as a preferred provider system pursuant to the delivery system  
2 reform incentive payment (DSRIP) program and collaborated with an inde-  
3 pendent practice association that received VBP innovator status from the  
4 department for purposes of meeting DSRIP goals, and which preferred  
5 provider system remains operational as an integrated care system.

6 § 6. The opening paragraph of paragraph (ii) of subdivision (g) of  
7 section 2826 of the public health law, as added by section 6 of part J  
8 of chapter 60 of the laws of 2015, is amended to read as follows:

9 Eligible applicants must demonstrate that without such award, they  
10 will be in severe financial distress [through March thirty-first, two  
11 thousand sixteen], as evidenced by:

12 § 7. Subparagraph (A), the opening paragraph of subparagraph (E) and  
13 subparagraph (F) of paragraph (iii) of subdivision (g) of section 2826  
14 of the public health law, as added by section 6 of part J of chapter 60  
15 of the laws of 2015, are amended to read as follows:

16 (A) [Applications under this subdivision] Eligible applicants shall  
17 [include a multi-year transformation plan that is aligned with the  
18 delivery system reform incentive payment ("DSRIP") program goals and  
19 objectives. Such plan shall be approved by] submit a completed applica-  
20 tion to the department [and shall demonstrate a path towards long term  
21 sustainability and improved patient care].

22 The department shall review all applications under this subdivision,  
23 and [a] determine:

24 (F) After review of all applications under this subdivision, and a  
25 determination of the aggregate amount of requested funds, the department  
26 [shall] may make awards to eligible applicants; provided, however, that  
27 such awards may be in an amount lower than such requested funding, on a  
28 per applicant or aggregate basis.

1 § 8. Paragraph (v) of subdivision (g) of section 2826 of the public  
2 health law, as added by section 6 of part J of chapter 60 of the laws of  
3 2015, is amended to read as follows:

4 (v) Payments made to awardees pursuant to this subdivision [shall be]  
5 that are made on a monthly basis[. Such payments] will be based on the  
6 applicant's actual monthly financial performance during such period and  
7 the reasonable cash amount necessary to sustain operations for the  
8 following month. The applicant's monthly financial performance shall be  
9 measured by such applicant's monthly financial and activity reports,  
10 which shall include, but not be limited to, actual revenue and expenses  
11 for the prior month, projected cash need for the current month, and  
12 projected cash need for the following month.

13 § 9. Part I of chapter 57 of the laws of 2022 relating to providing a  
14 one percent across the board payment increase to all qualifying fee-for-  
15 service Medicaid rates, is amended by adding a new section 1-a to read  
16 as follows:

17 § 1-a. Notwithstanding any provision of law to the contrary, for the  
18 state fiscal years beginning April 1, 2023, and thereafter, Medicaid  
19 payments made for the operating component of hospital inpatient services  
20 shall be subject to a uniform rate increase of five percent in addition  
21 to the increase contained in section one of this act, subject to the  
22 approval of the commissioner of health and the director of the budget.  
23 Such rate increase shall be subject to federal financial participation.

24 § 10. This act shall take effect immediately; provided that sections  
25 two and three of this act shall take effect on the sixtieth day after it  
26 shall have become a law; provided, further, that sections one, four,  
27 five, six, seven, eight, and nine of this act shall be deemed to have  
28 been in full force and effect on and after April 1, 2023.

1

## PART F

2 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266  
3 of the laws of 1986, amending the civil practice law and rules and other  
4 laws relating to malpractice and professional medical conduct, as  
5 amended by section 1 of part Z of chapter 57 of the laws of 2022, is  
6 amended to read as follows:

7 (a) The superintendent of financial services and the commissioner of  
8 health or their designee shall, from funds available in the hospital  
9 excess liability pool created pursuant to subdivision 5 of this section,  
10 purchase a policy or policies for excess insurance coverage, as author-  
11 ized by paragraph 1 of subsection (e) of section 5502 of the insurance  
12 law; or from an insurer, other than an insurer described in section 5502  
13 of the insurance law, duly authorized to write such coverage and actual-  
14 ly writing medical malpractice insurance in this state; or shall  
15 purchase equivalent excess coverage in a form previously approved by the  
16 superintendent of financial services for purposes of providing equiv-  
17 alent excess coverage in accordance with section 19 of chapter 294 of  
18 the laws of 1985, for medical or dental malpractice occurrences between  
19 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,  
20 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June  
21 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991  
22 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July  
23 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,  
24 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June  
25 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998  
26 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July  
27 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,

1 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June  
2 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005  
3 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July  
4 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,  
5 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June  
6 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012  
7 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July  
8 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,  
9 between July 1, 2016 and June 30, 2017, between July 1, 2017 and June  
10 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019  
11 and June 30, 2020, between July 1, 2020 and June 30, 2021, between July  
12 1, 2021 and June 30, 2022, [and] between July 1, 2022 and June 30, 2023,  
13 and between July 1, 2023 and June 30, 2024 or reimburse the hospital  
14 where the hospital purchases equivalent excess coverage as defined in  
15 subparagraph (i) of paragraph (a) of subdivision 1-a of this section for  
16 medical or dental malpractice occurrences between July 1, 1987 and June  
17 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989  
18 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July  
19 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,  
20 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June  
21 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996  
22 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July  
23 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,  
24 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June  
25 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003  
26 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July  
27 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,  
28 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June

1 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010  
2 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July  
3 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,  
4 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June  
5 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017  
6 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July  
7 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021,  
8 between July 1, 2021 and June 30, 2022, [and] between July 1, 2022 and  
9 June 30, 2023, and between July 1, 2023 and June 30, 2024 for physicians  
10 or dentists certified as eligible for each such period or periods pursu-  
11 ant to subdivision 2 of this section by a general hospital licensed  
12 pursuant to article 28 of the public health law; provided that no single  
13 insurer shall write more than fifty percent of the total excess premium  
14 for a given policy year; and provided, however, that such eligible  
15 physicians or dentists must have in force an individual policy, from an  
16 insurer licensed in this state of primary malpractice insurance coverage  
17 in amounts of no less than one million three hundred thousand dollars  
18 for each claimant and three million nine hundred thousand dollars for  
19 all claimants under that policy during the period of such excess cover-  
20 age for such occurrences or be endorsed as additional insureds under a  
21 hospital professional liability policy which is offered through a volun-  
22 tary attending physician ("channeling") program previously permitted by  
23 the superintendent of financial services during the period of such  
24 excess coverage for such occurrences. During such period, such policy  
25 for excess coverage or such equivalent excess coverage shall, when  
26 combined with the physician's or dentist's primary malpractice insurance  
27 coverage or coverage provided through a voluntary attending physician  
28 ("channeling") program, total an aggregate level of two million three

1 hundred thousand dollars for each claimant and six million nine hundred  
2 thousand dollars for all claimants from all such policies with respect  
3 to occurrences in each of such years provided, however, if the cost of  
4 primary malpractice insurance coverage in excess of one million dollars,  
5 but below the excess medical malpractice insurance coverage provided  
6 pursuant to this act, exceeds the rate of nine percent per annum, then  
7 the required level of primary malpractice insurance coverage in excess  
8 of one million dollars for each claimant shall be in an amount of not  
9 less than the dollar amount of such coverage available at nine percent  
10 per annum; the required level of such coverage for all claimants under  
11 that policy shall be in an amount not less than three times the dollar  
12 amount of coverage for each claimant; and excess coverage, when combined  
13 with such primary malpractice insurance coverage, shall increase the  
14 aggregate level for each claimant by one million dollars and three  
15 million dollars for all claimants; and provided further, that, with  
16 respect to policies of primary medical malpractice coverage that include  
17 occurrences between April 1, 2002 and June 30, 2002, such requirement  
18 that coverage be in amounts no less than one million three hundred thou-  
19 sand dollars for each claimant and three million nine hundred thousand  
20 dollars for all claimants for such occurrences shall be effective April  
21 1, 2002.

22 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,  
23 amending the civil practice law and rules and other laws relating to  
24 malpractice and professional medical conduct, as amended by section 2 of  
25 part Z of chapter 57 of the laws of 2022, is amended to read as follows:

26 (3) (a) The superintendent of financial services shall determine and  
27 certify to each general hospital and to the commissioner of health the  
28 cost of excess malpractice insurance for medical or dental malpractice

1 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988  
2 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July  
3 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,  
4 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June  
5 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995  
6 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July  
7 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,  
8 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June  
9 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002  
10 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July  
11 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,  
12 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June  
13 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009  
14 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July  
15 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013,  
16 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June  
17 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016  
18 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July  
19 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020,  
20 between July 1, 2020 and June 30, 2021, between July 1, 2021 and June  
21 30, 2022, [and] between July 1, 2022 and June 30, 2023, and between July  
22 1, 2023 and June 30, 2024 allocable to each general hospital for physi-  
23 cians or dentists certified as eligible for purchase of a policy for  
24 excess insurance coverage by such general hospital in accordance with  
25 subdivision 2 of this section, and may amend such determination and  
26 certification as necessary.

27 (b) The superintendent of financial services shall determine and  
28 certify to each general hospital and to the commissioner of health the

1 cost of excess malpractice insurance or equivalent excess coverage for  
2 medical or dental malpractice occurrences between July 1, 1987 and June  
3 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989  
4 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July  
5 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,  
6 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June  
7 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996  
8 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July  
9 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,  
10 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June  
11 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003  
12 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July  
13 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,  
14 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June  
15 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010  
16 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July  
17 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,  
18 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June  
19 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017  
20 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July  
21 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021,  
22 between July 1, 2021 and June 30, 2022, [and] between July 1, 2022 and  
23 June 30, 2023, and between July 1, 2023 and June 30, 2024 allocable to  
24 each general hospital for physicians or dentists certified as eligible  
25 for purchase of a policy for excess insurance coverage or equivalent  
26 excess coverage by such general hospital in accordance with subdivision  
27 2 of this section, and may amend such determination and certification as  
28 necessary. The superintendent of financial services shall determine and

1 certify to each general hospital and to the commissioner of health the  
2 ratable share of such cost allocable to the period July 1, 1987 to  
3 December 31, 1987, to the period January 1, 1988 to June 30, 1988, to  
4 the period July 1, 1988 to December 31, 1988, to the period January 1,  
5 1989 to June 30, 1989, to the period July 1, 1989 to December 31, 1989,  
6 to the period January 1, 1990 to June 30, 1990, to the period July 1,  
7 1990 to December 31, 1990, to the period January 1, 1991 to June 30,  
8 1991, to the period July 1, 1991 to December 31, 1991, to the period  
9 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December  
10 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period  
11 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June  
12 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period  
13 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December  
14 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period  
15 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June  
16 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period  
17 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December  
18 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period  
19 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June  
20 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period  
21 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,  
22 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,  
23 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to  
24 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006  
25 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the  
26 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and  
27 June 30, 2010, to the period July 1, 2010 and June 30, 2011, to the  
28 period July 1, 2011 and June 30, 2012, to the period July 1, 2012 and

1 June 30, 2013, to the period July 1, 2013 and June 30, 2014, to the  
2 period July 1, 2014 and June 30, 2015, to the period July 1, 2015 and  
3 June 30, 2016, to the period July 1, 2016 and June 30, 2017, to the  
4 period July 1, 2017 to June 30, 2018, to the period July 1, 2018 to June  
5 30, 2019, to the period July 1, 2019 to June 30, 2020, to the period  
6 July 1, 2020 to June 30, 2021, to the period July 1, 2021 to June 30,  
7 2022, [and] to the period July 1, 2022 to June 30, 2023, and to the  
8 period July 1, 2023 to June 30, 2024.

9 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section  
10 18 of chapter 266 of the laws of 1986, amending the civil practice law  
11 and rules and other laws relating to malpractice and professional  
12 medical conduct, as amended by section 3 of part Z of chapter 57 of the  
13 laws of 2022, are amended to read as follows:

14 (a) To the extent funds available to the hospital excess liability  
15 pool pursuant to subdivision 5 of this section as amended, and pursuant  
16 to section 6 of part J of chapter 63 of the laws of 2001, as may from  
17 time to time be amended, which amended this subdivision, are insuffi-  
18 cient to meet the costs of excess insurance coverage or equivalent  
19 excess coverage for coverage periods during the period July 1, 1992 to  
20 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during  
21 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995  
22 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,  
23 during the period July 1, 1997 to June 30, 1998, during the period July  
24 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,  
25 2000, during the period July 1, 2000 to June 30, 2001, during the period  
26 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to  
27 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during  
28 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004

1 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,  
2 during the period July 1, 2006 to June 30, 2007, during the period July  
3 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,  
4 2009, during the period July 1, 2009 to June 30, 2010, during the period  
5 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June  
6 30, 2012, during the period July 1, 2012 to June 30, 2013, during the  
7 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to  
8 June 30, 2015, during the period July 1, 2015 to June 30, 2016, during  
9 the period July 1, 2016 to June 30, 2017, during the period July 1, 2017  
10 to June 30, 2018, during the period July 1, 2018 to June 30, 2019,  
11 during the period July 1, 2019 to June 30, 2020, during the period July  
12 1, 2020 to June 30, 2021, during the period July 1, 2021 to June 30,  
13 2022, [and] during the period July 1, 2022 to June 30, 2023, and during  
14 the period July 1, 2023 to June 30, 2024 allocated or reallocated in  
15 accordance with paragraph (a) of subdivision 4-a of this section to  
16 rates of payment applicable to state governmental agencies, each physi-  
17 cian or dentist for whom a policy for excess insurance coverage or  
18 equivalent excess coverage is purchased for such period shall be respon-  
19 sible for payment to the provider of excess insurance coverage or equiv-  
20 alent excess coverage of an allocable share of such insufficiency, based  
21 on the ratio of the total cost of such coverage for such physician to  
22 the sum of the total cost of such coverage for all physicians applied to  
23 such insufficiency.

24 (b) Each provider of excess insurance coverage or equivalent excess  
25 coverage covering the period July 1, 1992 to June 30, 1993, or covering  
26 the period July 1, 1993 to June 30, 1994, or covering the period July 1,  
27 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,  
28 1996, or covering the period July 1, 1996 to June 30, 1997, or covering

1 the period July 1, 1997 to June 30, 1998, or covering the period July 1,  
2 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,  
3 2000, or covering the period July 1, 2000 to June 30, 2001, or covering  
4 the period July 1, 2001 to October 29, 2001, or covering the period  
5 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to  
6 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or  
7 covering the period July 1, 2004 to June 30, 2005, or covering the peri-  
8 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to  
9 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or  
10 covering the period July 1, 2008 to June 30, 2009, or covering the peri-  
11 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to  
12 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or  
13 covering the period July 1, 2012 to June 30, 2013, or covering the peri-  
14 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to  
15 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or  
16 covering the period July 1, 2016 to June 30, 2017, or covering the peri-  
17 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to  
18 June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or  
19 covering the period July 1, 2020 to June 30, 2021, or covering the peri-  
20 od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to  
21 June 30, 2023, or covering the period July 1, 2023 to June 30, 2024  
22 shall notify a covered physician or dentist by mail, mailed to the  
23 address shown on the last application for excess insurance coverage or  
24 equivalent excess coverage, of the amount due to such provider from such  
25 physician or dentist for such coverage period determined in accordance  
26 with paragraph (a) of this subdivision. Such amount shall be due from  
27 such physician or dentist to such provider of excess insurance coverage

1 or equivalent excess coverage in a time and manner determined by the  
2 superintendent of financial services.

3 (c) If a physician or dentist liable for payment of a portion of the  
4 costs of excess insurance coverage or equivalent excess coverage cover-  
5 ing the period July 1, 1992 to June 30, 1993, or covering the period  
6 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to  
7 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or  
8 covering the period July 1, 1996 to June 30, 1997, or covering the peri-  
9 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to  
10 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or  
11 covering the period July 1, 2000 to June 30, 2001, or covering the peri-  
12 od July 1, 2001 to October 29, 2001, or covering the period April 1,  
13 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,  
14 2003, or covering the period July 1, 2003 to June 30, 2004, or covering  
15 the period July 1, 2004 to June 30, 2005, or covering the period July 1,  
16 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,  
17 2007, or covering the period July 1, 2007 to June 30, 2008, or covering  
18 the period July 1, 2008 to June 30, 2009, or covering the period July 1,  
19 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,  
20 2011, or covering the period July 1, 2011 to June 30, 2012, or covering  
21 the period July 1, 2012 to June 30, 2013, or covering the period July 1,  
22 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,  
23 2015, or covering the period July 1, 2015 to June 30, 2016, or covering  
24 the period July 1, 2016 to June 30, 2017, or covering the period July 1,  
25 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,  
26 2019, or covering the period July 1, 2019 to June 30, 2020, or covering  
27 the period July 1, 2020 to June 30, 2021, or covering the period July 1,  
28 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30,

1 2023, or covering the period July 1, 2023 to June 30, 2024 determined in  
2 accordance with paragraph (a) of this subdivision fails, refuses or  
3 neglects to make payment to the provider of excess insurance coverage or  
4 equivalent excess coverage in such time and manner as determined by the  
5 superintendent of financial services pursuant to paragraph (b) of this  
6 subdivision, excess insurance coverage or equivalent excess coverage  
7 purchased for such physician or dentist in accordance with this section  
8 for such coverage period shall be cancelled and shall be null and void  
9 as of the first day on or after the commencement of a policy period  
10 where the liability for payment pursuant to this subdivision has not  
11 been met.

12 (d) Each provider of excess insurance coverage or equivalent excess  
13 coverage shall notify the superintendent of financial services and the  
14 commissioner of health or their designee of each physician and dentist  
15 eligible for purchase of a policy for excess insurance coverage or  
16 equivalent excess coverage covering the period July 1, 1992 to June 30,  
17 1993, or covering the period July 1, 1993 to June 30, 1994, or covering  
18 the period July 1, 1994 to June 30, 1995, or covering the period July 1,  
19 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,  
20 1997, or covering the period July 1, 1997 to June 30, 1998, or covering  
21 the period July 1, 1998 to June 30, 1999, or covering the period July 1,  
22 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,  
23 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-  
24 ing the period April 1, 2002 to June 30, 2002, or covering the period  
25 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to  
26 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or  
27 covering the period July 1, 2005 to June 30, 2006, or covering the peri-  
28 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to

1 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or  
2 covering the period July 1, 2009 to June 30, 2010, or covering the peri-  
3 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to  
4 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or  
5 covering the period July 1, 2013 to June 30, 2014, or covering the peri-  
6 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to  
7 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or  
8 covering the period July 1, 2017 to June 30, 2018, or covering the peri-  
9 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to  
10 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or  
11 covering the period July 1, 2021 to June 30, 2022, or covering the peri-  
12 od July 1, 2022 to June [1] 30, 2023, or covering the period July 1,  
13 2023 to June 30, 2024 that has made payment to such provider of excess  
14 insurance coverage or equivalent excess coverage in accordance with  
15 paragraph (b) of this subdivision and of each physician and dentist who  
16 has failed, refused or neglected to make such payment.

17 (e) A provider of excess insurance coverage or equivalent excess  
18 coverage shall refund to the hospital excess liability pool any amount  
19 allocable to the period July 1, 1992 to June 30, 1993, and to the period  
20 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June  
21 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the  
22 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to  
23 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to  
24 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000  
25 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,  
26 and to the period April 1, 2002 to June 30, 2002, and to the period July  
27 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,  
28 2004, and to the period July 1, 2004 to June 30, 2005, and to the period

1 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June  
2 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the  
3 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to  
4 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to  
5 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012  
6 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and  
7 to the period July 1, 2014 to June 30, 2015, and to the period July 1,  
8 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and  
9 to the period July 1, 2017 to June 30, 2018, and to the period July 1,  
10 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,  
11 and to the period July 1, 2020 to June 30, 2021, and to the period July  
12 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30,  
13 2023, and to the period July 1, 2023 to June 30, 2024 received from the  
14 hospital excess liability pool for purchase of excess insurance coverage  
15 or equivalent excess coverage covering the period July 1, 1992 to June  
16 30, 1993, and covering the period July 1, 1993 to June 30, 1994, and  
17 covering the period July 1, 1994 to June 30, 1995, and covering the  
18 period July 1, 1995 to June 30, 1996, and covering the period July 1,  
19 1996 to June 30, 1997, and covering the period July 1, 1997 to June 30,  
20 1998, and covering the period July 1, 1998 to June 30, 1999, and cover-  
21 ing the period July 1, 1999 to June 30, 2000, and covering the period  
22 July 1, 2000 to June 30, 2001, and covering the period July 1, 2001 to  
23 October 29, 2001, and covering the period April 1, 2002 to June 30,  
24 2002, and covering the period July 1, 2002 to June 30, 2003, and cover-  
25 ing the period July 1, 2003 to June 30, 2004, and covering the period  
26 July 1, 2004 to June 30, 2005, and covering the period July 1, 2005 to  
27 June 30, 2006, and covering the period July 1, 2006 to June 30, 2007,  
28 and covering the period July 1, 2007 to June 30, 2008, and covering the

1 period July 1, 2008 to June 30, 2009, and covering the period July 1,  
2 2009 to June 30, 2010, and covering the period July 1, 2010 to June 30,  
3 2011, and covering the period July 1, 2011 to June 30, 2012, and cover-  
4 ing the period July 1, 2012 to June 30, 2013, and covering the period  
5 July 1, 2013 to June 30, 2014, and covering the period July 1, 2014 to  
6 June 30, 2015, and covering the period July 1, 2015 to June 30, 2016,  
7 and covering the period July 1, 2016 to June 30, 2017, and covering the  
8 period July 1, 2017 to June 30, 2018, and covering the period July 1,  
9 2018 to June 30, 2019, and covering the period July 1, 2019 to June 30,  
10 2020, and covering the period July 1, 2020 to June 30, 2021, and cover-  
11 ing the period July 1, 2021 to June 30, 2022, and covering the period  
12 July 1, 2022 to June 30, 2023 for, and covering the period July 1, 2023  
13 to June 30, 2024 a physician or dentist where such excess insurance  
14 coverage or equivalent excess coverage is cancelled in accordance with  
15 paragraph (c) of this subdivision.

16 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil  
17 practice law and rules and other laws relating to malpractice and  
18 professional medical conduct, as amended by section 4 of part Z of chap-  
19 ter 57 of the laws of 2022, is amended to read as follows:

20 § 40. The superintendent of financial services shall establish rates  
21 for policies providing coverage for physicians and surgeons medical  
22 malpractice for the periods commencing July 1, 1985 and ending June 30,  
23 [2023] 2024; provided, however, that notwithstanding any other provision  
24 of law, the superintendent shall not establish or approve any increase  
25 in rates for the period commencing July 1, 2009 and ending June 30,  
26 2010. The superintendent shall direct insurers to establish segregated  
27 accounts for premiums, payments, reserves and investment income attrib-  
28 utable to such premium periods and shall require periodic reports by the

1 insurers regarding claims and expenses attributable to such periods to  
2 monitor whether such accounts will be sufficient to meet incurred claims  
3 and expenses. On or after July 1, 1989, the superintendent shall impose  
4 a surcharge on premiums to satisfy a projected deficiency that is  
5 attributable to the premium levels established pursuant to this section  
6 for such periods; provided, however, that such annual surcharge shall  
7 not exceed eight percent of the established rate until July 1, [2023]  
8 2024, at which time and thereafter such surcharge shall not exceed twen-  
9 ty-five percent of the approved adequate rate, and that such annual  
10 surcharges shall continue for such period of time as shall be sufficient  
11 to satisfy such deficiency. The superintendent shall not impose such  
12 surcharge during the period commencing July 1, 2009 and ending June 30,  
13 2010. On and after July 1, 1989, the surcharge prescribed by this  
14 section shall be retained by insurers to the extent that they insured  
15 physicians and surgeons during the July 1, 1985 through June 30, [2023]  
16 2024 policy periods; in the event and to the extent physicians and  
17 surgeons were insured by another insurer during such periods, all or a  
18 pro rata share of the surcharge, as the case may be, shall be remitted  
19 to such other insurer in accordance with rules and regulations to be  
20 promulgated by the superintendent. Surcharges collected from physicians  
21 and surgeons who were not insured during such policy periods shall be  
22 apportioned among all insurers in proportion to the premium written by  
23 each insurer during such policy periods; if a physician or surgeon was  
24 insured by an insurer subject to rates established by the superintendent  
25 during such policy periods, and at any time thereafter a hospital,  
26 health maintenance organization, employer or institution is responsible  
27 for responding in damages for liability arising out of such physician's  
28 or surgeon's practice of medicine, such responsible entity shall also

1 remit to such prior insurer the equivalent amount that would then be  
2 collected as a surcharge if the physician or surgeon had continued to  
3 remain insured by such prior insurer. In the event any insurer that  
4 provided coverage during such policy periods is in liquidation, the  
5 property/casualty insurance security fund shall receive the portion of  
6 surcharges to which the insurer in liquidation would have been entitled.  
7 The surcharges authorized herein shall be deemed to be income earned for  
8 the purposes of section 2303 of the insurance law. The superintendent,  
9 in establishing adequate rates and in determining any projected defi-  
10 ciency pursuant to the requirements of this section and the insurance  
11 law, shall give substantial weight, determined in his discretion and  
12 judgment, to the prospective anticipated effect of any regulations  
13 promulgated and laws enacted and the public benefit of stabilizing  
14 malpractice rates and minimizing rate level fluctuation during the peri-  
15 od of time necessary for the development of more reliable statistical  
16 experience as to the efficacy of such laws and regulations affecting  
17 medical, dental or podiatric malpractice enacted or promulgated in 1985,  
18 1986, by this act and at any other time. Notwithstanding any provision  
19 of the insurance law, rates already established and to be established by  
20 the superintendent pursuant to this section are deemed adequate if such  
21 rates would be adequate when taken together with the maximum authorized  
22 annual surcharges to be imposed for a reasonable period of time whether  
23 or not any such annual surcharge has been actually imposed as of the  
24 establishment of such rates.

25 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of  
26 chapter 63 of the laws of 2001, amending chapter 266 of the laws of  
27 1986, amending the civil practice law and rules and other laws relating  
28 to malpractice and professional medical conduct, as amended by section 5

1 of part z of chapter 57 of the laws of 2022, are amended to read as  
2 follows:

3 § 5. The superintendent of financial services and the commissioner of  
4 health shall determine, no later than June 15, 2002, June 15, 2003, June  
5 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,  
6 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,  
7 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June  
8 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, June 15, 2022,  
9 [and] June 15, 2023, and June 15, 2024 the amount of funds available in  
10 the hospital excess liability pool, created pursuant to section 18 of  
11 chapter 266 of the laws of 1986, and whether such funds are sufficient  
12 for purposes of purchasing excess insurance coverage for eligible  
13 participating physicians and dentists during the period July 1, 2001 to  
14 June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June  
15 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,  
16 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,  
17 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,  
18 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June 30,  
19 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,  
20 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,  
21 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,  
22 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,  
23 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,  
24 2022, or July 1, 2022 to June 30, 2023, or July 1, 2023 to June 30, 2024  
25 as applicable.

26 (a) This section shall be effective only upon a determination, pursu-  
27 ant to section five of this act, by the superintendent of financial  
28 services and the commissioner of health, and a certification of such

1 determination to the state director of the budget, the chair of the  
2 senate committee on finance and the chair of the assembly committee on  
3 ways and means, that the amount of funds in the hospital excess liabil-  
4 ity pool, created pursuant to section 18 of chapter 266 of the laws of  
5 1986, is insufficient for purposes of purchasing excess insurance cover-  
6 age for eligible participating physicians and dentists during the period  
7 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July  
8 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,  
9 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007  
10 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to  
11 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June  
12 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,  
13 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,  
14 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,  
15 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,  
16 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,  
17 2022, or July 1, 2022 to June 30, 2023, or July 1, 2023 to June 30, 2024  
18 as applicable.

19 (e) The commissioner of health shall transfer for deposit to the  
20 hospital excess liability pool created pursuant to section 18 of chapter  
21 266 of the laws of 1986 such amounts as directed by the superintendent  
22 of financial services for the purchase of excess liability insurance  
23 coverage for eligible participating physicians and dentists for the  
24 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,  
25 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,  
26 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,  
27 2007, as applicable, and the cost of administering the hospital excess  
28 liability pool for such applicable policy year, pursuant to the program

1 established in chapter 266 of the laws of 1986, as amended, no later  
2 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June  
3 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,  
4 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,  
5 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June  
6 15, 2020, June 15, 2021, June 15, 2022, [and] June 15, 2023, and June  
7 15, 2024 as applicable.

8 § 6. Section 20 of part H of chapter 57 of the laws of 2017, amending  
9 the New York Health Care Reform Act of 1996 and other laws relating to  
10 extending certain provisions thereto, as amended by section 6 of part Z  
11 of chapter 57 of the laws of 2022, is amended to read as follows:

12 § 20. Notwithstanding any law, rule or regulation to the contrary,  
13 only physicians or dentists who were eligible, and for whom the super-  
14 intendent of financial services and the commissioner of health, or their  
15 designee, purchased, with funds available in the hospital excess liabil-  
16 ity pool, a full or partial policy for excess coverage or equivalent  
17 excess coverage for the coverage period ending the thirtieth of June,  
18 two thousand [twenty-two] twenty-three, shall be eligible to apply for  
19 such coverage for the coverage period beginning the first of July, two  
20 thousand [twenty-two] twenty-three; provided, however, if the total  
21 number of physicians or dentists for whom such excess coverage or equiv-  
22 alent excess coverage was purchased for the policy year ending the thir-  
23 tieth of June, two thousand [twenty-two] twenty-three exceeds the total  
24 number of physicians or dentists certified as eligible for the coverage  
25 period beginning the first of July, two thousand [twenty-two] twenty-  
26 three, then the general hospitals may certify additional eligible physi-  
27 cians or dentists in a number equal to such general hospital's propor-  
28 tional share of the total number of physicians or dentists for whom

1 excess coverage or equivalent excess coverage was purchased with funds  
2 available in the hospital excess liability pool as of the thirtieth of  
3 June, two thousand [twenty-two] twenty-three, as applied to the differ-  
4 ence between the number of eligible physicians or dentists for whom a  
5 policy for excess coverage or equivalent excess coverage was purchased  
6 for the coverage period ending the thirtieth of June, two thousand  
7 [twenty-two] twenty-three and the number of such eligible physicians or  
8 dentists who have applied for excess coverage or equivalent excess  
9 coverage for the coverage period beginning the first of July, two thou-  
10 sand [twenty-two] twenty-three.

11 § 7. This act shall take effect immediately and shall be deemed to  
12 have been in full force and effect on and after April 1, 2023.

13 PART G

14 Section 1. Paragraph (a) of subdivision 12 of section 203 of the elder  
15 law, as added by section 1 of part U of chapter 57 of the laws of 2019,  
16 is amended to read as follows:

17 (a) The director is hereby authorized to implement private pay proto-  
18 cols for programs and services administered by the office. These proto-  
19 cols may be implemented by area agencies on aging at their option and  
20 such protocols shall not be applied to services for a participant when  
21 being paid for with federal funds or funds designated as federal match,  
22 or for individuals with an income below [four] two hundred and fifty  
23 percent of the federal poverty level. All private payments received  
24 directly by an area agency on aging or indirectly by one of its contrac-  
25 tors shall be used to supplement, not supplant, funds by state, federal,  
26 or county appropriations. Such private pay payments shall be set at a

1 cost to the participant of not more than twenty percent above either the  
2 unit cost to the area agency on aging to provide the program or service  
3 directly, or the amount that the area agency on aging pays to its  
4 contractor to provide the program or service. Private pay payments  
5 received under this subdivision shall be used by the area agency on  
6 aging to first reduce any unmet need for programs and services, and then  
7 to support and enhance services or programs provided by the area agency  
8 on aging. No participant, regardless of income, shall be required to pay  
9 for any program or service that they are receiving at the time these  
10 protocols are implemented by the area agency on aging. This subdivision  
11 shall not prevent cost sharing for the programs and services established  
12 pursuant to section two hundred fourteen of this title [for individuals  
13 below four hundred percent of the federal poverty level]. Consistent  
14 with federal and state statute and regulations, when providing programs  
15 and services, area agencies on aging and their contractors shall contin-  
16 ue to give priority for programs and services to individuals with the  
17 greatest economic or social needs. In the event that the capacity to  
18 provide programs and services is limited, such programs and services  
19 shall be provided to individuals with incomes below [four] two hundred  
20 and fifty percent of the federal poverty level before such programs and  
21 services are provided to those participating in the private pay protocol  
22 pursuant to this subdivision.

23 § 2. This act shall take effect immediately.

24 PART H

25 Section 1. Section 5 of part AAA of chapter 56 of the laws of 2022,  
26 amending the social services law relating to expanding Medicaid eligi-

1 bility requirements for seniors and disabled individuals, is amended to  
2 read as follows:

3 § 5. This act shall take effect January 1, 2023, subject to federal  
4 financial participation for sections one, three, and four of this act;  
5 provided, however that [the] section two of this act shall take effect  
6 January 1, 2024. The commissioner of health shall notify the legislative  
7 bill drafting commission upon the occurrence of federal financial  
8 participation in order that the commission may maintain an accurate and  
9 timely effective data base of the official text of the laws of the state  
10 of New York in furtherance of effectuating the provisions of section 44  
11 of the legislative law and section 70-b of the public officers law.

12 § 2. Short title. This act shall be known and may be cited as the  
13 "1332 state innovation program".

14 § 3. The social services law is amended by adding a new section 369-ii  
15 to read as follows:

16 § 369-ii. 1332 state innovation program. 1. Authorization. Notwith-  
17 standing section three hundred sixty-nine-gg of this title, subject to  
18 federal approval, if it is in the financial interest of the state to do  
19 so, the commissioner of health is authorized, with the approval of the  
20 director of the budget, to establish a 1332 state innovation program  
21 pursuant to section 1332 of the patient protection and affordable care  
22 act (P.L. 111-148) and subdivision twenty-five of section two hundred  
23 sixty-eight-c of the public health law. The commissioner of health's  
24 authority pursuant to this section is contingent upon obtaining and  
25 maintaining all necessary approvals from the secretary of health and  
26 human services and the secretary of the treasury based on an application  
27 for a waiver for state innovation. The commissioner of health may take  
28 all actions necessary to obtain such approvals.

1 2. Definitions. For the purposes of this section:

2 (a) "Eligible organization" means an insurer licensed pursuant to  
3 article thirty-two or forty-two of the insurance law, a corporation or  
4 an organization under article forty-three of the insurance law, or an  
5 organization certified under article forty-four of the public health  
6 law, including providers certified under section forty-four hundred  
7 three-e of the public health law.

8 (b) "Approved organization" means an eligible organization approved by  
9 the commissioner of health to underwrite a 1332 state innovation health  
10 insurance plan pursuant to this section.

11 (c) "Health care services" means:

12 (i) the services and supplies as defined by the commissioner of health  
13 in consultation with the superintendent of financial services, and shall  
14 be consistent with and subject to the essential health benefits as  
15 defined by the commissioner in accordance with the provisions of the  
16 patient protection and affordable care act (P.L. 111-148) and consistent  
17 with the benefits provided by the reference plan selected by the commis-  
18 sioner of health for the purposes of defining such benefits, and shall  
19 include coverage of and access to the services of any national cancer  
20 institute-designated cancer center licensed by the department of health  
21 within the service area of the approved organization that is willing to  
22 agree to provide cancer-related inpatient, outpatient and medical  
23 services to all enrollees in approved organizations' plans in such  
24 cancer center's service area under the prevailing terms and conditions  
25 that the approved organization requires of other similar providers to be  
26 included in the approved organization's network, provided that such  
27 terms shall include reimbursement of such center at no less than the

1 fee-for-service medicaid payment rate and methodology applicable to the  
2 center's inpatient and outpatient services;

3 (ii) dental and vision services as defined by the commissioner of  
4 health, and

5 (iii) as defined by the commissioner of health and subject to federal  
6 approval, certain services and supports provided to enrollees who have  
7 functional limitations and/or chronic illnesses that have the primary  
8 purpose of supporting the ability of the enrollee to live or work in the  
9 setting of their choice, which may include the individual's home, a  
10 worksite, or a provider-owned or controlled residential setting.

11 (d) "Qualified health plan" means a health plan that meets the crite-  
12 ria for certification described in § 1311(c) of the patient protection  
13 and affordable care act (P.L. 111-148), and is offered to individuals  
14 through the NY State of Health, the official health Marketplace, or  
15 Marketplace, as defined in subdivision two of section two hundred  
16 sixty-eight-a of the public health law.

17 (e) "Basic health insurance plan" means a health plan providing health  
18 care services, separate and apart from qualified health plans, that is  
19 issued by an approved organization and certified in accordance with  
20 section three hundred sixty-nine-gg of this title.

21 (f) "1332 state innovation plan" means a standard health plan provid-  
22 ing health care services, separate and apart from a qualified health  
23 plan and a basic health insurance plan, that is issued by an approved  
24 organization and certified in accordance with this section.

25 3. State innovation plan eligible individual. (a) A person is eligible  
26 to receive coverage for health care under this section if they:

27 (i) reside in New York state and are under sixty-five years of age;

1 (ii) are not eligible for medical assistance under title eleven of  
2 this article or for the child health insurance plan described in title  
3 one-A of article twenty-five of the public health law;

4 (iii) are not eligible for minimum essential coverage, as defined in  
5 section 5000A(f) of the Internal Revenue Service Code of 1986, or is  
6 eligible for an employer-sponsored plan that is not affordable, in  
7 accordance with section 5000A(f) of such code; and

8 (iv) have household income at or below two hundred fifty percent of  
9 the federal poverty line defined and annually revised by the United  
10 States department of health and human services for a household of the  
11 same size; and has household income that exceeds one hundred thirty-  
12 three percent of the federal poverty line defined and annually revised  
13 by the United States department of health and human services for a  
14 household of the same size; however, MAGI eligible noncitizens lawfully  
15 present in the United States with household incomes at or below one  
16 hundred thirty-three percent of the federal poverty line shall be eligi-  
17 ble to receive coverage for health care services pursuant to the  
18 provisions of this section if such noncitizen would be ineligible for  
19 medical assistance under title eleven of this article due to their immi-  
20 gration status.

21 (b) Subject to federal approval, a child born to an individual eligi-  
22 ble for and receiving coverage for health care services pursuant to this  
23 section who but for their eligibility under this section would be eligi-  
24 ble for coverage pursuant to subparagraphs two or four of paragraph (b)  
25 of subdivision one of section three hundred sixty-six of this article,  
26 shall be administratively enrolled, as defined by the commissioner of  
27 health, in medical assistance and to have been found eligible for such

1 assistance on the date of such birth and to remain eligible for such  
2 assistance for a period of one year.

3 (c) Subject to federal approval, an individual who is eligible for and  
4 receiving coverage for health care services pursuant to this section is  
5 eligible to continue to receive health care services pursuant to this  
6 section during the individual's pregnancy and for a period of one year  
7 following the end of the pregnancy without regard to any change in the  
8 income of the household that includes the pregnant individual, even if  
9 such change would render the pregnant individual ineligible to receive  
10 health care services pursuant to this section.

11 (d) For the purposes of this section, 1332 state innovation program  
12 eligible individuals are prohibited from being treated as qualified  
13 individuals under section 1312 of the Affordable Care Act and as eligi-  
14 ble individuals under section 1331 of the ACA and enrolling in qualified  
15 health plan through the Marketplace or standard health plan through the  
16 Basic Health Program.

17 4. Enrollment. (a) Subject to federal approval, the commissioner of  
18 health is authorized to establish an application and enrollment proce-  
19 dure for prospective enrollees. Such procedure will include a verifica-  
20 tion system for applicants, which must be consistent with 42 USC §  
21 1320b-7.

22 (b) Such procedure shall allow for continuous enrollment for enrollees  
23 to the 1332 state innovation program where an individual may apply and  
24 enroll for coverage at any point.

25 (c) Upon an applicant's enrollment in a 1332 state innovation plan,  
26 coverage for health care services pursuant to the provisions of this  
27 section shall be retroactive to the first day of the month in which the

1 individual was determined eligible, except in the case of program tran-  
2 sitions within the Marketplace.

3 (d) A person who has enrolled for coverage pursuant to this section,  
4 and who loses eligibility to enroll in the 1332 state innovation program  
5 for a reason other than citizenship status, lack of state residence,  
6 failure to provide a valid social security number, providing inaccurate  
7 information that would affect eligibility when requesting or renewing  
8 health coverage pursuant to this section, or failure to make an applica-  
9 ble premium payment, before the end of a twelve month period beginning  
10 on the effective date of the person's initial eligibility for coverage,  
11 or before the end of a twelve month period beginning on the date of any  
12 subsequent determination of eligibility, shall have their eligibility  
13 for coverage continued until the end of such twelve month period,  
14 provided that the state receives federal approval for using funds under  
15 an approved 1332 waiver.

16 5. Premiums. Subject to federal approval, the commissioner of health  
17 shall establish premium payments enrollees in a 1332 state innovation  
18 plan shall pay to approved organizations for coverage of health care  
19 services pursuant to this section. Such premium payments shall be estab-  
20 lished in the following manner:

21 (a) up to fifteen dollars monthly for an individual with a household  
22 income above two hundred percent of the federal poverty line but at or  
23 below two hundred fifty percent of the federal poverty line defined and  
24 annually revised by the United States department of health and human  
25 services for a household of the same size; and

26 (b) no payment is required for individuals with a household income at  
27 or below two hundred percent of the federal poverty line defined and

1 annually revised by the United States department of health and human  
2 services for a household of the same size.

3 6. Cost-sharing. The commissioner of health shall establish cost-shar-  
4 ing obligations for enrollees, subject to federal approval, including  
5 childbirth and newborn care consistent with the medical assistance  
6 program under title eleven of this article. There shall be no cost-shar-  
7 ing obligations for enrollees for:

8 (a) dental and vision services as defined in subparagraph (ii) of  
9 paragraph (c) of subdivision two of this section; and

10 (b) services and supports as defined in subparagraph (iii) of para-  
11 graph (c) of subdivision two of this section.

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

22 (b) Upon consultation with the independent actuary and entities  
23 representing approved organizations, the commissioner of health shall  
24 develop reimbursement methodologies and fee schedules for determining  
25 rates of payment, which rates shall be approved by the director of the  
26 division of the budget, to be made by the department to approved organ-  
27 izations for the cost of health care services coverage pursuant to this

1 section. Such reimbursement methodologies and fee schedules may include  
2 provisions for capitation arrangements.

3 (c) The commissioner of health shall have the authority to promulgate  
4 regulations, including emergency regulations, necessary to effectuate  
5 the provisions of this subdivision.

6 (d) The department of health shall require the independent actuary  
7 selected pursuant to paragraph (a) of this subdivision to provide a  
8 complete actuarial report, along with all actuarial assumptions made and  
9 all other data, materials and methodologies used in the development of  
10 rates for the 1332 state innovation plan authorized under this section.  
11 Such report shall be provided annually to the temporary president of the  
12 senate and the speaker of the assembly.

13 8. An individual who is lawfully admitted for permanent residence,  
14 permanently residing in the United States under color of law, or who is  
15 a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C.  
16 1101(a)(15), and who would be ineligible for medical assistance under  
17 title eleven of this article due to their immigration status if the  
18 provisions of section one hundred twenty-two of this chapter were  
19 applied, shall be considered to be ineligible for medical assistance for  
20 purposes of paragraphs (b) and (c) of subdivision three of this section.

21 9. Reporting. The commissioner of health shall submit a report to the  
22 temporary president of the senate and the speaker of the assembly annu-  
23 ally by December thirty-first. The report shall include, at a minimum,  
24 an analysis of the 1332 state innovation program and its impact on the  
25 financial interest of the state; its impact on the Marketplace including  
26 enrollment and premiums; its impact on the number of uninsured individ-  
27 uals in the state; its impact on the Medicaid global cap; and the demo-

1 graphics of the 1332 state innovation program enrollees including age  
2 and immigration status.

3 10. Severability. If the secretary of health and human services or the  
4 secretary of the treasury do not approve any provision of the applica-  
5 tion for a state innovation waiver, such decision shall in no way affect  
6 or impair any other provisions that the secretaries may approve under  
7 this section.

8 § 4. The state finance law is amended by adding a new section 98-d to  
9 read as follows:

10 § 98-d. 1332 state innovation program fund. 1. There is hereby estab-  
11 lished in the joint custody of the state comptroller and the commis-  
12 ioner of taxation and finance a special fund to be known as the "1332 state  
13 innovation program fund".

14 2. Such fund shall be kept separate and shall not be commingled with  
15 any other funds in the custody of the state comptroller and the commis-  
16 sioner of taxation and finance.

17 3. Such fund shall consist of moneys transferred from the federal  
18 government pursuant to 42 U.S.C. 18052 and an approved 1332 state inno-  
19 vation program waiver application for the purpose implementing the state  
20 plan under the 1332 state innovation program, established pursuant to  
21 section three hundred sixty-nine-ii of the social services law.

22 4. Upon federal approval, all moneys in such fund shall be used to  
23 implement and operate the 1332 state innovation program, pursuant to  
24 section three hundred sixty-nine-ii of the social services law, except  
25 to the extent that the provisions of such section conflict or are incon-  
26 sistent with federal law, in which case the provisions of such federal  
27 law shall supersede such state law provisions.

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

10 § 6. This act shall take effect immediately and shall be deemed to  
11 have been in full force and effect on and after January 1, 2023;  
12 provided that section three of this act shall be contingent upon the  
13 commissioner of health obtaining and maintaining all necessary approvals  
14 from the secretary of health and human services and the secretary of the  
15 treasury based on an application for a waiver for state innovation  
16 pursuant to section 1332 of the patient protection and affordable care  
17 act (P.L. 111-148) and subdivision 25 of section 268-c of the public  
18 health law. The department of health shall notify the legislative bill  
19 drafting commission upon the occurrence of approval of the waiver  
20 program in order that the commission may maintain an accurate and timely  
21 data base of the official text of the laws of the state of New York in  
22 furtherance of effectuating the provisions of section 44 of the legisla-  
23 tive law and section 70-b of the public officers law.

24

## PART I

25 Section 1. Subdivision (i) of section 111 of part H of chapter 59 of  
26 the laws of 2011, amending the public health law and other laws relating

1 to known and projected department of health state fund medical expendi-  
2 tures, as amended by section 8 of part E of chapter 57 of the laws of  
3 2019, is amended to read as follows:

4 (i) the amendments to paragraph (b) and subparagraph (i) of paragraph  
5 (g) of subdivision 7 of section 4403-f of the public health law made by  
6 section forty-one-b of this act shall expire and be repealed April 1,  
7 [2023] 2027;

8 § 2. The opening paragraph of subdivision 2 of section 4403-f of the  
9 public health law, as amended by section 8 of part C of chapter 58 of  
10 the laws of 2007, is amended to read as follows:

11 An eligible applicant shall submit an application for a certificate of  
12 authority to operate a managed long term care plan upon forms prescribed  
13 by the commissioner, including any such forms or process as may be  
14 required or prescribed by the commissioner in accordance with the  
15 competitive bid process under subdivision six-a of this section. Such  
16 eligible applicant shall submit information and documentation to the  
17 commissioner which shall include, but not be limited to:

18 § 3. Paragraph (a) of subdivision 6 of section 4403-f of the public  
19 health law, as amended by section 4 of part MM of chapter 56 of the laws  
20 of 2020, is amended to read as follows:

21 (a) An applicant shall be issued a certificate of authority as a  
22 managed long term care plan upon a determination by the commissioner  
23 that the applicant complies with the operating requirements for a  
24 managed long term care plan under this section. The commissioner shall  
25 issue no more than seventy-five certificates of authority to managed  
26 long term care plans pursuant to this section.

27 (a-1) Nothing in this section shall be construed as requiring the  
28 department to contract with or to contract for a particular line of

1 business with an entity certified under this section for the provision  
2 of services available under title eleven of article five of the social  
3 services law. A managed long term care plan that has been issued a  
4 certificate of authority, or an applicant for a certificate of authority  
5 as a managed long term care plan that has, in the sole discretion of the  
6 commissioner, in any of the three calendar years immediately preceding  
7 the application, met any of the following criteria shall not be eligible  
8 for a contract for the provision of services available under title elev-  
9 en of article five of the social services law: (i) classified as a poor  
10 performer, or substantially similar terminology, by the centers for  
11 medicare and medicaid services; (ii) an excessive volume of penalties,  
12 statements of findings, statements of deficiency, intermediate sanctions  
13 or enforcement actions, regardless of whether the applicant has  
14 addressed such issues in a timely manner; or (iii) other criteria as  
15 deemed appropriate by the commissioner.

16 § 4. The opening paragraph of subparagraph (i) of paragraph (d) of  
17 subdivision 6 of section 4403-f of the public health law, as added by  
18 section 5 of part MM of chapter 56 of the laws of 2020, is amended to  
19 read as follows:

20 Effective April first, two thousand twenty, and expiring March thir-  
21 ty-first, two thousand [twenty-two] twenty-seven, the commissioner shall  
22 place a moratorium on the processing and approval of applications seek-  
23 ing a certificate of authority as a managed long term care plan pursuant  
24 to this section, including applications seeking authorization to expand  
25 an existing managed long term care plan's approved service area or scope  
26 of eligible enrollee populations. Such moratorium shall not apply to:

27 § 5. Section 4403-f of the public health law is amended by adding a  
28 new subdivision 6-a to read as follows:

1 6-a. Performance standards and procurement. (a) On or before October  
2 first, two thousand twenty-four, each managed long term care plan that  
3 has been issued a certificate of authority pursuant to this section  
4 shall have demonstrated experience operating a managed long term care  
5 plan that continuously enrolled no fewer than twenty thousand enrollees  
6 and/or demonstrated experience operating a Medicare Dual Eligible  
7 Special Needs Plan, or an integrated Medicaid product offered by the  
8 department, that has continuously enrolled no fewer than five thousand  
9 residents of this state in the immediately preceding calendar year. In  
10 addition, a managed long term care plan shall sufficiently demonstrate,  
11 in the sole discretion of the commissioner, success in the following  
12 performance categories:

13 (i) in addition to meeting the requirements of paragraph (j) of subdi-  
14 vision seven of this section, commitment to contracting with the minimum  
15 number of licensed home care service agencies needed to provide neces-  
16 sary personal care services to the greatest practicable number of enrol-  
17 lees, and with the minimum number of fiscal intermediaries needed to  
18 provide necessary consumer directed personal assistance services to the  
19 greatest practicable number of enrollees in accordance with section  
20 three hundred sixty-five-f of the social services law;

21 (ii) readiness to timely implement and adhere to maximum wait time  
22 criteria for key categories of service in accordance with laws, rules  
23 and regulations of the department or the center for medicare and medi-  
24 caid services;

25 (iii) implementation of a community reinvestment plan that has been  
26 approved by the department and commits a percentage of the managed long  
27 term care plan's surplus to health related social needs and advancing  
28 health equity in the managed long term care plan's service area;

1 (iv) commitment to quality improvement;  
2 (v) accessibility and geographic distribution of network providers,  
3 taking into account the needs of persons with disabilities and the  
4 differences between rural, suburban, and urban settings;  
5 (vi) demonstrated cultural and language competencies specific to the  
6 population of participants;  
7 (vii) breadth of service area across multiple regions;  
8 (viii) ability to serve enrollees across the continuum of care, as  
9 demonstrated by the type and number of products the managed long term  
10 care operates or has applied to operate, including integrated care for  
11 participants who are dually eligible for medicaid and medicare, and  
12 those operated under title one-A of article twenty-five of this chapter  
13 and section three hundred sixty-nine-gg of the social services law;  
14 (ix) value based care readiness and experience; and  
15 (x) such other criteria as deemed appropriate by the commissioner.  
16 (b) (i) Notwithstanding the provisions of paragraph (a) of this subdi-  
17 vision, if no sooner than October first, two thousand twenty-four the  
18 commissioner has determined, in their sole discretion, that an insuffi-  
19 cient number of managed long term care plans have met the performance  
20 standards set forth in paragraph (a) of this subdivision, each managed  
21 long term care plan that has been issued a certificate of authority to  
22 cover a population of enrollees eligible for services under title XIX of  
23 the federal social security act shall be required to submit an applica-  
24 tion for continuance of its certification of authority to operate as a  
25 managed long term care plan under this section, and shall be subject to  
26 selection through a competitive bid process based on proposals submitted  
27 to the department, which competitive bid process may be limited to a  
28 geographic or other reasonable basis of need, as determined by the

1 commissioner. In making a determination regarding the need for a compet-  
2 itive bid process, the commissioner shall consider whether any managed  
3 long term care plans that have not met the performance standards are  
4 engaged in a merger, acquisition, or similar transaction with a managed  
5 long term care plan that has met the performance standards, as evidenced  
6 through an executed definitive agreement by such managed long term care  
7 plans.

8 (ii) In the event the commissioner determines to select managed long  
9 term care plans through a competitive bid process, any proposal submit-  
10 ted to the department through the competitive bid process shall include:

11 (A) the criteria set forth in paragraph (a) of this subdivision;

12 (B) the type and number of products the bidder proposes to operate,  
13 including those providing integrated care to individuals dually eligible  
14 for services and benefits under titles XVIII and XIX of the federal  
15 social security act in conjunction with an affiliated Medicare Dual  
16 Eligible Special Needs Plan; and

17 (C) the bidder's commitment to offering plans in multiple regions, as  
18 such regions are defined by the department, and in every county of each  
19 region for which they are submitting a bid.

20 (iii) Managed long term care plans awarded under this paragraph shall  
21 be entitled to enter into a contract with the department for the purpose  
22 of offering managed long term care services to enrollees pursuant to  
23 this section.

24 (iv) Managed long term care plans which submit a bid through a compet-  
25 itive bid process and are not awarded under this paragraph shall, upon  
26 direction from the commissioner, terminate its services and operations  
27 in accordance with the contract between the managed long term care plan  
28 and the department, and shall be additionally required to maintain

1 coverage of participants for such period of time as determined necessary  
2 by the commissioner to achieve the safe and orderly transfer of partic-  
3 ipants. Participants who, after no less than sixty days notice, have not  
4 selected another plan will be assigned to a managed long term care plan  
5 or plans, as determined by the commissioner.

6 (c) Notwithstanding sections one hundred twelve and one hundred  
7 sixty-three of the state finance law, sections one hundred forty-two and  
8 one hundred forty-three of the economic development law, and any other  
9 inconsistent provision of law, in the event the commissioner determines  
10 to provide for the selection of qualified managed long term care plans  
11 in accordance with paragraph (b) of this subdivision through a compet-  
12 itive bid process, such process shall be based on proposals submitted to  
13 the department; provided, however, that:

14 (i) A proposal submitted by a managed long term care plan shall  
15 include information sufficient to allow the commissioner to evaluate the  
16 bidder in accordance with the requirements identified in paragraph (b)  
17 of this subdivision.

18 (ii) In addition to the criteria described in subparagraph (i) of this  
19 paragraph, the commissioner shall also consider:

20 (A) the corporate organization and status of the bidder as a charita-  
21 ble corporation under the not-for-profit corporation law;

22 (B) for current or previously authorized managed care providers, past  
23 performance in meeting managed care contract or federal or state  
24 requirements, and if the commissioner issued any statements of findings,  
25 statements of deficiency, intermediate sanctions or enforcement actions  
26 to a bidder for non-compliance with such requirements, whether the  
27 bidder addressed such issues in a timely manner; and

28 (C) any other criteria deemed appropriate by the commissioner.

1 (iii) Subparagraphs (i) and (ii) of this paragraph describing proposal  
2 content and selection criteria requirements shall not be construed as  
3 limiting or requiring the commissioner to evaluate such content or  
4 criteria on a pass-fail, scale, or other particular methodological  
5 basis; provided, however, that the commissioner must consider all such  
6 content and criteria using methods determined by the commissioner in  
7 their discretion and, as applicable, in consultation with the commis-  
8 sioners of the office of mental health, the office for people with  
9 developmental disabilities, the office of addiction services and  
10 supports, and the office of children and family services.

11 (iv) No sooner than October first, two thousand twenty-four the  
12 department shall post on its website:

13 (A) The request for proposals and a description of the proposed  
14 services to be provided pursuant to contracts in accordance with this  
15 subdivision;

16 (B) The criteria on which the department shall determine qualified  
17 bidders and evaluate their applications, including all criteria identi-  
18 fied in this subdivision;

19 (C) The manner by which a proposal may be submitted, which may include  
20 submission by electronic means;

21 (D) The manner by which a managed long term care plan may continue to  
22 provide health and long term care services to enrollees who are eligible  
23 under title XIX of the federal social security act pending awards to  
24 managed long term care plans through a competitive bid process pursuant  
25 to this subdivision; and

26 (E) Upon award, the managed long term care plans that the commissioner  
27 intends to contract with pursuant to this subdivision, provided that the

1 commissioner shall update such list to indicate the final slate of  
2 contracted managed long term care plans.

3 (v) (A) No sooner than April first two thousand twenty-six, the  
4 commissioner shall make awards under this subdivision to at least two  
5 managed long term care plans in each geographic region defined by the  
6 commissioner in the request for proposals for which at least two managed  
7 long term care plans have submitted a proposal, and shall have  
8 discretion to offer more contracts based on need for access.

9 (B) Notwithstanding sections one hundred twelve and one hundred  
10 sixty-three of the state finance law, sections one hundred forty-two and  
11 one hundred forty-three of the economic development law, and any other  
12 inconsistent provision of law, managed long term care plans awarded  
13 under this subdivision shall be entitled to enter into a contract with  
14 the department for the purpose of providing health and long term care  
15 services to enrollees who are eligible under title XIX of the federal  
16 social security act. Such contracts shall run for a term to be deter-  
17 mined by the commissioner, which may be renewed or modified from time to  
18 time without a new request for proposals, to ensure consistency with  
19 changes in federal and state laws, regulations or policies, including  
20 the expansion or reduction of medical assistance services available to  
21 participants through a managed long term care plan.

22 (C) Nothing in this paragraph or other provision of this section shall  
23 be construed to limit in any way the ability of the department to termi-  
24 nate awarded contracts for cause, which shall include but not be limited  
25 to any violation of the terms of such contracts or violations of state  
26 or federal laws and regulations and any loss of necessary state or  
27 federal funding.

1 (D) Notwithstanding sections one hundred twelve and one hundred  
2 sixty-three of the state finance law, sections one hundred forty-two and  
3 one hundred forty-three of the economic development law, and any other  
4 inconsistent provision of law, the department may, in accordance with  
5 the provisions of this paragraph, issue new requests for proposals and  
6 award new contracts for terms following an existing term of a contract  
7 entered into under this paragraph.

8 (vi) (A) Within sixty days of the department issuing the request for  
9 proposals, a managed long term care plan that was approved to provide  
10 health and long term care services to enrollees who are eligible under  
11 title XIX of the federal social security act prior to the issuance of  
12 the request for proposals shall submit its intention to complete such  
13 proposal to the department.

14 (B) A managed long term care plan that: (1) fails to submit its intent  
15 timely, (2) indicates within the sixty days its intent not to complete  
16 such a proposal, or (3) fails to submit a proposal within the further  
17 timeframe specified by the commissioner in the request for proposals,  
18 shall, upon direction from the commissioner, terminate its services and  
19 operations in accordance with the contract between the managed long term  
20 care plan and the department and shall be additionally required to main-  
21 tain coverage of enrollees for such period of time as determined neces-  
22 sary by the commissioner to achieve the safe and orderly transfer of  
23 enrollees.

24 (vii) If necessary to ensure access to a sufficient number of managed  
25 long term care plans on a geographic or other basis, including a lack of  
26 adequate and appropriate care, language and cultural competence, or  
27 special needs services, the commissioner may reissue a request for  
28 proposals as provided for under paragraph (b) of this subdivision,

1 provided, however, that such request may be limited to the geographic or  
2 other basis of need that the request for proposals seeks to address. Any  
3 awards shall be subject to the requirements of this section, including  
4 the minimum and maximum number of awards in a region.

5 (d) In the event the commissioner, in their sole discretion at any  
6 time on or after October first, two thousand twenty-four, determines not  
7 to select managed long term care plans through a competitive bid proc-  
8 ess, the commissioner shall require a managed long term care plan that  
9 has not met the performance standards set forth in paragraph (a) of this  
10 subdivision to establish and implement a performance improvement plan  
11 acceptable to the commissioner. The determination not to select managed  
12 long term care plans through a competitive bid process and to require a  
13 performance improvement plan shall not preclude the commissioner from  
14 making a later determination to select managed long term care plans  
15 through a competitive bid process. In making the determination whether  
16 to select through a competitive bid process, the commissioner shall  
17 consider the standards set forth in paragraph (a) of this subdivision.

18 (e) The commissioner shall have the authority to promulgate regu-  
19 lations, including emergency regulations, to effectuate the provisions  
20 of this subdivision.

21 (f) The commissioner shall have the authority to add or modify all  
22 criteria in this subdivision.

23 § 6. Subparagraph (i) of paragraph (g) of subdivision 7 of section  
24 4403-f of the public health law, as amended by section 1 of part GGG of  
25 chapter 59 of the laws of 2017, is amended to read as follows:

26 (i) Managed long term care plans and demonstrations may enroll eligi-  
27 ble persons in the plan or demonstration upon the completion of a  
28 comprehensive assessment that shall include, but not be limited to, an

1 evaluation of the medical, social, cognitive, and environmental needs of  
2 each prospective enrollee in such program. This assessment shall also  
3 serve as the basis for the development and provision of an appropriate  
4 plan of care for the enrollee, including appropriate community-based  
5 referrals. Upon approval of federal waivers pursuant to paragraph (b) of  
6 this subdivision which require medical assistance recipients who require  
7 community-based long term care services to enroll in a plan, and upon  
8 approval of the commissioner, a plan may enroll an applicant who is  
9 currently receiving home and community-based services and complete the  
10 comprehensive assessment within thirty days of enrollment provided that  
11 the plan continues to cover transitional care until such time as the  
12 assessment is completed.

13 § 6-a. Subparagraph (i) of paragraph (g) of subdivision 7 of section  
14 4403-f of the public health law, as added by section 65-c of part A of  
15 chapter 57 of the laws of 2006 and relettered by section 20 of part C of  
16 chapter 58 of the laws of 2007, is amended to read as follows:

17 (i) Managed long term care plans and demonstrations may enroll eligi-  
18 ble persons in the plan or demonstration upon the completion of a  
19 comprehensive assessment that shall include, but not be limited to, an  
20 evaluation of the medical, social and environmental needs of each  
21 prospective enrollee in such program. This assessment shall also serve  
22 as the basis for the development and provision of an appropriate plan of  
23 care for the prospective enrollee, including appropriate community-based  
24 referrals.

25 § 7. Subparagraphs (i) and (ii) of paragraph (a) of subdivision 4-a of  
26 section 365-f of the social services law, as amended by section 3 of  
27 part G of chapter 57 of the laws of 2019, the opening paragraph of

1 subparagraph (i) as amended by section 2 of part PP of chapter 57 of the  
2 laws of 2022, are amended to read as follows:

3 (i) "Fiscal intermediary" means an entity that provides fiscal inter-  
4 mediary services and has a contract for providing such services with  
5 [the department of health and is selected through the procurement proc-  
6 ess described in paragraphs (b), (b-1), (b-2) and (b-3) of this subdivi-  
7 sion. Eligible applicants for contracts shall be entities that are capa-  
8 ble of appropriately providing fiscal intermediary services, performing  
9 the responsibilities of a fiscal intermediary, and complying with this  
10 section, including but not limited to entities that]:

11 (A) [are a service center for independent living under section one  
12 thousand one hundred twenty-one of the education law; or] a local  
13 department of social services;

14 (B) [have been established as fiscal intermediaries prior to January  
15 first, two thousand twelve and have been continuously providing such  
16 services for eligible individuals under this section.] an organization  
17 licensed under article forty-four of the public health law; or

18 (C) an accountable care organization certified under article twenty-  
19 nine-E of the public health law or an integrated delivery system  
20 composed primarily of health care providers recognized by the department  
21 as a performing provider system under the delivery system reform incen-  
22 tive payment program.

23 (ii) Fiscal intermediary services shall include the following  
24 services, performed on behalf of the consumer to facilitate his or her  
25 role as the employer:

26 (A) wage and benefit processing for consumer directed personal assist-  
27 ants;

28 (B) processing all income tax and other required wage withholdings;

1 (C) complying with workers' compensation, disability and unemployment  
2 requirements;

3 (D) maintaining personnel records for each consumer directed personal  
4 assistant, including time records and other documentation needed for  
5 wages and benefit processing and a copy of the medical documentation  
6 required pursuant to regulations established by the commissioner;

7 (E) ensuring that the health status of each consumer directed personal  
8 assistant is assessed prior to service delivery pursuant to regulations  
9 issued by the commissioner;

10 (F) maintaining records of service authorizations or reauthorizations;

11 (G) monitoring the consumer's or, if applicable, the designated repre-  
12 sentative's continuing ability to fulfill the consumer's responsibil-  
13 ities under the program and promptly notifying the authorizing entity of  
14 any circumstance that may affect the consumer's or, if applicable, the  
15 designated representative's ability to fulfill such responsibilities;

16 (H) complying with regulations established by the commissioner speci-  
17 fying the responsibilities of fiscal intermediaries providing services  
18 under this title; and

19 (I) entering into a department approved memorandum of understanding  
20 with the consumer that describes the parties' responsibilities under  
21 this program[; and

22 (J) other related responsibilities which may include, as determined by  
23 the commissioner, assisting consumers to perform the consumers' respon-  
24 sibilities under this section and department regulations in a manner  
25 that does not infringe upon the consumer's responsibilities and self-di-  
26 rection].

27 § 8. Paragraph (b) of subdivision 4-a of section 365-f of the social  
28 services law, as amended by section 4 of part G of chapter 57 of the

1 laws of 2019, subparagraph (vi) as amended by section 1 of part LL of  
2 chapter 57 of the laws of 2021, is amended to read as follows:

3 (b) [Notwithstanding any inconsistent provision of section one hundred  
4 sixty-three of the state finance law, or section one hundred forty-two  
5 of the economic development law the commissioner shall enter into  
6 contracts under this subdivision with eligible contractors that submit  
7 an offer for a contract, provided, however, that:

8 (i) the department shall post on its website:

9 (A) a description of the proposed services to be provided pursuant to  
10 contracts in accordance with this subdivision;

11 (B) that the selection of contractors shall be based on criteria  
12 reasonably related to the contractors' ability to provide fiscal inter-  
13 mediary services including but not limited to: ability to appropriately  
14 serve individuals participating in the program, geographic distribution  
15 that would ensure access in rural and underserved areas, demonstrated  
16 cultural and language competencies specific to the population of consum-  
17 ers and those of the available workforce, ability to provide timely  
18 consumer assistance, experience serving individuals with disabilities,  
19 the availability of consumer peer support, and demonstrated compliance  
20 with all applicable federal and state laws and regulations, including  
21 but not limited to those relating to wages and labor;

22 (C) the manner by which prospective contractors may seek such  
23 selection, which may include submission by electronic means;

24 (ii) all reasonable and responsive offers that are received from  
25 prospective contractors in timely fashion shall be reviewed by the  
26 commissioner;

1 (iii) the commissioner shall award such contracts to the contractors  
2 that best meet the criteria for selection and are best suited to serve  
3 the purposes of this section and the needs of consumers;

4 (iv) all entities providing fiscal intermediary services on or before  
5 April first, two thousand nineteen, shall submit an offer for a contract  
6 under this section within sixty days after the commissioner publishes  
7 the initial offer on the department's website. Such entities shall be  
8 deemed authorized to provide such services unless: (A) the entity fails  
9 to submit an offer for a contract under this section within the sixty  
10 days; or (B) the entity's offer for a contract under this section is  
11 denied;

12 (v) all decisions made and approaches taken pursuant to this paragraph  
13 shall be documented in a procurement record as defined in section one  
14 hundred sixty-three of the state finance law; and

15 (vi) the commissioner is authorized to either reoffer contracts or  
16 utilize the previous offer, to ensure that all provisions of this  
17 section are met.] As of January first, two thousand twenty-four no enti-  
18 ty shall provide, directly or through contract, fiscal intermediary  
19 services without an authorization as a fiscal intermediary issued by the  
20 commissioner in accordance with this subdivision. The commissioner may  
21 issue regulations, including emergency regulations, clarifying the  
22 authorization process, standards and time frames.

23 § 9. Paragraphs (b-1), (b-2) and (b-3) of subdivision 4-a of section  
24 365-f of the social services law are REPEALED.

25 § 10. Subdivision 4-b of section 365-f of the social services law, as  
26 amended by section 8 of part G of chapter 57 of the laws of 2019, is  
27 amended to read as follows:

28 4-b. Actions involving the authorization of a fiscal intermediary.

1 (a) [The department may terminate a fiscal intermediary's contract  
2 under this section or suspend or limit the fiscal intermediary's rights  
3 and privileges under the contract upon thirty day's written notice to  
4 the fiscal intermediary, if the commissioner finds that the fiscal  
5 intermediary has failed to comply with the provisions of this section or  
6 regulations promulgated hereunder. The written notice shall include:

7 (i) A description of the conduct and the issues related thereto that  
8 have been identified as failure of compliance; and

9 (ii) the time frame of the conduct that fails compliance] A fiscal  
10 intermediary's authorization may be revoked, suspended, limited or  
11 annulled upon thirty days written notice to the fiscal intermediary, if  
12 the commissioner finds that the fiscal intermediary has failed to comply  
13 with the provisions of this subdivision or regulations promulgated here-  
14 under.

15 (b) Notwithstanding the foregoing, upon determining that the public  
16 health or safety would be imminently endangered by the continued opera-  
17 tion or actions of the fiscal intermediary, the commissioner may [termi-  
18 nate] revoke, suspend, limit or annul the fiscal intermediary's  
19 [contract or suspend or limit the fiscal intermediary's rights and priv-  
20 ileges under the contract] authorization immediately [upon written  
21 notice].

22 (c) All orders or determinations under this subdivision shall be  
23 subject to review as provided in article seventy-eight of the civil  
24 practice law and rules.

25 § 11. Paragraph (c) of subdivision 4-d of section 365-f of the social  
26 services law, as added by section 7 of part G of chapter 57 of the laws  
27 of 2019, is amended to read as follows:

1 (c) Where a fiscal intermediary is suspending or ceasing operation  
2 pursuant to an order under subdivision four-b of this section, [or has  
3 failed to submit an offer for a contract, or has been denied a contract  
4 under this section,] all the provisions of this subdivision shall apply  
5 except subparagraph (i) of paragraph (a) of this subdivision, notice of  
6 which to all parties shall be provided by the department as appropriate.

7 § 12. Paragraph (d) of subdivision 4-d of section 365-f of the social  
8 services law, as added by section 3 of part LL of chapter 57 of the laws  
9 of 2021 is REPEALED.

10 § 13. Part I of chapter 57 of the laws of 2022, providing a one  
11 percent across the board payment increase to all qualifying fee-for-ser-  
12 vice Medicaid rates, is amended by adding two new sections 1-a and 1-b  
13 to read as follows:

14 § 1-a. Notwithstanding any provision of law to the contrary, for the  
15 state fiscal years beginning April 1, 2023, and thereafter, Medicaid  
16 payments made for the operating component of residential health care  
17 facilities services shall be subject to a uniform rate increase of five  
18 percent in addition to the increase contained in subdivision 1 of  
19 section 1 of this part, subject to the approval of the commissioner of  
20 the department of health and the director of the budget. Such rate  
21 increase shall be subject to federal financial participation.

22 § 1-b. Notwithstanding any provision of law to the contrary, for the  
23 state fiscal years beginning April 1, 2023, and thereafter, Medicaid  
24 payments made for the operating component of assisted living programs as  
25 defined by paragraph (a) of subdivision one of section 461-1 of the  
26 social services law shall be subject to a uniform rate increase of five  
27 percent in addition to the increase contained in section one of this  
28 part, subject to the approval of the commissioner of the department of

1 health and the director of the budget. Such rate increase shall be  
2 subject to federal financial participation.

3 § 14. Paragraphs (d) and (i) of subdivision 1 and subdivisions 2, 4,  
4 5, 5-a, 6, 6-a, 7, 7-a, 9 and 10 of section 3614-c of the public health  
5 law, paragraphs (d) and (i) of subdivision 1 and subdivisions 2, 4, 5,  
6 6, 7, 9 and 10 as amended and subdivisions 6-a and 7-a as added by  
7 section 1 and subdivision 5-a as added by section 1-a of part 00 of  
8 chapter 56 of the laws of 2020, are amended to read as follows:

9 (d) "Home care aide" means a home health aide, personal care aide,  
10 home attendant, [personal assistant performing consumer directed  
11 personal assistance services pursuant to section three hundred sixty-  
12 five-f of the social services law,] or other licensed or unlicensed  
13 person whose primary responsibility includes the provision of in-home  
14 assistance with activities of daily living, instrumental activities of  
15 daily living or health-related tasks; provided, however, that home care  
16 aide does not include any individual (i) working on a casual basis, or  
17 (ii) [(except for a person employed under the consumer directed personal  
18 assistance program under section three hundred sixty-five-f of the  
19 social services law)] who is a relative through blood, marriage or  
20 adoption of: (1) the employer; or (2) the person for whom the worker is  
21 delivering services, under a program funded or administered by federal,  
22 state or local government.

23 [(i) "Fiscal intermediary" means a fiscal intermediary in the consumer  
24 directed personal assistance program under section three hundred sixty-  
25 five-f of the social services law.]

26 2. Notwithstanding any inconsistent provision of law, rule or regu-  
27 lation, no payments by government agencies shall be made to certified  
28 home health agencies, long term home health care programs, managed care

1 plans, [fiscal intermediaries,] the nursing home transition and diver-  
2 sion waiver program under section three hundred sixty-six of the social  
3 services law, or the traumatic brain injury waiver program under section  
4 twenty-seven hundred forty of this chapter for any episode of care  
5 furnished, in whole or in part, by any home care aide who is compensated  
6 at amounts less than the applicable minimum rate of home care aide total  
7 compensation established pursuant to this section.

8 4. The terms of this section shall apply equally to services provided  
9 by home care aides who work on episodes of care as direct employees of  
10 certified home health agencies, long term home health care programs, or  
11 managed care plans, or as employees of licensed home care services agen-  
12 cies, limited licensed home care services agencies, [or fiscal interme-  
13 diaries,] or under any other arrangement.

14 5. No payments by government agencies shall be made to certified home  
15 health agencies, licensed home care services agencies, long term home  
16 health care programs, managed care plans, [fiscal intermediaries] for  
17 any episode of care without the certified home health agency, licensed  
18 home care services agency, long term home health care program, or  
19 managed care plan [or the fiscal intermediary], having delivered prior  
20 written certification to the commissioner annually, at a time prescribed  
21 by the commissioner, on forms prepared by the department in consultation  
22 with the department of labor, that all services provided under each  
23 episode of care during the period covered by the certification are in  
24 full compliance with the terms of this section and any regulations  
25 promulgated pursuant to this section and that no portion of the dollars  
26 spent or to be spent to satisfy the wage or benefit portion under this  
27 section shall be returned to the certified home health agency, licensed  
28 home care services agency, long term home health care program, or

1 managed care plan, [or fiscal intermediary,] related persons or enti-  
2 ties, other than to a home care aide as defined in this section to whom  
3 the wage or benefits are due, as a refund, dividend, profit, or in any  
4 other manner. Such written certification shall also verify that the  
5 certified home health agency, long term home health care program, or  
6 managed care plan has received from the licensed home care services  
7 agency, [fiscal intermediary,] or other third party an annual statement  
8 of wage parity hours and expenses on a form provided by the department  
9 of labor accompanied by an independently-audited financial statement  
10 verifying such expenses.

11 5-a. No portion of the dollars spent or to be spent to satisfy the  
12 wage or benefit portion under this section shall be returned to the  
13 certified home health agency, licensed home care services agency, long  
14 term home health care program, or managed care plan, [or fiscal interme-  
15 diary,] related persons or entities, other than to a home care aide as  
16 defined in this section to whom the wage or benefits are due, as a  
17 refund, dividend, profit, or in any other manner.

18 6. If a certified home health agency, long term home health care  
19 program or managed care plan elects to provide home care aide services  
20 through contracts with licensed home care services agencies, [fiscal  
21 intermediaries,] or through other third parties, provided that the  
22 episode of care on which the home care aide works is covered under the  
23 terms of this section, the certified home health agency, long term home  
24 health care program, or managed care plan shall include in its  
25 contracts, a requirement that it be provided with a written certifi-  
26 cation, verified by oath, from the licensed home care services agency,  
27 [fiscal intermediary,] or other third party, on forms prepared by the  
28 department in consultation with the department of labor, which attests

1 to the licensed home care services agency's, [fiscal intermediary's,] or  
2 other third party's compliance with the terms of this section. Such  
3 contracts shall also obligate the licensed home care services agency,  
4 [fiscal intermediary,] or other third party to provide the certified  
5 home health agency, long term home health care program, or managed care  
6 plan all information from the licensed home care services agency,  
7 [fiscal intermediary] or other third party necessary to verify compli-  
8 ance with the terms of this section, which shall include an annual  
9 compliance statement of wage parity hours and expenses on a form  
10 provided by the department of labor accompanied by an independently-au-  
11 dited financial statement verifying such expenses. Such annual state-  
12 ments shall be available no less than annually for the previous calendar  
13 year, at a time as prescribed by the commissioner. Such certifications,  
14 the information necessary to verify compliance, and the annual compli-  
15 ance statement and financial statements shall be retained by all certi-  
16 fied home health agencies, long term home health care programs, or  
17 managed care plans, and all licensed home care services agencies,  
18 [fiscal intermediaries,] or other third parties for a period of no less  
19 than ten years, and made available to the department upon request. Any  
20 licensed home care services agency, [fiscal intermediary,] or other  
21 third party who shall upon oath verify any statement required to be  
22 transmitted under this section and any regulations promulgated pursuant  
23 to this section which is known by such party to be false shall be guilty  
24 of perjury and punishable as provided by the penal law.

25 6-a. The certified home health agency, long term home health care  
26 program, or managed care plan shall review and assess the annual compli-  
27 ance statement of wage parity hours and expenses and make a written  
28 referral to the department of labor for any reasonably suspected fail-

1 ures of licensed home care services agencies, [fiscal intermediaries,]  
2 or third parties to conform to the wage parity requirements of this  
3 section.

4 7. The commissioner shall distribute to all certified home health  
5 agencies, long term home health care programs, managed care plans, and  
6 licensed home care services agencies[, and fiscal intermediaries] offi-  
7 cial notice of the minimum rates of home care aide compensation at least  
8 one hundred twenty days prior to the effective date of each minimum rate  
9 for each social services district covered by the terms of this section.

10 7-a. Any certified home health agency, licensed home care services  
11 agency, long term home health care program, managed care plan, [or  
12 fiscal intermediary,] or other third party that willfully pays less than  
13 such stipulated minimums regarding wages and supplements, as established  
14 in this section, shall be guilty of a misdemeanor and upon conviction  
15 shall be punished, for a first offense by a fine of five hundred dollars  
16 or by imprisonment for not more than thirty days, or by both fine and  
17 imprisonment; for a second offense by a fine of one thousand dollars,  
18 and in addition thereto the contract on which the violation has occurred  
19 shall be forfeited; and no such person or corporation shall be entitled  
20 to receive any sum nor shall any officer, agent or employee of the state  
21 pay the same or authorize its payment from the funds under his or her  
22 charge or control to any person or corporation for work done upon any  
23 contract, on which the certified home health agency, licensed home care  
24 services agency, long term home health care program, managed care plan,  
25 [or fiscal intermediary,] or other third party has been convicted of a  
26 second offense in violation of the provisions of this section.

27 9. Nothing in this section should be construed as applicable to any  
28 service provided by certified home health agencies, licensed home care

1 services agencies, long term home health care programs, or managed care  
2 plans[, or fiscal intermediaries] except for all episodes of care reim-  
3 bursed in whole or in part by the New York Medicaid program.

4 10. No certified home health agency, managed care plan, or long term  
5 home health care program shall be liable for recoupment of payments or  
6 any other penalty under this section for services provided through a  
7 licensed home care services agency, [fiscal intermediary,] or other  
8 third party with which the certified home health agency, long term home  
9 health care program, or managed care plan has a contract because the  
10 licensed agency, [fiscal intermediary,] or other third party failed to  
11 comply with the provisions of this section if the certified home health  
12 agency, long term home health care program, or managed care plan has  
13 reasonably and in good faith collected certifications and all informa-  
14 tion required pursuant to this section and conducts the monitoring and  
15 reporting required by this section.

16 § 15. Subdivision 1 of section 3614-f of the public health law, as  
17 added by section 1 of part XX of chapter 56 of the laws of 2022, is  
18 amended to read as follows:

19 1. For the purpose of this section, "home care aide" shall [have the  
20 same meaning as defined in section thirty-six hundred fourteen-c of this  
21 article] mean a home health aide, personal care aide, home attendant,  
22 personal assistant performing consumer directed personal assistance  
23 services pursuant to section three hundred sixty-five-f of the social  
24 services law, or other licensed or unlicensed person whose primary  
25 responsibility includes the provisions of in-home assistance with activ-  
26 ities of daily living, instrumental activities of daily living or  
27 health-related tasks; provided, however, that home care aide does not  
28 include any individual (i) working on a casual basis, or (ii) (expect

1 for a person employed under the consumer directed personal assistance  
2 program under section three hundred sixty-five-f of the social services  
3 law) who is a relative through blood, marriage or adoption of: (1) the  
4 employer; or (2) the person whom the worker is delivering services,  
5 under a program funded or administered by federal, state or local  
6 government.

7 § 16. The public health law is amended by adding a new section 3614-g  
8 to read as follows:

9 § 3614-g. State supplemental premium assistance for consumer directed  
10 personal assistants.

11 1. State supplemental assistance for the payment of qualified health  
12 plan premiums shall be available to a personal assistant performing  
13 consumer directed personal assistance services pursuant to section three  
14 hundred sixty-five-f of the social services law, provided that such  
15 personal assistant:

16 (a) attests on the NY State of Health Marketplace application that  
17 they are providing such services on a full-time basis or part-time  
18 basis, as defined in applicable regulation,

19 (b) is eligible for federal premium tax credits pursuant to section  
20 36B(b)(3)(A) of the Internal Revenue Code,

21 (c) is not otherwise eligible for comprehensive coverage under  
22 title 11 or 11-D of article five of the social services law; and

23 (d) is enrolled in a qualified health plan defined in 42 U.S.C.  
24 18021(a), certified by the NY State of Health Marketplace, which does  
25 not include a catastrophic plan described in 42 U.S.C. 18022(e).

26 2. The amount of the supplemental premium assistance shall be equal to  
27 at least the contribution for the benchmark silver qualified health plan  
28 available in such personal assistant's county of residence, and shall

1 account for the full-time or part-time status of the personal assistant.  
2 Personal assistants working part-time shall be eligible for a minimum of  
3 one-half of the state supplemental premium credit available for personal  
4 assistants working full-time. Such credit shall be paid directly to the  
5 qualified health plan issuer. Any subsidies provided pursuant to this  
6 section shall be in accordance with a schedule or methodology published  
7 by the commissioner, which may be based on a sliding scale in relation  
8 to the household income of the personal assistant, or such other method-  
9 ology as the commissioner deems appropriate.

10 3. Applicants for coverage through the NY State Marketplace who are  
11 newly eligible for supplemental premium assistance pursuant to this  
12 section shall be eligible for a special enrollment period through the NY  
13 State of Health Marketplace.

14 4. The commissioner shall submit such applications to the secretary of  
15 the department of health and human services or treasury as may be neces-  
16 sary to receive federal financial participation in the costs of payments  
17 made pursuant to this section; provided further, however, that nothing  
18 in this section shall be deemed to affect the payment of the state  
19 supplemental premium assistance pursuant to applicable law and regu-  
20 lation if federal financial participation in the costs of such payments  
21 is not available.

22 5. Fiscal intermediaries and personal assistants under section three  
23 hundred sixty-five-f of the social services law shall be required to  
24 provide such information as is necessary for the implementation and  
25 operation of this section. The department shall specify the frequency  
26 and format of such reporting and determine the type and amount of infor-  
27 mation to be submitted, including any supporting documentation.

1 6. The commissioner shall promulgate any rules and regulations and  
2 take such steps as may be necessary for the implementation and operation  
3 of this section.

4 § 17. The state finance law is amended by adding a new section  
5 97-bbbbbb to read as follows:

6 § 97-bbbbbb. CDPAP supplemental premium assistance fund. 1. CDPAP  
7 supplemental premium assistance fund. There is hereby established in the  
8 joint custody of the state comptroller and the commissioner of taxation  
9 and finance a special fund to be known as the "CDPAP supplemental premi-  
10 um assistance fund".

11 2. Such fund shall be kept separate and shall not be commingled with  
12 any other funds in the custody of the state comptroller and the commis-  
13 sioner of taxation and finance.

14 3. Such fund shall consist of moneys appropriated for State supple-  
15 mental premium assistance for the payment of qualified health plan  
16 premium of eligible enrollees performing consumer directed personal  
17 assistance services, in accordance with section thirty-six hundred four-  
18 teen-g of the social services law, or transferred to such account pursu-  
19 ant to applicable law.

20 4. The moneys, when allocated in accordance with section thirty-six  
21 hundred fourteen-g of the social services law, shall be paid out of the  
22 fund to qualified health plans on behalf of eligible enrollees.

23 § 18. This act shall take effect immediately and shall be deemed to  
24 have been in full force and effect on and after April 1, 2023; provided,  
25 however, that:

26 (a) the amendments to section 4403-f of the public health law made by  
27 sections two through six-a of this act shall not affect the repeal of  
28 such section and shall be deemed repealed therewith;

1 (b) the amendments to subparagraph (i) of paragraph (g) of subdivision  
2 7 of section 4403-f of the public health law made by section six of this  
3 act shall be subject to the expiration and reversion of such subpara-  
4 graph pursuant to subdivision (i) of section 111 of part H of chapter 59  
5 of the laws of 2011, as amended, when upon such date the provisions of  
6 section six-a of this act shall take effect;

7 (c) sections fourteen, sixteen, and seventeen of this act shall take  
8 effect on and after the first of January next succeeding the date of  
9 enactment of a state supplemental premium assistance program in accord-  
10 ance with sections sixteen and seventeen of this act, takes effect;  
11 provided, however, such sections fourteen, sixteen, and seventeen of  
12 this act shall take effect no earlier than January 1, 2025; and  
13 provided, further, the commissioner of health shall notify the legisla-  
14 tive bill drafting commission upon the occurrence of the establishment  
15 of such state supplemental premium assistance program in order that the  
16 commission may maintain an accurate and timely effective data base of  
17 the official text of the laws of the state of New York in furtherance of  
18 effecting the provisions of section 44 of the legislative law and  
19 section 70-b of the public officers law; and

20 (d) effective immediately, the commissioner of health shall promulgate  
21 any rules and regulations and take such steps, including requiring the  
22 submission of reports or surveys by fiscal intermediaries under the  
23 consumer directed personal assistance program, as may be necessary for  
24 the timely implementation of this act on or before such effective date.

1 Section 1. Subsection (a) of section 3224-a of the insurance law, as  
2 amended by chapter 237 of the laws of 2009, is amended to read as  
3 follows:

4 (a) Except in a case where the obligation of an insurer or an organ-  
5 ization or corporation licensed or certified pursuant to article forty-  
6 three or forty-seven of this chapter or article forty-four of the public  
7 health law to pay a claim submitted by a policyholder or person covered  
8 under such policy ("covered person") or make a payment to a health care  
9 provider is not reasonably clear, or when there is a reasonable basis  
10 supported by specific information available for review by the super-  
11 intendent that such claim or bill for health care services rendered was  
12 submitted fraudulently, such insurer or organization or corporation  
13 shall pay the claim to a policyholder or covered person or make a  
14 payment to a health care provider within thirty days of receipt of a  
15 claim or bill for the services rendered that is transmitted via the  
16 internet or electronic mail[, ] or forty-five days of receipt of a claim  
17 or bill for services rendered that is submitted by other means, such as  
18 paper or facsimile.

19 (1) Where the obligation of an insurer or an organization or corpo-  
20 ration licensed or certified pursuant to article forty-three or forty-  
21 seven of this chapter or article forty-four of the public health law to  
22 pay such a claim is clear, except for the desire of the insurer or  
23 organization or corporation to review clinical documentation or, to the  
24 extent agreed upon by a hospital and the insurer or organization or  
25 corporation, electronic medical records, to confirm the medical necessi-  
26 ty of emergency services or inpatient services following an emergency  
27 department visit provided by a hospital that participates in the  
28 network of the insurer or organization or corporation, which includes

1 whether the services provided were emergency services or that the site  
2 of service or level of care billed was appropriate for the services  
3 provided, the insurer or organization or corporation shall pay the claim  
4 at the contracted rate for the services and site billed by the hospital  
5 within the timeframes set forth in this subsection. The insurer or  
6 organization or corporation may, within thirty days of paying the claim,  
7 request that the hospital submit to the insurer or organization or  
8 corporation only the clinical documentation or, to the extent agreed  
9 upon by the hospital and the insurer or organization or corporation,  
10 electronic medical records, necessary to confirm the medical necessity  
11 of the emergency services or inpatient services following an emergency  
12 department visit provided by the hospital, which includes whether the  
13 services provided by the hospital were emergency services or that the  
14 site of service or level of care billed was appropriate for the services  
15 provided. The hospital shall provide the clinical documentation to the  
16 insurer or organization or corporation within forty-five days of its  
17 request.

18 (2) Unless otherwise agreed upon by the hospital and the insurer or  
19 organization or corporation, an insurer or organization or corporation  
20 may submit a claim, within ninety days of receipt of the clinical  
21 documentation from the hospital, to a joint committee composed of clini-  
22 cians from the insurer or organization or corporation and the hospital  
23 for a post-payment audit. If the hospital fails to provide clinical  
24 documentation to the insurer or organization or corporation within  
25 forty-five days of the request, the insurer or organization or corpo-  
26 ration may submit the claim to the joint committee for review within  
27 ninety days after the end of the forty-five day period. The joint  
28 committee shall meet at least quarterly to review such claims. Nothing

1 herein shall require the joint committee to be registered as a utiliza-  
2 tion review agent under article forty-nine of the public health law or  
3 file a utilization review report under article forty-nine of this chap-  
4 ter.

5 (3) Within ninety days of the joint committee's receipt of the request  
6 to review the claim from an insurer or organization or corporation, the  
7 joint committee shall request the clinical documentation from the hospi-  
8 tal, review the claim and information submitted by the parties, and make  
9 a joint determination as to the medical necessity of the services  
10 provided, which includes whether the services were emergency services or  
11 that the site of service or level of care billed was appropriate for the  
12 services; provided, however, the insurer or organization or corporation  
13 and hospital may agree to meet more frequently than every ninety days,  
14 so long as such frequency does not require the joint committee to meet  
15 more frequently than every thirty days. Failure by the hospital to  
16 provide the clinical documentation to the joint committee within sixty  
17 days of request, or an alternative timeframe as may be agreed upon by  
18 all parties, shall result in a final determination that the services  
19 were not medically necessary by the joint committee, which shall not be  
20 subject to review under article forty-nine of this chapter and article  
21 forty-nine of the public health law.

22 (A) In the event a joint determination cannot be agreed upon within  
23 the ninety-day period, the hospital or insurer or organization or corpo-  
24 ration may refer the claim to a mutually agreed upon independent third-  
25 party review agent within five business days from the end of the nine-  
26 ty-day period, for a determination. The determination of the independent  
27 third-party review agent shall be binding.

1 (B) The hospital and the insurer or organization or corporation shall  
2 designate one or more mutually agreed upon independent third-party  
3 review agents in the participating provider agreement. If the hospital  
4 and the insurer or organization or corporation are unable to reach  
5 agreement in the participating provider agreement on one or more inde-  
6 pendent third-party review agents, then the insurer or organization or  
7 corporation may select an independent third-party review agent that has  
8 been certified by the superintendent as an external appeal agent pursu-  
9 ant to article forty-nine of this chapter or as an independent dispute  
10 resolution entity pursuant to article six of the financial services law.  
11 If the independent third-party review agent determines that the services  
12 provided were not medically necessary, in whole or in part, the insurer  
13 or corporation or organization may recoup, offset, or otherwise require  
14 the hospital to refund any overpayment resulting from its determination  
15 consistent with subsection (b) of section three thousand two hundred  
16 twenty-four-b of this article within thirty days. The insurer or organ-  
17 ization or corporation shall provide written notification to the hospi-  
18 tal of such recoup or offset, which shall include: (i) the claim number;  
19 (ii) the amount of the overpayment; and (iii) the date of the joint  
20 committee determination.

21 (C) During the entirety of the review process, the hospital shall pend  
22 the imposition of any copayment, coinsurance or deductible until such  
23 time as there is a final determination as to whether the services in  
24 question were medically necessary. The hospital may thereafter bill the  
25 insured for the amount of the copayment, coinsurance or deductible for  
26 services determined to be medically necessary and shall hold the insured  
27 harmless for any other amounts, including amounts for services deter-  
28 mined to be not medically necessary.

1 (4) Nothing in this subsection shall in any way be deemed to limit the  
2 ability of insurers or organizations or corporations and hospitals to  
3 agree to establish parameters for referral or review of medical records,  
4 including while the insured is in the hospital, or for insurers or  
5 organizations or corporations to require preauthorization for services  
6 that are not emergency services.

7 (5) For purposes of this subsection, "hospital" shall mean a general  
8 hospital as defined in section two thousand eight hundred one of the  
9 public health law.

10 (6) Nothing in this subsection shall preclude an insurer or organiza-  
11 tion or corporation and a hospital from agreeing to other dispute resol-  
12 ution mechanisms, provided that the parties may not negotiate away the  
13 requirement that the insurer or organization or corporation pay the  
14 claim as billed by the hospital prior to reviewing such claim for  
15 medical necessity. When a hospital and an insurer or organization or  
16 corporation are parties to a participating provider agreement applicable  
17 to the inpatient hospital admission being reviewed by the joint commit-  
18 tee, the definition of medical necessity set forth in such participating  
19 provider agreement shall apply for purposes of joint committee and inde-  
20 pendent third-party review.

21 § 2. Subsection (b) of section 3224-a of the insurance law, as amended  
22 by chapter 694 of the laws of 2021, is amended to read as follows:

23 (b) In a case where the obligation of an insurer or an organization or  
24 corporation licensed or certified pursuant to article forty-three or  
25 forty-seven of this chapter or article forty-four of the public health  
26 law to pay a claim or make a payment for health care services rendered  
27 is not reasonably clear due to a good faith dispute regarding the eligi-  
28 bility of a person for coverage, the liability of another insurer or

1 corporation or organization for all or part of the claim, the amount of  
2 the claim, the benefits covered under a contract or agreement, or the  
3 manner in which services were accessed or provided, an insurer or organ-  
4 ization or corporation shall pay any undisputed portion of the claim in  
5 accordance with this subsection and notify the policyholder, covered  
6 person or health care provider in writing, and through the internet or  
7 other electronic means for claims submitted in that manner, within thir-  
8 ty calendar days of the receipt of the claim:

9 (1) whether the claim or bill has been denied or partially approved;

10 (2) which claim or medical payment that it is not obligated to pay the  
11 claim, stating the specific reasons why it is not liable; and

12 (3) to request all additional information needed to determine liabil-  
13 ity to pay the claim or make the health care payment; and

14 (4) of the specific type of plan or product the policyholder or  
15 covered person is enrolled in; provided that nothing in this section  
16 shall authorize discrimination based on the source of payment.

17 Upon receipt of the information requested in paragraph three of this  
18 subsection or an appeal of a claim or bill for health care services  
19 denied pursuant to this subsection, an insurer or organization or corpo-  
20 ration licensed or certified pursuant to article forty-three or forty-  
21 seven of this chapter or article forty-four of the public health law  
22 shall comply with subsection (a) of this section; provided, that if the  
23 insurer or organization or corporation licensed or certified pursuant to  
24 article forty-three or forty-seven of this chapter or article forty-four  
25 of the public health law determines that payment or additional payment  
26 is due on [the] a claim[,] as a result of an internal or external appeal  
27 determination made pursuant to section four thousand nine hundred four  
28 or title two of article forty-nine of this chapter or section four thou-

1 sand nine hundred four or title two of article forty-nine of the public  
2 health law, such payment shall be made to the policyholder or covered  
3 person or health care provider within fifteen days of the determination.  
4 Any denial or partial approval of claim or payment and the specific  
5 reasons for such denial or partial approval pursuant to this subsection  
6 shall be prominently displayed on a written notice with at least twelve-  
7 point type. A partial approval of claim or payment shall state at the  
8 top of such written notice with at least fourteen-point type bold:  
9 "NOTICE OF PARTIAL APPROVAL OF MEDICAL COVERAGE". A denial of claim or  
10 payment shall state at the top of such written notice with at least  
11 fourteen-point type bold: "NOTICE OF DENIAL OF MEDICAL COVERAGE". Any  
12 additional terms or conditions included on such notice of partial  
13 approval or such notice of denial, such as but not limited to time  
14 restraints to file an appeal, shall be included with at least twelve-  
15 point type.

16 § 3. Paragraphs 4 and 5 of subsection (b) of section 3224-b of the  
17 insurance law are renumbered paragraphs 6 and 7 and two new paragraphs 4  
18 and 5 are added to read as follows:

19 (4) A review or audit of claims by or on behalf of a health plan shall  
20 not reverse or otherwise alter a medical necessity determination, which  
21 includes, a site of service or level of care determination made by a  
22 utilization review agent or external appeal agent pursuant to article  
23 forty-nine of this chapter or article forty-nine of the public health  
24 law.

25 (5) A review or audit of claims by or on behalf of a health plan shall  
26 not downgrade the coding of a claim if it has the effect of reversing or  
27 altering a medical necessity determination, which includes, a level of  
28 care determination made by or on behalf of the health plan; provided

1 however, that nothing in this paragraph shall limit a health plan's  
2 ability to review or audit claims for fraud, waste or abuse.

3 § 4. The opening paragraph of subsection (c) of section 4904 of the  
4 insurance law, as amended by section 18 of part YY of chapter 56 of the  
5 laws of 2020, is amended to read as follows:

6 A utilization review agent shall establish a standard appeal process  
7 which includes procedures for appeals to be filed in writing or by tele-  
8 phone. A utilization review agent must establish a period of no less  
9 than forty-five days after receipt of notification by the insured of the  
10 initial utilization review determination and receipt of all necessary  
11 information to file the appeal from said determination. The utilization  
12 review agent must provide written acknowledgment of the filing of the  
13 appeal to the appealing party within fifteen days of such filing and  
14 shall make a determination with regard to the appeal within thirty days  
15 of the receipt of necessary information to conduct the appeal and, upon  
16 overturning the adverse decision, shall comply with subsection [(a)] (b)  
17 of section three thousand two hundred twenty-four-a of this chapter as  
18 applicable. The utilization review agent shall notify the insured, the  
19 insured's designee and, where appropriate, the insured's health care  
20 provider, in writing of the appeal determination within two business  
21 days of the rendering of such determination.

22 § 5. The opening paragraph of subdivision 3 of section 4904 of the  
23 public health law, as amended by section 17 of part YY of chapter 56 of  
24 the laws of 2020, is amended to read as follows:

25 A utilization review agent shall establish a standard appeal process  
26 which includes procedures for appeals to be filed in writing or by tele-  
27 phone. A utilization review agent must establish a period of no less  
28 than forty-five days after receipt of notification by the enrollee of

1 the initial utilization review determination and receipt of all neces-  
2 sary information to file the appeal from said determination. The utili-  
3 zation review agent must provide written acknowledgment of the filing of  
4 the appeal to the appealing party within fifteen days of such filing and  
5 shall make a determination with regard to the appeal within thirty days  
6 of the receipt of necessary information to conduct the appeal and, upon  
7 overturning the adverse determination, shall comply with subsection  
8 [(a)] (b) of section three thousand two hundred twenty-four-a of the  
9 insurance law as applicable. The utilization review agent shall notify  
10 the enrollee, the enrollee's designee and, where appropriate, the  
11 enrollee's health care provider, in writing, of the appeal determination  
12 within two business days of the rendering of such determination. The  
13 notice of the appeal determination shall include:

14 § 6. Nothing in this act shall limit the authority of the office of  
15 the medicaid inspector general, the department of health, or the state  
16 from conducting oversight activities, audits, recovering funds and  
17 imposing penalties in accordance with any relevant rule, regulation,  
18 provision of law or contract.

19 § 7. This act shall take effect January 1, 2024.

20 PART K

21 Section 1. Subparagraphs 1 and 2 of paragraph (e) of subdivision 1 of  
22 section 366 of the social services law, as added by section 1 of part D  
23 of chapter 56 of the laws of 2013, clause (iii) of subparagraph 2 as  
24 amended by chapter 477 of the laws of 2022, are amended to read as  
25 follows:

1 (1) is an inmate or patient in an institution or facility wherein  
2 medical assistance may not be provided in accordance with applicable  
3 federal or state requirements, except for persons described in subpara-  
4 graph ten of paragraph (c) of this subdivision or subdivision one-a or  
5 subdivision one-b of this section; or except for certain services  
6 provided to persons in a correctional institution or facility permitted  
7 by a waiver authorized pursuant to section eleven hundred fifteen of the  
8 federal social security act; if, so long as, and to the extent federal  
9 financial participation is available for such expenditures provided  
10 pursuant to such waiver; or

11 (2) is a patient in a public institution operated primarily for the  
12 treatment of tuberculosis or care of the mentally disabled, with the  
13 exception of: (i) a person sixty-five years of age or older and a  
14 patient in any such institution; (ii) a person under twenty-one years of  
15 age and receiving in-patient psychiatric services in a public institu-  
16 tion operated primarily for the care of the mentally disabled; (iii) a  
17 patient in a public institution operated primarily for the care of indi-  
18 viduals with developmental disabilities who is receiving medical care or  
19 treatment in that part of such institution that has been approved pursu-  
20 ant to law as a hospital or nursing home; (iv) a patient in an institu-  
21 tion operated by the state department of mental hygiene, while under  
22 care in a hospital on release from such institution for the purpose of  
23 receiving care in such hospital; [or] (v) is a person residing in a  
24 community residence or a residential care center for adults; or (vi)  
25 certain services provided to persons in an institution for mental  
26 diseases permitted by a waiver authorized pursuant to section eleven  
27 hundred fifteen of the federal social security act; if, so long as, and

1 to the extent federal financial participation is available for such  
2 expenditures provided pursuant to such waiver.

3 § 2. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect on and after April 1, 2023.

5 PART I

6 Section 1. Section 3241 of the insurance law is amended by adding a  
7 new subsection (d) to read as follows:

8 (d) (1) For purposes of this subsection:

9 (A) "Free-standing ambulatory surgical center" shall mean a diagnostic  
10 and treatment center authorized pursuant to article twenty-eight of the  
11 public health law and operated independently from a hospital.

12 (B) "Health care plan" shall mean an insurer, a corporation organized  
13 pursuant to article forty-three of this chapter, a health maintenance  
14 organization certified pursuant to article forty-four of the public  
15 health law, a municipal cooperative health benefit plan certified pursu-  
16 ant to article forty-seven of this chapter, and a student health plan  
17 established or maintained pursuant to section one thousand one hundred  
18 twenty-four of this chapter, that issues a health insurance policy or  
19 contract or that arranges for care and services for members under a  
20 contract with the department of health with a network of health care  
21 providers and utilizes site of service review to determine coverage for  
22 services delivered by participating providers.

23 (C) "Hospital-based outpatient clinic" shall mean a clinic authorized  
24 pursuant to article twenty-eight of the public health law and listed on  
25 a hospital's operating certificate.

1 (D) "Site of service review" shall mean criteria applied by a health  
2 care plan for purposes of determining whether a procedure will be  
3 covered for a given insured or enrollee when rendered by a network  
4 provider at a hospital-based outpatient clinic rather than a free-stand-  
5 ing ambulatory surgical center.

6 (2) Site of service review shall be deemed utilization review in  
7 accordance with and subject to the requirements and protections of arti-  
8 cle forty-nine of this chapter and article forty-nine of the public  
9 health law, including the right to internal and external appeal of  
10 denials related to site of service.

11 (3) Site of service review shall prioritize patient health and safety,  
12 patient choice of health care provider, and access to care and shall not  
13 be based solely on cost.

14 (4) A health care plan shall have adequate free-standing ambulatory  
15 surgical center providers to meet the health needs of insureds and  
16 enrollees and to provide an appropriate choice of providers sufficient  
17 to render the services covered under the policy or contract.

18 (5) Except as provided in paragraph six of this subsection, starting  
19 January first, two thousand twenty-four, a health care plan shall  
20 provide notice disclosing and clearly explaining the site of service  
21 review to:

22 (A) policyholders, contract holders, insureds, and enrollees and  
23 prospective policyholders, contract holders, insureds, and enrollees at  
24 the time of plan and policy or contract selection. This disclosure shall  
25 include a statement that site of service review may limit the settings  
26 in which services covered under the policy or contract may be provided  
27 and render a participating provider unable to perform a service and  
28 shall disclose to insureds or enrollees any quality or cost differen-

1 tial, including differences in out-of-pocket costs, between the hospi-  
2 tal-based outpatient clinic and the free-standing ambulatory surgical  
3 center when services at a hospital-based outpatient clinic are  
4 requested, or at any other time upon the insured's or enrollee's  
5 request. Provider directories shall also indicate when health care plan  
6 site of service review may limit the scope of services that will be  
7 covered when delivered by a participating provider;

8 (B) participating providers at least ninety days prior to implementa-  
9 tion. A health care plan shall also inform providers of the process for  
10 requesting coverage of a service in a hospital-based outpatient clinic  
11 setting, including the right to request a real time clinical peer to  
12 peer discussion as part of the authorization process; and

13 (C) the superintendent and, as applicable, to the commissioner of  
14 health, at least forty-five days prior to notifying policyholders,  
15 contract holders, insureds and enrollees and prospective policyholders,  
16 contract holders, insureds and enrollees and participating providers in  
17 accordance with this subsection. Such notice to the superintendent and,  
18 as applicable, to the commissioner of health, shall include draft commu-  
19 nications to the foregoing persons for purposes of complying with this  
20 subsection.

21 (6) A health care plan that has implemented site of service review  
22 prior to January first, two thousand twenty-four shall provide the  
23 disclosures set forth in paragraph five of this subsection at the begin-  
24 ning of the open enrollment period for individual health insurance poli-  
25 cies and contracts, and for group health insurance policies and  
26 contracts, prior to issuance, renewal, or January first, two thousand  
27 twenty-four, whichever is earlier.

1 (7) Starting January first, two thousand twenty-four, at a minimum, a  
2 health care plan shall approve a service covered under the policy or  
3 contract and requested to be performed by a network provider at a hospi-  
4 tal-based outpatient clinic in the following situations:

5 (A) the procedure cannot be safely performed in a free-standing ambu-  
6 latory surgical center due to the insured's or enrollee's health condi-  
7 tion or the health care services;

8 (B) there is not sufficient free-standing ambulatory surgical center  
9 capacity in the insured's or enrollee's geographic area; or

10 (C) the provision of health care services at a free-standing ambulato-  
11 ry surgical center would result in undue delay.

12 (8) Starting January first, two thousand twenty-four, site of service  
13 clinical review criteria developed by health care plans shall also take  
14 into consideration whether:

15 (A) the insured's or enrollee's in-network treating physician recom-  
16 mends that the service be provided at a hospital-based outpatient clin-  
17 ic;

18 (B) the insured's in-network treating physician is not credentialed or  
19 does not have privileges at a free-standing ambulatory surgical center;  
20 or

21 (C) the insured has an established relationship with an in-network  
22 treating physician who performs the requested service in a hospital-  
23 based outpatient clinic.

24 § 2. This act shall take effect April 1, 2023.

1 Section 1. Subdivision 3 of section 2801-a of the public health law,  
2 as amended by section 57 of part A of chapter 58 of the laws of 2010, is  
3 amended to read as follows:

4 3. The public health and health planning council shall not approve a  
5 certificate of incorporation, articles of organization or application  
6 for establishment unless it is satisfied, insofar as applicable, as to  
7 (a) the public need for the existence of the institution at the time and  
8 place and under the circumstances proposed, provided, however, that in  
9 the case of an institution proposed to be established or operated by an  
10 organization defined in subdivision one of section one hundred seventy-  
11 two-a of the executive law, the needs of the members of the religious  
12 denomination concerned, for care or treatment in accordance with their  
13 religious or ethical convictions, shall be deemed to be public need; (b)  
14 the character, competence, and standing in the community, of the  
15 proposed incorporators, directors, sponsors, stockholders, members, or  
16 operators; with respect to any proposed incorporator, director, sponsor,  
17 stockholder, member, or operator who is already or within the past [ten]  
18 seven years [has] been an incorporator, director, sponsor, member, prin-  
19 cipal stockholder, principal member, or operator of any hospital or  
20 other health-related or long-term care facility, program or agency,  
21 including but not limited to, private proprietary home for adults, resi-  
22 dence for adults, or non-profit home for the aged or blind which has  
23 been issued an operating certificate by the state department of social  
24 services, or a halfway house, hostel or other residential facility or  
25 institution for the care, custody or treatment of the mentally disabled  
26 which is subject to approval by the department of mental hygiene, no  
27 approval shall be granted unless the public health and health planning  
28 council, having afforded an adequate opportunity to members of health

1 systems agencies, if any, having geographical jurisdiction of the area  
2 where the institution is to be located to be heard, shall affirmatively  
3 find by substantial evidence as to each such incorporator, director,  
4 sponsor, member, principal stockholder, principal member, or operator  
5 that a substantially consistent high level of care is being or was being  
6 rendered in each such hospital, home, residence, halfway house, hostel,  
7 or other residential facility or institution [with] in which such person  
8 is or was affiliated; for the purposes of this paragraph, the public  
9 health and health planning council shall adopt rules and regulations,  
10 subject to the approval of the commissioner, to establish the criteria  
11 to be used to determine whether a substantially consistent high level of  
12 care has been rendered, provided, however, that there shall not be a  
13 finding that a substantially consistent high level of care has been  
14 rendered where there have been violations of the state hospital code, or  
15 other applicable rules and regulations, that (i) threatened to directly  
16 affect the health, safety or welfare of any patient or resident, and  
17 (ii) were recurrent or were not promptly corrected; (c) the financial  
18 resources of the proposed institution and its sources of future reven-  
19 ues; and (d) such other matters as it shall deem pertinent.

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

23 (b) [(i)] Any transfer, assignment or other disposition of [ten  
24 percent or more of] an interest, stock, or voting rights in a sole  
25 proprietorship, partnership [or], limited liability company, or corpo-  
26 ration which is the operator of a hospital [to a new partner or member]  
27 or any transfer, assignment or other disposition which results in the  
28 ownership or control of an interest, stock, or voting rights in that

1 operator, shall be approved by the public health and health planning  
2 council, in accordance with the provisions of subdivisions two [and],  
3 three, and three-b of this section, except that: [(A) any such change  
4 shall be subject to the approval by the public]

5 (i) Public health and health planning council approval in accordance  
6 with paragraph (b) of [subdivision] subdivisions three and three-b of  
7 this section shall be required only with respect to [the new partner or  
8 member, and] any [remaining partners or members] person, partner,  
9 member, or stockholder who [have] has not been previously approved for  
10 that [facility] operator in accordance with such [paragraph, and (B)  
11 such] paragraphs.

12 (ii) Such change shall not be subject to the public need assessment  
13 described in paragraph (a) of subdivision three of this section.

14 [(ii) With] (iii) No prior approval of the public health and health  
15 planning council shall be required with respect to a transfer, assign-  
16 ment or disposition [involving less than ten percent of], directly or  
17 indirectly, of: (A) an interest, stock, or voting rights of less than  
18 ten percent in [such partnership or limited liability company] the oper-  
19 ator, to [a new] any person, partner [or], member, [no prior approval of  
20 the public health and health planning council shall be required] or  
21 stockholder who has not been previously approved by the public health  
22 and health planning council, or its predecessor for that operator.

23 However, no such transaction shall be effective unless at least ninety  
24 days prior to the intended effective date thereof, the [partnership or  
25 limited liability company] operator fully completes and files with the  
26 public health and health planning council notice on a form, to be devel-  
27 oped by the public health and health planning council, which shall  
28 disclose such information as may reasonably be necessary for the depart-

1 ment to recommend and for the public health and health planning council  
2 to determine whether it should bar the transaction for any of the  
3 reasons set forth in item [(A), (B), (C) or (D)] one, two, three or four  
4 below, and has fully responded to any request for additional information  
5 by the department acting on behalf of the public health and health plan-  
6 ning council during the review period. Such transaction will be final  
7 upon completion of the review period, which shall be no longer than  
8 ninety days from the date the department receives a complete response to  
9 its final request for additional information, unless, prior thereto, the  
10 public health and health planning council has notified each party to the  
11 proposed transaction that it has barred such transactions. [Within  
12 ninety days from the date of receipt of such notice, the] The public  
13 health and health planning council may bar, any transaction under this  
14 subparagraph: [(A)] (1) if the equity position of the partnership [or],  
15 limited liability company, or corporation that operates a hospital for  
16 profit, determined in accordance with generally accepted accounting  
17 principles, would be reduced as a result of the transfer, assignment or  
18 disposition; [(B)] (2) if the transaction would result in the ownership  
19 of a partnership or membership interest or stock by any persons who have  
20 been convicted of a felony described in subdivision five of section  
21 twenty-eight hundred six of this article; [(C)] (3) if there are reason-  
22 able grounds to believe that the proposed transaction does not satisfy  
23 the character and competence criteria set forth in subdivision three or  
24 three-b of this section; or [(D)] (4) if the transaction, together with  
25 all transactions under this subparagraph for the [partnership, or  
26 successor,] operator during any five year period would, in the aggre-  
27 gate, involve twenty-five percent or more of the interest in the [part-  
28 nership] operator. The public health and health planning council shall

1 state specific reasons for barring any transaction under this subpara-  
2 graph and shall so notify each party to the proposed transaction[.]; or  
3 [(iii) With respect to a transfer, assignment or disposition of] (B)  
4 an interest, stock, or voting rights [in such partnership or limited  
5 liability company] to any [remaining] person, partner [or], member,  
6 [which transaction involves the withdrawal of the transferor from the  
7 partnership or limited liability company, no prior approval of the  
8 public health and health planning council shall be required] or stock-  
9 holder, previously approved by the public health and health planning  
10 council, or its predecessor, for that operator. However, no such trans-  
11 action shall be effective unless at least ninety days prior to the  
12 intended effective date thereof, the [partnership or limited liability  
13 company] operator fully completes and files with the public health and  
14 health planning council notice on a form, to be developed by the public  
15 health and health planning council, which shall disclose such informa-  
16 tion as may reasonably be necessary for the department to recommend and  
17 for the public health and health planning council to determine whether  
18 it should bar the transaction for the reason set forth below, and has  
19 fully responded to any request for additional information by the depart-  
20 ment acting on behalf of the public health and health planning council  
21 during the review period. Such transaction will be final upon completion  
22 of the review period, which shall be no longer than ninety days from the  
23 date the department receives a complete response to its final request  
24 for additional information, unless, prior thereto, the public health and  
25 health planning council has notified each party to the proposed trans-  
26 action that it has barred such transactions. [Within ninety days from  
27 the date of receipt of such notice, the] The public health and health  
28 planning council may bar any transaction under this subparagraph if the

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

7 (c) [Any transfer, assignment or other disposition of ten percent or  
8 more of the stock or voting rights thereunder of a corporation which is  
9 the operator of a hospital or which is a member of a limited liability  
10 company which is the operator of a hospital to a new stockholder, or any  
11 transfer, assignment or other disposition of the stock or voting rights  
12 thereunder of such a corporation which results in the ownership or  
13 control of more than ten percent of the stock or voting rights there-  
14 under of such corporation by any person not previously approved by the  
15 public health and health planning council, or its predecessor, for that  
16 corporation shall be subject to approval by the public health and health  
17 planning council, in accordance with the provisions of subdivisions two  
18 and three of this section and rules and regulations pursuant thereto;  
19 except that: any such transaction shall be subject to the approval by  
20 the public health and health planning council in accordance with para-  
21 graph (b) of subdivision three of this section only with respect to a  
22 new stockholder or a new principal stockholder; and shall not be subject  
23 to paragraph (a) of subdivision three of this section. In the absence of  
24 such approval, the operating certificate of such hospital shall be  
25 subject to revocation or suspension. No prior approval of the public  
26 health and health planning council shall be required with respect to a  
27 transfer, assignment or disposition of ten percent or more of the stock  
28 or voting rights thereunder of a corporation which is the operator of a

1 hospital or which is a member of a limited liability company which is  
2 the owner of a hospital to any person previously approved by the public  
3 health and health planning council, or its predecessor, for that corpo-  
4 ration. However, no such transaction shall be effective unless at least  
5 ninety days prior to the intended effective date thereof, the stockhold-  
6 er completes and files with the public health and health planning coun-  
7 cil notice on forms to be developed by the public health and health  
8 planning council, which shall disclose such information as may reason-  
9 ably be necessary for the public health and health planning council to  
10 determine whether it should bar the transaction. Such transaction will  
11 be final as of the intended effective date unless, prior thereto, the  
12 public health and health planning council shall state specific reasons  
13 for barring such transactions under this paragraph and shall notify each  
14 party to the proposed transaction.] Nothing in this [paragraph] subdivi-  
15 sion shall be construed as permitting [a] any person, partner, member,  
16 or stockholder not previously approved by the public health and health  
17 planning council for that [corporation] operator to [become the owner  
18 of] own or control, directly or indirectly, ten percent or more of the  
19 interest, stock, or voting rights of [a] any partnership, limited  
20 liability company, or corporation which is the operator of a hospital or  
21 a corporation which is a member of a limited liability company which is  
22 the owner of a hospital without first obtaining the approval of the  
23 public health and health planning council. In the absence of approval by  
24 the public health and health planning council as required under this  
25 subdivision, the operating certificate of such hospital shall be subject  
26 to revocation or suspension. Failure to provide notice as required  
27 under this subdivision may subject the operating certificate of such  
28 operator to revocation or suspension.

1 § 3. Section 3611-a of the public health law, as amended by section 92  
2 of part C of chapter 58 of the laws of 2009, subdivisions 1 and 2 as  
3 amended by section 67 of part A of chapter 58 of the laws of 2010, is  
4 amended to read as follows:

5 § 3611-a. Change in the operator or owner. 1. Any [change in the  
6 person who, or any] transfer, assignment, or other disposition of an  
7 interest, stock, or voting rights [of ten percent or more] in a sole  
8 proprietorship, partnership, limited liability company, or corporation  
9 which is the operator of a licensed home care services agency or a  
10 certified home health agency, or any transfer, assignment or other  
11 disposition which results in the ownership or control of an interest,  
12 stock, or voting rights [of ten percent or more,] in [a limited liabil-  
13 ity company or a partnership which is the] that operator [of a licensed  
14 home care services agency or a certified home health agency], shall be  
15 approved by the public health and health planning council, in accordance  
16 with the provisions of subdivision four of section thirty-six hundred  
17 five of this article relative to licensure or subdivision two of section  
18 thirty-six hundred six of this article relative to certificate of  
19 approval, except that:

20 (a) Public health and health planning council approval shall be  
21 required only with respect to the person, [or the] partner, member or  
22 [partner] stockholder that is acquiring the interest, stock, or voting  
23 rights[; and].

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

27 (c) With respect to licensed home care services agencies, the commis-  
28 sioner may promulgate regulations directing whether such change shall be

1 subject to the public need assessment described in paragraph (a) of  
2 subdivision four of section thirty-six hundred five of this article.

3 ~~[(c)]~~ (d) No prior approval of the public health and health planning  
4 council shall be required with respect to a transfer, assignment or  
5 disposition, directly or indirectly, of:

6 (i) an interest, stock, or voting rights to any person, partner,  
7 member, or stockholder previously approved by the public health and  
8 health planning council, or its predecessor, for that operator. However,  
9 no such transaction shall be effective unless at least ninety days prior  
10 to the intended effective date thereof, the operator completes and files  
11 with the public health and health planning council notice on forms to be  
12 developed by the public health and health planning council, which shall  
13 disclose such information as may reasonably be necessary for the depart-  
14 ment to recommend and for the public health and health planning council  
15 to determine whether it should bar the transaction, and has fully  
16 responded to any request for additional information by the department  
17 acting on behalf of the public health and health planning council during  
18 the review period. Such transaction will be final upon completion of the  
19 review period, which shall be no longer than ninety days from the date  
20 the department receives a complete response to its final request for  
21 additional information, unless, prior thereto, the public health and  
22 health planning council has notified each party to the proposed trans-  
23 action that it has barred such transactions under this paragraph and has  
24 stated specific reasons for barring such transactions; or

25 (ii) an interest, stock, or voting rights of less than ten percent in  
26 the operator to any person, partner, member, or stockholder who has not  
27 been previously approved by the public health and health planning coun-  
28 cil for that operator. However, no such transaction shall be effective

1 unless at least ninety days prior to the intended effective date there-  
2 of, the [partner or member] operator completes and files with the public  
3 health and health planning council notice on forms to be developed by  
4 the public health and health planning council, which shall disclose such  
5 information as may reasonably be necessary for the department to recom-  
6 mend and for the public health and health planning council to determine  
7 whether it should bar the transaction, and has fully responded to any  
8 request for additional information by the department acting on behalf of  
9 the public health and health planning council during the review period.  
10 Such transaction will be final [as of the intended effective date] upon  
11 completion of the review period, which shall be no longer than ninety  
12 days from the date the department receives a complete response to its  
13 final request for additional information, unless, prior thereto, the  
14 public health and health planning council [shall state] has notified  
15 each party to the proposed transaction that it has barred such trans-  
16 actions under this paragraph and has stated specific reasons for barring  
17 such transactions [under this paragraph and shall notify each party to  
18 the proposed transaction].

19 (iii) Nothing in this subdivision shall be construed as permitting any  
20 person, partner, member, or stockholder not previously approved by the  
21 public health and health planning council for that operator to own or  
22 control, directly or indirectly, ten percent or more of the interest,  
23 stock, or voting rights of any partnership, limited liability company,  
24 or corporation which is the operator of a licensed home care services  
25 agency or a certified home health agency without first obtaining the  
26 approval of the public health and health planning council.

27 (iv) In the absence of approval by the public health and health plan-  
28 ning council as required under this paragraph, the license or certif-

1 icate of approval of such operator shall be subject to revocation or  
2 suspension. Failure to provide notice as required under this paragraph  
3 may subject the license or certificate of approval of such operator to  
4 revocation or suspension thereof.

5 2. [Any transfer, assignment or other disposition of ten percent or  
6 more of the stock or voting rights thereunder of a corporation which is  
7 the operator of a licensed home care services agency or a certified home  
8 health agency, or any transfer, assignment or other disposition of the  
9 stock or voting rights thereunder of such a corporation which results in  
10 the ownership or control of more than ten percent of the stock or voting  
11 rights thereunder of such corporation by any person shall be subject to  
12 approval by the public health and health planning council in accordance  
13 with the provisions of subdivision four of section thirty-six hundred  
14 five of this article relative to licensure or subdivision two of section  
15 thirty-six hundred six of this article relative to certificate of  
16 approval, except that:

17 (a) Public health and health planning council approval shall be  
18 required only with respect to the person or entity acquiring such stock  
19 or voting rights; and

20 (b) With respect to certified home health agencies, such change shall  
21 not be subject to the public need assessment described in paragraph (a)  
22 of subdivision two of section thirty-six hundred six of this article. In  
23 the absence of such approval, the license or certificate of approval  
24 shall be subject to revocation or suspension.

25 (c) No prior approval of the public health and health planning council  
26 shall be required with respect to a transfer, assignment or disposition  
27 of an interest or voting rights to any person previously approved by the  
28 public health and health planning council, or its predecessor, for that

1 operator. However, no such transaction shall be effective unless at  
2 least one hundred twenty days prior to the intended effective date ther-  
3 eof, the partner or member completes and files with the public health  
4 and health planning council notice on forms to be developed by the  
5 public health and health planning council, which shall disclose such  
6 information as may reasonably be necessary for the public health and  
7 health planning council to determine whether it should bar the trans-  
8 action. Such transaction will be final as of the intended effective date  
9 unless, prior thereto, the public health and health planning council  
10 shall state specific reasons for barring such transactions under this  
11 paragraph and shall notify each party to the proposed transaction.

12 3.] (a) The commissioner shall charge to applicants for a change in  
13 operator or owner of a licensed home care services agency or a certified  
14 home health agency an application fee in the amount of two thousand  
15 dollars.

16 (b) The fees paid by certified home health agencies pursuant to this  
17 subdivision for any application approved in accordance with this section  
18 shall be deemed allowable costs in the determination of reimbursement  
19 rates established pursuant to this article. All fees pursuant to this  
20 section shall be payable to the department of health for deposit into  
21 the special revenue funds - other, miscellaneous special revenue fund -  
22 339, certificate of need account.

23 § 4. Paragraph (b) of subdivision 3 of section 4004 of the public  
24 health law, as amended by section 69 of part A of chapter 58 of the laws  
25 of 2010, is amended to read as follows:

26 (b) Any [change in the person, principal stockholder or] transfer,  
27 assignment or other disposition, of an interest, stock, or voting rights  
28 in a sole proprietorship, partnership, limited liability company, or

1 corporation which is the operator of a hospice, or any transfer, assign-  
2 ment or other disposition which results in the direct or indirect owner-  
3 ship or control of an interest, stock or voting rights in that operator,  
4 shall be approved by the public health and health planning council in  
5 accordance with the provisions of subdivisions one and two of this  
6 section[.]; except that:

7 (i) Public health and health planning council approval shall be  
8 required only with respect to the person, partner, member, or stockhold-  
9 er that is acquiring the interest, stock, or voting rights.

10 (ii) Such change shall not be subject to the public need assessment  
11 described in paragraph (a) of subdivision two of this section.

12 (iii) No prior approval of the public health and health planning coun-  
13 cil shall be required with respect to a transfer, assignment or disposi-  
14 tion, directly or indirectly, of:

15 (A) an interest, stock, or voting rights to any person, partner,  
16 member, or stockholder previously approved by the public health and  
17 health planning council, or its predecessor, for that operator. However,  
18 no such transaction shall be effective unless at least ninety days prior  
19 to the intended effective date thereof, the operator completes and files  
20 with the public health and health planning council notice, on forms to  
21 be developed by the public health and health planning council, which  
22 shall disclose such information as may reasonably be necessary for the  
23 department to recommend and for the public health and health planning  
24 council to determine whether it should bar the transaction, and has  
25 fully responded to any request for additional information by the depart-  
26 ment acting on behalf of the public health and health planning council  
27 during the review period. Such transaction will be final upon completion  
28 of the review period, which shall be no longer than ninety days from the

1 date the department receives a complete response to its final request  
2 for additional information, unless, prior thereto, the public health and  
3 health planning council has notified each party to the proposed trans-  
4 action that it has barred such transactions under this paragraph and has  
5 stated specific reasons for barring such transactions; or

6 (B) an interest, stock, or voting rights of less than ten percent in  
7 the operator to any person, partner, member, or stockholder who has not  
8 been previously approved by the public health and health planning coun-  
9 cil for that operator. However, no such transaction shall be effective  
10 unless at least ninety days prior to the intended effective date there-  
11 of, the operator completes and files with the public health and health  
12 planning council notice on forms to be developed by the public health  
13 and health planning council, which shall disclose such information as  
14 may reasonably be necessary for the department to recommend and for the  
15 public health and health planning council to determine whether it should  
16 bar the transaction, and has fully responded to any request for addi-  
17 tional information by the department acting on behalf of the public  
18 health and health planning council during the review period. Such trans-  
19 action will be final upon completion of the review period, which shall  
20 be no longer than ninety days from the date the department receives a  
21 complete response to its final request for additional information,  
22 unless, prior thereto, the public health and health planning council has  
23 notified each party to the proposed transaction that it has barred such  
24 transactions under this paragraph and has stated specific reasons for  
25 barring such transactions.

26 (iv) Nothing in this subdivision shall be construed as permitting any  
27 person, partner, member, or stockholder not previously approved by the  
28 public health and health planning council for that operator to own or

1 control, directly or indirectly, ten percent or more of the interest,  
2 stock, or voting rights of any partnership, limited liability company,  
3 or corporation which is the operator of a hospice without first obtain-  
4 ing the approval of the public health and health planning council.

5 (v) In the absence of approval by the public health and health plan-  
6 ning council as required under this paragraph, the certificate of  
7 approval of such operator shall be subject to revocation or suspension.  
8 Failure to provide notice as required under this paragraph may subject  
9 the certificate of approval of such operator to revocation or suspen-  
10 sion.

11 § 5. The public health law is amended by adding a new article 45-A to  
12 read as follows:

13 ARTICLE 45-A

14 REVIEW AND OVERSIGHT OF MATERIAL TRANSACTIONS

15 Section 4550. Legislative purpose and intent.

16 4551. Definitions.

17 4552. Review and oversight of material transactions.

18 4553. Notice of material transaction; requirements.

19 4554. Material transaction review.

20 4555. Penalty for noncompliance; injunctive relief.

21 4556. Rules and regulations.

22 4557. Separability.

23 § 4550. Legislative purpose and intent. While hospitals remain vital  
24 to the health system, services are increasingly being delivered through  
25 ambulatory care. This shift to ambulatory care is giving rise to new  
26 health care delivery structures that are not subject to the same facili-  
27 ty licensure and oversight requirements. In particular, there has been a  
28 proliferation of large physician practices being managed by entities

1 that are investor-backed. As a general matter, physician practices are  
2 subject to far less regulation and oversight than hospitals under arti-  
3 cle twenty-eight of this chapter, home care agencies under article thir-  
4 ty-six of this chapter, hospice providers, or providers of behavioral  
5 health services under articles thirty-one and thirty-two of the mental  
6 hygiene law, as well as managed care organizations or other insurers  
7 authorized under this chapter or the insurance law. Even as these inve-  
8 stor-backed entities increasingly take on the characteristics associated  
9 with diagnostic and treatment centers under article twenty-eight of this  
10 chapter or other licensed provider types, or may assume more risk from  
11 managed care organizations and licensed insurers, they remain unregu-  
12 lated by the state outside of the licensure of the individual practi-  
13 tioners who practice at these sites and enrollment in Medicaid. More-  
14 over, transactions involving the change of control, by virtue of a sale,  
15 merger or acquisition of these providers, are not subject to any state  
16 change of ownership or control review, such that the state is not able  
17 to track or monitor the impact of these transactions on cost, quality,  
18 access, equity, and competition.

19 This phenomenon may have a negative impact on patient care, health  
20 care costs, and ultimately access to services. These large investor-  
21 backed health care entities shift volume and business away from communi-  
22 ty hospitals and their ambulatory care networks and other safety net  
23 providers, undermining their financial sustainability, which must  
24 continue to provide essential services to the community. In addition,  
25 the concentration of these investor-backed physician practices is a  
26 significant contributor to health care cost inflation, which has also  
27 given rise to other legislation, including the no surprise billing  
28 provisions in the financial services law.

1 § 4551. Definitions. For the purposes of this article, the following  
2 terms shall have the following meanings:

3 1. "Control" means the possession, direct or indirect, of the power to  
4 direct or cause the direction of the management and policies of a health  
5 care entity, whether through the ownership of voting securities, by  
6 contract (except a commercial contract for goods or non-management  
7 services) or otherwise; but no person shall be deemed to control another  
8 person solely by reason of being an officer or director of a health care  
9 entity. "Control" shall be presumed to exist if any person directly or  
10 indirectly owns, controls, or holds with the power to vote ten percent  
11 or more of the voting securities of a health care entity.

12 2. "Health care entity" shall include but not be limited to a physi-  
13 cian practice or management services organization or similar entity  
14 providing all or substantially all administrative or management services  
15 under contract with one or more physician practice, provider-sponsored  
16 organization, health insurance plan, or any other kind of health care  
17 facility, organization or plan providing health care services in this  
18 state; provided, however, that a "health care entity" shall not include  
19 an insurer directly authorized to do business in this state, or a phar-  
20 macy benefit manager registered or licensed in this state. An "insurer"  
21 shall not include non-insurance subsidiaries and affiliated entities of  
22 insurance companies regulated under the insurance law or this chapter.

23 3. "Health equity" shall mean achieving the highest level of health  
24 for all people and shall entail focused efforts to address avoidable  
25 inequalities by equalizing those conditions for health for those that  
26 have experienced injustices, socioeconomic disadvantages, and systemic  
27 disadvantages.

28 4. "Material transaction" shall mean:

1 (a) any of the following, occurring during a single transaction or in  
2 a series of related transactions, that take place within a time period  
3 and meet or exceed thresholds, as determined by the commissioner in  
4 regulation, for factors including but not limited to changes in revenue:

5 (i) a merger with a health care entity;

6 (ii) an acquisition of one or more health care entities, including but  
7 not limited to the assignment, sale, or other conveyance of assets,  
8 voting securities, membership, or partnership interest or the transfer  
9 of control;

10 (iii) an affiliation or contract formed between a health care entity  
11 and another person; or

12 (iv) the formation of a partnership, joint venture, accountable care  
13 organization, parent organization, or management services organization  
14 for the purpose of administering contracts with health plans, third-par-  
15 ty administrators, pharmacy benefit managers, or health care providers  
16 as prescribed by the commissioner by regulation.

17 (b) "Material transaction" shall not include a clinical affiliation of  
18 health care entities formed for the purpose of collaborating on clinical  
19 trials or graduate medical education programs and shall not include any  
20 transaction that is already subject to review under article twenty-  
21 eight, thirty, thirty-six, forty, forty-six, forty-six-A, or forty-six-B  
22 of this chapter.

23 § 4552. Review and oversight of material transactions. 1. The depart-  
24 ment shall have the authority to review and approve material trans-  
25 actions, which may be further defined by the commissioner in regulation,  
26 to assess such transactions' impact on cost, quality, access, health  
27 equity and competition in the health care service market.

1 2. In accordance with this article, and with the rules and regulations  
2 promulgated by the commissioner pursuant to section forty-five hundred  
3 fifty-six of this article, the department shall adopt criteria for the  
4 consideration of requests by health care entities to consummate a mate-  
5 rial transaction. The criteria shall include the factors listed in  
6 subdivision one of section forty-five hundred fifty-four of this arti-  
7 cle.

8 3. Nothing in this article shall limit or restrict the authority of  
9 the superintendent of financial services under article fifteen, sixteen,  
10 seventeen, forty-two, forty-three, seventy-one, or seventy-three of the  
11 insurance law, or regulations promulgated thereunder.

12 § 4553. Notice of material transaction; requirements. 1. A health care  
13 entity shall not consummate a material transaction without obtaining  
14 approval from the department for such material transaction.

15 2. In order to obtain approval of a material transaction by the  
16 department, a health care entity shall submit to the department written  
17 notice and application, with supporting documentation as described below  
18 and further defined in regulation, which the department shall be in  
19 receipt of at least thirty days before the desired closing date of the  
20 transaction, in the form and manner prescribed by the department. Such  
21 written notice shall include, but not be limited to:

22 (a) The names of the parties to the proposed material transaction and  
23 their current addresses;

24 (b) Copies of any definitive agreements governing the terms of the  
25 material transaction, including pre- and post-closing conditions;

26 (c) Identification of all locations where health care services are  
27 currently provided by each party and the revenue generated in the state  
28 from such locations;

1 (d) Any plans to reduce or eliminate services and/or participation in  
2 specific plan networks;

3 (e) The desired closing date of the proposed material transaction;

4 (f) A brief description of the nature and purpose of the proposed  
5 material transaction, which will be used to inform the review under  
6 section forty-five hundred fifty-four of this article, including:

7 (i) the anticipated impact of the material transaction on cost, quali-  
8 ty, access, health equity, and competition in the impacted markets,  
9 which may be supported by data and a formal market impact analysis; and

10 (ii) any commitments by the health care entity to address anticipated  
11 impacts; and

12 (g) a non-refundable application fee.

13 3. Except as provided in subdivision two of section forty-five hundred  
14 fifty-four of this article, supporting documentation as described in  
15 subdivision two of this section shall not be subject to disclosure under  
16 article six of the public officers law.

17 § 4554. Material transaction review. 1. When reviewing a potential  
18 material transaction, the department may consider the following:

19 (a) Whether the parties to the transaction can demonstrate that the  
20 potential positive impacts of the material transaction outweigh the  
21 potential negative impacts related to factors such as:

22 (i) patient costs;

23 (ii) access to services;

24 (iii) health equity; and

25 (iv) health outcomes;

26 (b) Whether there is a substantial likelihood of anticompetitive  
27 effects from the transaction that outweigh the benefits of the trans-  
28 action including by increasing or maintaining services to underserved

1 populations or stabilizing the operations of the existing delivery  
2 system;

3 (c) The financial condition of the parties to the transaction;

4 (d) The character and competence of the parties or any officers or  
5 directors thereof;

6 (e) The source of the funds or assets for the transaction;

7 (f) The fairness of any exchange of shares, assets, cash, or other  
8 consideration for the shares or assets to be received; and

9 (g) Any other relevant information necessary to determine the impact  
10 of the material transaction.

11 2. If the department does not act on the application as described in  
12 subdivisions three and four of this section within thirty days of  
13 receipt of written notice and application as described in subdivision  
14 two of section forty-five hundred fifty-three of this article, then the  
15 transaction shall be deemed approved. During such thirty-day period, the  
16 department shall post in a manner determined by the department in regu-  
17 lation for public notice and public comment which may help to inform  
18 whether the department takes further actions as determined by this  
19 section. At a minimum, the public notice shall include:

20 (a) a summary of the proposed transaction;

21 (b) an explanation of the groups or individuals likely to be impacted  
22 by the transaction;

23 (c) information about services currently provided by the health care  
24 entity, commitments by the health care entity to continue such services  
25 and any services that will be reduced or eliminated; and

26 (d) details about how to submit comments, in a format that is easy to  
27 find and easy to read.

1     3. The department shall notify the parties to the transaction within  
2 thirty days of receipt of written notice and application as described in  
3 subdivision two of section forty-five hundred fifty-three of this arti-  
4 cle that it is withholding approval of the transaction if necessary to  
5 conduct a thorough examination and complete analysis of whether the  
6 transaction is consistent with the criteria established pursuant to  
7 subdivision four of section forty-five hundred fifty-two of this arti-  
8 cle, including the factors listed in subdivision one of this section.

9     (a) The department may request additional information from a health  
10 care entity that is a party to the material transaction and such entity  
11 shall promptly reply using the form of communication requested and such  
12 reply shall be affirmed as true and accurate under penalty of perjury by  
13 an officer of the entity, if required.

14     (b) A health care entity shall not refuse to provide documents or  
15 other information requested pursuant to this article on the grounds that  
16 such information is privileged or confidential.

17     (c) The department may retain actuaries, accountants or other profes-  
18 sionals independent of the department as necessary to assist in conduct-  
19 ing its analysis of a proposed material transaction. The department  
20 shall designate the party or parties to the material transaction that  
21 shall bear the cost of retaining such professionals.

22     (d) The department may take other actions to seek public input and  
23 otherwise engage the public before making a determination on the  
24 proposed material transaction.

25     4. (a) Unless the material transaction is approved pursuant to subdi-  
26 vision two of this section, the department shall issue a final order  
27 regarding the material transaction.

1 (b) If the department disapproves the material transaction or approves  
2 the material transaction subject to conditions, the department may noti-  
3 fy the attorney general of the department's findings and analysis so  
4 that the attorney general may, if appropriate, conduct an investigation  
5 into whether the health care entities have engaged in unfair competition  
6 or anticompetitive behavior and, if necessary, take steps to protect  
7 consumers in the health care services market.

8 (c) Pursuant to this subdivision, the department shall have the  
9 authority to require undertakings as a condition of approving a material  
10 transaction, including but not limited to, investments in the communi-  
11 ties affected by such material transaction, competition protections, and  
12 contributions to state-controlled funds, including the health care  
13 transformation fund pursuant to section ninety-two-hh of the state  
14 finance law, to preserve access or to otherwise mitigate the impact of  
15 the material transaction on the health care delivery system.

16 5. A health care entity that is a party to an approved material trans-  
17 action shall notify the department upon closing of the transaction in  
18 the form and manner prescribed by the department.

19 § 4555. Penalty for noncompliance; injunctive relief. 1. The depart-  
20 ment may impose a civil penalty in an amount of up to ten thousand  
21 dollars per day for any violation of this article. All fees, fines, and  
22 penalties derived from the operation of this article shall be paid to  
23 the department and shall be deposited in the health care transformation  
24 fund established pursuant to section ninety-two-hh of the state finance  
25 law.

26 2. The attorney general may apply to the supreme court within the  
27 judicial district in which a violation of this article is alleged to  
28 have occurred for an order enjoining or restraining commission or

1 continuance of the acts complained of. Thereupon the court shall have  
2 jurisdiction of the proceeding and shall have power to grant such tempo-  
3 rary relief or restraining order as it deems just and proper. In any  
4 such proceeding it shall be unnecessary to allege or prove that an  
5 adequate remedy at law does not exist or that irreparable damage would  
6 result if such order were not granted. The remedy provided by this  
7 section shall be in addition to any other remedy provided by law.

8 § 4556. Rules and regulations. The department, in consultation with  
9 the department of financial services, may promulgate rules and regu-  
10 lations to implement the provisions of this article.

11 § 4557. Separability. If any clause, sentence, paragraph, subdivision,  
12 section or part of this article shall be adjudged by any court of compe-  
13 tent jurisdiction to be invalid, the judgment shall not affect, impair,  
14 or invalidate the remainder thereof, but shall be confined in its opera-  
15 tion to the clause, sentence, paragraph, subdivision, section or part  
16 thereof directly involved in the controversy in which the judgment shall  
17 have been rendered.

18 § 6. Paragraph (b) of subdivision 7 of section 2802 of the public  
19 health law, as amended by section 87 of part C of chapter 58 of the laws  
20 of 2009, is amended to read as follows:

21 (b) At such time as the commissioner's written approval of the  
22 construction is granted, each applicant shall pay the following addi-  
23 tional fee:

24 (i) for hospital, nursing home and diagnostic and treatment center  
25 applications that require approval by the council, the additional fee  
26 shall be [fifty-five] sixty hundredths of one percent of the total capi-  
27 tal value of the application, provided however that applications for  
28 construction of a safety net diagnostic and treatment center, as defined

1 in paragraph (c) of subdivision sixteen of section twenty-eight hundred  
2 one-a of this article, shall be subject to a fee of forty-five  
3 hundredths of one percent of the total capital value of the application;  
4 and

5 (ii) for hospital, nursing home and diagnostic and treatment center  
6 applications that do not require approval by the council, the additional  
7 fee shall be [thirty] thirty-five hundredths of one percent of the total  
8 capital value of the application, provided however that safety net diag-  
9 nostic and treatment center applications, as defined in paragraph (c) of  
10 subdivision sixteen of section twenty-eight hundred one-a of this arti-  
11 cle, shall be subject to a fee of twenty-five hundredths of one percent  
12 of the total capital value of the application.

13 § 7. Section 3605 of the public health law is amended by adding two  
14 new subdivisions 1-a and 1-b to read as follows:

15 1-a. Core public health services, as defined in section six hundred  
16 two of this chapter, when provided in the home by the local health  
17 department of a county or of the city of New York, shall not require  
18 licensure under this section, provided that such services shall not  
19 include: home health aide services; personal care services; or nursing  
20 services that require more than minimal patient contact. For the  
21 purposes of this subdivision the term "minimal patient contact"  
22 includes, but is not limited to, providing assessments of new mothers  
23 and infants, direct observation, and lead screening. Patient contact  
24 shall be considered more than minimal if it requires more than six  
25 patient visits. Core public health services that may be provided without  
26 a license pursuant to this subdivision include but are not limited to:  
27 immunizations; testing for tuberculosis and observation of tuberculosis  
28 self-directed therapy; verbal assessment, counseling and referral

1 services; and such other services as may be determined by the depart-  
2 ment.

3 1-b. Core public health services, as defined in section six hundred  
4 two of this chapter, when provided by local health departments in the  
5 home as authorized under subdivision one-a of this section, may be  
6 eligible for reimbursement under title XIX of the federal Social Securi-  
7 ty Act provided that the services provided meet federal and state  
8 requirements for such reimbursement.

9 § 8. Subdivision 2 of section 3611 of the public health law, as  
10 amended by section 66 of part A of chapter 58 of the laws of 2010, is  
11 amended to read as follows:

12 2. The public health and health planning council shall not act upon an  
13 application for licensure or a certificate of approval for any agency  
14 referred to in subdivision one of this section unless it is satisfied as  
15 to the character, competence and standing in the community of the  
16 proposed incorporators, directors, sponsors, controlling persons, prin-  
17 cipal stockholders of the parent corporation, health related subsidiary  
18 corporation and the New York state corporation established pursuant to  
19 paragraph (a) of subdivision one of this section. Stockholders or  
20 members of third level or higher entities that will exercise no control  
21 of the agency functions shall not be considered controlling persons  
22 subject to character and competency review provided that an affidavit  
23 stating that such individuals will exercise no control over the agency  
24 functions is signed by such individuals and submitted to the department.  
25 For the purposes of this section the public health and health planning  
26 council may adopt rules and regulations relative to what constitutes  
27 parent and subsidiary corporations.

1 § 9. This act shall take effect immediately; provided, however that  
2 section five of this act shall take effect on the ninetieth day after it  
3 shall have become a law and shall apply to material transactions, as  
4 defined by section 4551 of the public health law as added by section  
5 five of this act, closing on or after April 1, 2024. Effective imme-  
6 diately, the addition, amendment and/or repeal of any rule or regulation  
7 necessary for the implementation of this act on its effective date are  
8 authorized to be made and completed on or before such effective date.

9 PART N

10 Section 1. Section 366 of the social services law is amended by adding  
11 a new subdivision 16 to read as follows:

12 16. (a) The commissioner of health is authorized to submit the appro-  
13 priate waivers and/or any other required requests for federal approval,  
14 including but not limited to, those authorized in section eleven hundred  
15 fifteen of the federal social security act, in order to establish  
16 expanded medical assistance eligibility for working disabled individ-  
17 uals. Such waiver applications shall be executed consistent with para-  
18 graphs (b), (c), (d) and (e) of this subdivision, to the extent those  
19 sections comply with the requirements of section eleven hundred fifteen  
20 of the federal social security act. Notwithstanding subparagraphs five  
21 and six of paragraph (c) of subdivision one of this section and subdivi-  
22 sion twelve of section three hundred sixty-seven-a of this title, or any  
23 other provision of law to the contrary, if granted such waiver, the  
24 commissioner of health may authorize eligible persons to receive medical  
25 assistance pursuant to the waiver if, for so long as, and to the extent  
26 that, financial participation is available therefor. The waiver applica-

1 tion shall provide for thirty thousand persons to be eligible to partic-  
2 ipate in such waiver.

3 (b) Individuals eligible for participation in such waiver shall:

4 (i) be a disabled individual, defined as having a medically determina-  
5 ble impairment of sufficient severity and duration to qualify for bene-  
6 fits under Titles II or XVI of the social security act;

7 (ii) be at least sixteen years of age;

8 (iii) be otherwise eligible for medical assistance benefits, but for  
9 earnings and/or resources in excess of the allowable limit;

10 (iv) have net available income, determined in accordance with subdivi-  
11 sion two of this section, that does not exceed two thousand two hundred  
12 fifty percent of the applicable federal poverty line, as defined and  
13 updated by the United States department of health and human services;

14 (v) have resources, as defined in paragraph (e) of subdivision two of  
15 section three hundred sixty-six-c of this title, other than retirement  
16 accounts, that do not exceed three hundred thousand dollars;

17 (vi) contribute to the cost of medical assistance provided pursuant to  
18 this paragraph in accordance with paragraph (d) of this subdivision; and

19 (vii) meet such other criteria as may be established by the commis-  
20 sioner as may be necessary to administer the provisions of this subdivi-  
21 sion in an equitable manner.

22 (c) An individual at least sixteen years of age who: is employed;  
23 ceases to be eligible for participation in such waiver pursuant to para-  
24 graph (b) of this subdivision because the person, by reason of medical  
25 improvement, is determined at the time of a regularly scheduled continu-  
26 ing disability review to no longer be certified as disabled under the  
27 social security act; continues to have a severe medically determinable  
28 impairment, to be determined in accordance with applicable federal regu-

1 lations; and contributes to the cost of medical assistance provided  
2 pursuant to this paragraph in accordance with paragraph (d) of this  
3 subdivision, shall be eligible for participation in such waiver. For  
4 purposes of this paragraph, a person is considered to be employed if the  
5 person is earning at least the applicable minimum wage under section six  
6 of the federal fair labor standards act and working at least forty hours  
7 per month.

8 (d) Prior to receiving medical assistance pursuant to such waiver, a  
9 person whose net available income is greater than or equal to two  
10 hundred fifty percent of the applicable federal poverty line shall pay a  
11 monthly premium, in accordance with a procedure to be established by the  
12 commissioner. The amount of such premium for a person whose net avail-  
13 able income is greater than or equal to two hundred fifty percent of the  
14 applicable federal poverty line, but less than three hundred percent of  
15 the applicable federal poverty line shall be three hundred and forty-  
16 seven dollars. The amount of such premium for a person whose net avail-  
17 able income is greater than or equal to three hundred percent of the  
18 applicable federal poverty line, but less than four hundred percent of  
19 the applicable federal poverty line shall be five hundred eighteen  
20 dollars. The amount of such premium for a person whose net available  
21 income is greater than or equal to four hundred percent of the applica-  
22 ble federal poverty line, but less than five hundred percent of the  
23 applicable federal poverty line shall be seven hundred and seventy-nine  
24 dollars. The amount of such premium for a person whose net available  
25 income is equal to or greater than five hundred percent of the applica-  
26 ble federal poverty line shall be one thousand four hundred and forty-  
27 eight dollars. No premium shall be required from a person whose net

1 available income is less than two hundred fifty percent of the applica-  
2 ble federal poverty line.

3 (e) Notwithstanding any other provision of this section or any other  
4 law to the contrary, for purposes of determining medical assistance  
5 eligibility for persons specified in paragraph (b) or (c) of this subdi-  
6 vision, the income and resources of responsible relatives shall not be  
7 deemed available for as long as the person meets the criteria specified  
8 in this subdivision.

9 § 2. This act shall take effect on January 1, 2025.

10 PART O

11 Section 1. Subdivisions 1, 15, 16, 17 and 18 of section 1399-aa of the  
12 public health law, subdivision 1 as amended by chapter 13 of the laws of  
13 2003, subdivisions 15, 16, 17 and 18 as added by section 2 of part EE of  
14 chapter 56 of the laws of 2020, are amended and two new subdivisions 19  
15 and 20 are added to read as follows:

16 1. "Enforcement officer" means the enforcement officer designated  
17 pursuant to article thirteen-E of this chapter to enforce such article  
18 and hold hearings pursuant thereto; provided that in a city with a popu-  
19 lation of more than one million it shall also mean an officer or employ-  
20 ee or any agency of such city that is authorized to enforce any local  
21 law of such city related to the regulation of the sale of cigarettes,  
22 tobacco products, or vapor products to minors.

23 15. "Listed or non-discounted price" means the price listed for ciga-  
24 rettes, tobacco products, or vapor products [intended or reasonably  
25 expected to be used with or for the consumption of nicotine,] on their  
26 packages or any related shelving, posting, advertising or display at the

1 location where the cigarettes, tobacco products, or vapor products  
2 [intended or reasonably expected to be used with or for the consumption  
3 of nicotine,] are sold or offered for sale, including all applicable  
4 taxes.

5 16. "Retail dealer" means a person licensed by the commissioner of  
6 taxation and finance to sell cigarettes, tobacco products, or vapor  
7 products [in this state], or a person or business required to obtain  
8 such license.

9 17. "Vapor products" means any noncombustible liquid or gel, regard-  
10 less of the presence of nicotine therein, that is manufactured into a  
11 finished product for use in an electronic [cigarette, including any]  
12 device that delivers vapor which is inhaled, including any refill,  
13 cartridge, device or component thereof that contains or is intended to  
14 be used with such noncombustible liquid or gel. "Vapor product" shall  
15 not include any device, or any component thereof, that does not contain  
16 such noncombustible liquid or gel, or any product approved by the United  
17 States [food and drug administration] Food and Drug Administration as a  
18 drug or medical device, or manufactured and dispensed pursuant to [title  
19 five-A of article thirty-three of this chapter] article three, four or  
20 five of the cannabis law.

21 18. "Vapor products dealer" means a person licensed by the commission-  
22 er of taxation and finance to sell vapor products [in this state], or a  
23 person or business required to obtain such license.

24 19. "Tobacco or vapor seller" means a person, sole proprietorship,  
25 corporation, limited liability company, partnership or other enterprise  
26 that manufactures, distributes, sells or offers to sell, whether through  
27 retail or wholesale, or exchanges or offers to exchange, for any form of  
28 consideration, cigarettes, tobacco products, or vapor products. This

1 definition is without regard to the quantity of cigarettes, tobacco  
2 products, or vapor products manufactured, distributed, sold, offered for  
3 sale, exchanged, or offered for exchange.

4 20. "Smoking paraphernalia" means any pipe, water pipe, hookah, roll-  
5 ing papers, vaporizer or any other device, equipment or apparatus  
6 designed for the inhalation of tobacco.

7 § 2. Subdivisions 1, 1-a, 2, 3, 4 and 5 of section 1399-bb of the  
8 public health law, subdivisions 1, 2, 3, 4 and 5 as amended and subdivi-  
9 sion 1-a as added by section 4 of part EE of chapter 56 of the laws of  
10 2020, are amended to read as follows:

11 1. No retail dealer, or any agent or employee of [a] any retail  
12 dealer, engaged in the business of selling or otherwise distributing  
13 tobacco products, vapor products [intended or reasonably expected to be  
14 used with or for the consumption of nicotine], or herbal cigarettes for  
15 commercial purposes[, or any agent or employee of such retail dealer, or  
16 any agent or employee of a retail dealer], shall knowingly, in further-  
17 ance of such business:

18 (a) distribute without charge any tobacco products, vapor products  
19 [intended or reasonably expected to be used with or for the consumption  
20 of nicotine], or herbal cigarettes to any individual, provided that the  
21 distribution of a package containing tobacco products, vapor products  
22 [intended or reasonably expected to be used with or for the consumption  
23 of nicotine], or herbal cigarettes in violation of this subdivision  
24 shall constitute a single violation without regard to the number of  
25 items in the package; or

26 (b) distribute price reduction instruments which are redeemable for  
27 tobacco products, vapor products [intended or reasonably expected to be  
28 used with or for the consumption of nicotine], or herbal cigarettes to

1 any individual, provided that this subdivision shall not apply to  
2 coupons contained in newspapers, magazines or other types of publica-  
3 tions, coupons obtained through the purchase of tobacco products, vapor  
4 products [intended or reasonably expected to be used with or for the  
5 consumption of nicotine], or herbal cigarettes or obtained at locations  
6 which sell tobacco products, vapor products [intended or reasonably  
7 expected to be used with or for the consumption of nicotine], or herbal  
8 cigarettes provided that such distribution is confined to a designated  
9 area or to coupons sent through the mail.

10 1-a. No retail dealer engaged in the business of selling or otherwise  
11 distributing tobacco products, herbal cigarettes, or vapor products  
12 [intended or reasonably expected to be used with or for the consumption  
13 of nicotine] for commercial purposes, or any agent or employee of such  
14 retail dealer, shall knowingly, in furtherance of such business:

15 (a) honor or accept a price reduction instrument in any transaction  
16 related to the sale of tobacco products, herbal cigarettes, or vapor  
17 products [intended or reasonably expected to be used with or for the  
18 consumption of nicotine] to a consumer;

19 (b) sell or offer for sale any tobacco products, herbal cigarettes, or  
20 vapor products [intended or reasonably expected to be used with or for  
21 the consumption of nicotine] to a consumer through any multi-package  
22 discount or otherwise provide to a consumer any tobacco products, herbal  
23 cigarettes, or vapor products [intended or reasonably expected to be  
24 used with or for the consumption of nicotine] for less than the listed  
25 price or non-discounted price in exchange for the purchase of any other  
26 tobacco products, herbal cigarettes, or vapor products [intended or  
27 reasonably expected to be used with or for the consumption of nicotine]  
28 by such consumer;

1 (c) sell, offer for sale, or otherwise provide any product other than  
2 a tobacco product, herbal cigarette, or vapor product [intended or  
3 reasonably expected to be used with or for the consumption of nicotine]  
4 to a consumer for less than the listed price or non-discounted price in  
5 exchange for the purchase of a tobacco product, herbal cigarette, or  
6 vapor product [intended or reasonably expected to be used with or for  
7 the consumption of nicotine] by such consumer; or

8 (d) sell, offer for sale, or otherwise provide a tobacco product,  
9 herbal cigarette, or vapor product [intended or reasonably expected to  
10 be used with or for the consumption of nicotine] to a consumer for less  
11 than the listed price or non-discounted price.

12 2. The prohibitions contained in subdivision one of this section shall  
13 not apply to the following locations:

14 (a) private social functions when seating arrangements are under the  
15 control of the sponsor of the function and not the owner, operator,  
16 manager or person in charge of such indoor area;

17 (b) conventions and trade shows; provided that the distribution is  
18 confined to designated areas generally accessible only to persons over  
19 the age of twenty-one;

20 (c) events sponsored by tobacco, vapor product [intended or reasonably  
21 expected to be used with or for the consumption of nicotine], or herbal  
22 cigarette manufacturers provided that the distribution is confined to  
23 designated areas generally accessible only to persons over the age of  
24 twenty-one;

25 (d) bars as defined in subdivision one of section thirteen hundred  
26 ninety-nine-n of this chapter;

27 (e) tobacco businesses as defined in subdivision eight of section  
28 thirteen hundred ninety-nine-aa of this article;

1 (f) factories as defined in subdivision nine of section thirteen  
2 hundred ninety-nine-aa of this article and construction sites; provided  
3 that the distribution is confined to designated areas generally accessi-  
4 ble only to persons over the age of twenty-one.

5 3. No retail dealer shall distribute tobacco products, vapor products  
6 [intended or reasonably expected to be used with or for the consumption  
7 of nicotine], or herbal cigarettes at the locations set forth in para-  
8 graphs (b), (c) and (f) of subdivision two of this section unless such  
9 person gives five days written notice to the enforcement officer.

10 4. No retail dealer engaged in the business of selling or otherwise  
11 distributing [electronic cigarettes or] vapor products [intended or  
12 reasonably expected to be used with or for the consumption of nicotine]  
13 for commercial purposes, or any agent or employee of such person, shall  
14 knowingly, in furtherance of such business, distribute without charge  
15 any [electronic cigarettes] vapor products to any individual under twen-  
16 ty-one years of age.

17 5. The distribution of tobacco products, [electronic cigarettes,]  
18 vapor products [intended or reasonably expected to be used with or for  
19 the consumption of nicotine], or herbal cigarettes pursuant to subdivi-  
20 sion two of this section or the distribution without charge of [elec-  
21 tronic cigarettes, or] vapor products [intended or reasonably expected  
22 to be used with or for the consumption of nicotine], shall be made only  
23 to an individual who demonstrates, through (a) a driver's license or  
24 non-driver identification card issued by the commissioner of motor vehi-  
25 cles, the federal government, any United States territory, commonwealth,  
26 or possession, the District of Columbia, a state government within the  
27 United States, or a provincial government of the dominion of Canada, (b)  
28 a valid passport issued by the United States government or the govern-

1 ment of any other country, or (c) an identification card issued by the  
2 armed forces of the United States, indicating that the individual is at  
3 least twenty-one years of age. Such identification need not be required  
4 of any individual who reasonably appears to be at least twenty-five  
5 years of age; provided, however, that such appearance shall not consti-  
6 tute a defense in any proceeding alleging the sale of a tobacco product,  
7 [electronic cigarette,] vapor product [intended or reasonably expected  
8 to be used with or for the consumption of nicotine], or herbal cigarette  
9 or the distribution without charge of [electronic cigarettes, or] vapor  
10 products [intended or reasonably expected to be used with or for the  
11 consumption of nicotine to an individual].

12 § 3. The section heading and subdivisions 1, 2, 3, 4 and 7 of section  
13 1399-cc of the public health law, the section heading, subdivisions 1  
14 and 4 as amended by chapter 542 of the laws of 2014, subdivisions 2, 3  
15 and 7 as amended by chapter 100 of the laws of 2019, are amended to read  
16 as follows:

17 Sale of tobacco products, herbal cigarettes, [liquid nicotine,]  
18 shisha, [rolling papers or] smoking paraphernalia, or vapor products to  
19 minors prohibited. 1. As used in this section:

20 (a) "A device capable of deciphering any electronically readable  
21 format" or "device" shall mean any commercial device or combination of  
22 devices used at a point of sale or entry that is capable of reading the  
23 information encoded on the bar code or magnetic strip of a driver's  
24 license or non-driver identification card issued by the state commis-  
25 sioner of motor vehicles;

26 (b) "Card holder" means any person presenting a driver's license or  
27 non-driver identification card to a licensee, or to the agent or employ-  
28 ee of such licensee under this chapter;

1 (c) ["Smoking paraphernalia" means any pipe, water pipe, hookah, roll-  
2 ing papers, vaporizer or any other device, equipment or apparatus  
3 designed for the inhalation of tobacco;

4 (d)] "Transaction scan" means the process involving an automated bar  
5 code reader by which a licensee, or agent or employee of a licensee  
6 under this chapter reviews a driver's license or non-driver identifica-  
7 tion card presented as a precondition for the purchase of [a] tobacco  
8 [product] products, vapor products, or herbal cigarettes pursuant to  
9 subdivision three of this section; and

10 [(e)] (d) "Liquid nicotine", "electronic liquid" or "e-liquid" means a  
11 liquid composed of nicotine and other chemicals, and which is sold as a  
12 product that may be used in an electronic cigarette.

13 2. Any person operating a place of business wherein tobacco products,  
14 herbal cigarettes, [liquid nicotine,] shisha or [electronic cigarettes]  
15 vapor products, are sold or offered for sale is prohibited from selling  
16 such tobacco or vapor products, herbal cigarettes, [liquid nicotine,]  
17 shisha, [electronic cigarettes] or smoking paraphernalia to individuals  
18 under twenty-one years of age, and shall post in a conspicuous place a  
19 sign upon which there shall be imprinted the following statement, "SALE  
20 OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA, VAPOR  
21 PRODUCTS, OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, [LIQUID NICO-  
22 TINE, ELECTRONIC CIGARETTES, ROLLING PAPERS] OR SMOKING PARAPHERNALIA,  
23 TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW." Such  
24 sign shall be printed on a white card in red letters at least one-half  
25 inch in height.

26 3. Sale of tobacco products, herbal cigarettes, [liquid nicotine,]  
27 shisha [or electronic cigarettes], or vapor products in such places,  
28 other than by a vending machine, shall be made only to an individual who

1 demonstrates, through (a) a valid driver's license or non-driver's iden-  
2 tification card issued by the commissioner of motor vehicles, the feder-  
3 al government, any United States territory, commonwealth or possession,  
4 the District of Columbia, a state government within the United States or  
5 a provincial government of the dominion of Canada, or (b) a valid pass-  
6 port issued by the United States government or any other country, or (c)  
7 an identification card issued by the armed forces of the United States,  
8 indicating that the individual is at least twenty-one years of age. Such  
9 identification need not be required of any individual who reasonably  
10 appears to be at least twenty-five years of age, provided, however, that  
11 such appearance shall not constitute a defense in any proceeding alleg-  
12 ing the sale of [a] tobacco [product,] products, vapor products, herbal  
13 cigarettes, [liquid nicotine,] or shisha [or electronic cigarettes] to  
14 an individual under twenty-one years of age.

15 4. (a) Any person operating a place of business wherein tobacco  
16 products, vapor products, herbal cigarettes, [liquid nicotine,] or  
17 shisha [or electronic cigarettes] are sold or offered for sale may  
18 perform a transaction scan as a precondition for such purchases.

19 (b) In any instance where the information deciphered by the trans-  
20 action scan fails to match the information printed on the driver's  
21 license or non-driver identification card, or if the transaction scan  
22 indicates that the information is false or fraudulent, the attempted  
23 transaction shall be denied.

24 (c) In any proceeding pursuant to section thirteen hundred ninety-  
25 nine-ee of this article, it shall be an affirmative defense that such  
26 person had produced a driver's license or non-driver identification card  
27 apparently issued by a governmental entity, successfully completed that  
28 transaction scan, and that the tobacco product, vapor product, herbal

1 cigarettes or [liquid nicotine] shisha had been sold, delivered or given  
2 to such person in reasonable reliance upon such identification and tran-  
3 saction scan. In evaluating the applicability of such affirmative  
4 defense the commissioner shall take into consideration any written poli-  
5 cy adopted and implemented by the seller to effectuate the provisions of  
6 this chapter. Use of a transaction scan shall not excuse any person  
7 operating a place of business wherein tobacco products, vapor product,  
8 herbal cigarettes, [liquid nicotine,] or shisha [or electronic ciga-  
9 rettes] are sold, or the agent or employee of such person, from the  
10 exercise of reasonable diligence otherwise required by this chapter.  
11 Notwithstanding the above provisions, any such affirmative defense shall  
12 not be applicable in any civil or criminal proceeding, or in any other  
13 forum.

14 7. No person operating a place of business wherein tobacco products,  
15 vapor products, herbal cigarettes, [liquid nicotine,] or shisha [or  
16 electronic cigarettes] are sold or offered for sale shall sell, permit  
17 to be sold, offer for sale or display for sale any tobacco product,  
18 vapor product, herbal cigarettes, [liquid nicotine,] or shisha [or elec-  
19 tronic cigarettes] in any manner, unless such products and cigarettes  
20 are stored for sale (a) behind a counter in an area accessible only to  
21 the personnel of such business, or (b) in a locked container; provided,  
22 however, such restriction shall not apply to tobacco businesses, as  
23 defined in subdivision eight of section thirteen hundred ninety-nine-aa  
24 of this article, and to places to which admission is restricted to  
25 persons twenty-one years of age or older.

26 § 4. Section 1399-dd of the public health law, as amended by chapter  
27 448 of the laws of 2012, subdivision (d) as amended by chapter 100 of  
28 the laws of 2019, is amended to read as follows:

1 § 1399-dd. Sale of tobacco products, herbal cigarettes or [electronic  
2 cigarettes] vapor products in vending machines. No person, firm, part-  
3 nership, company or corporation shall operate a vending machine which  
4 dispenses tobacco products, herbal cigarettes or [electronic cigarettes]  
5 vapor products unless such machine is located: (a) in a bar as defined  
6 in subdivision one of section thirteen hundred ninety-nine-n of this  
7 chapter, or the bar area of a food service establishment with a valid,  
8 on-premises full liquor license; (b) in a private club; (c) in a tobacco  
9 business as defined in subdivision eight of section thirteen hundred  
10 ninety-nine-aa of this article; or (d) in a place of employment which  
11 has an insignificant portion of its regular workforce comprised of  
12 people under the age of twenty-one years and only in such locations that  
13 are not accessible to the general public; provided, however, that in  
14 such locations the vending machine is located in plain view and under  
15 the direct supervision and control of the person in charge of the  
16 location or [his or her] their designated agent or employee.

17 § 5. The section heading and subdivisions 1 and 2 of section 1399-dd-1  
18 of the public health law, as added by section 13 of part EE of chapter  
19 56 of the laws of 2020, are amended to read as follows:

20 Public display of tobacco and vapor product [and electronic cigarette]  
21 advertisements and smoking paraphernalia prohibited. 1. For purposes of  
22 this section[:

23 (a) "Advertisement"] "advertisement" means words, pictures, photo-  
24 graphs, symbols, graphics or visual images of any kind, or any combina-  
25 tion thereof, which bear a health warning required by federal statute,  
26 the purpose or effect of which is to identify a brand of a tobacco or  
27 vapor product, [electronic cigarette, or vapor product intended or  
28 reasonably expected to be used with or for the consumption of nicotine],

1 a trademark of a tobacco or vapor product, [electronic cigarette, or  
2 vapor product intended or reasonably expected to be used with or for the  
3 consumption of nicotine or] a trade name associated exclusively with a  
4 tobacco or vapor product, [electronic cigarette, or vapor product  
5 intended or reasonably expected to be used with or for the consumption  
6 of nicotine] or to promote the use or sale of a tobacco or vapor prod-  
7 uct[, electronic cigarette, or vapor product intended or reasonably  
8 expected to be used with or for the consumption of nicotine.

9 (b) "Smoking paraphernalia" means any pipe, water pipe, hookah, roll-  
10 ing papers, electronic cigarette, vaporizer or any other device, equip-  
11 ment or apparatus designed for the inhalation of tobacco or nicotine.

12 (c) "Vapor product" means any vapor product, as defined by section  
13 thirteen hundred ninety-nine-aa of this article, intended or reasonably  
14 expected to be used with or for the consumption of nicotine.

15 (d) "Tobacco products" shall have the same meaning as in subdivision  
16 five of section thirteen hundred ninety-nine-aa of this article.

17 (e) "Electronic cigarette" shall have the same meaning as in subdivi-  
18 sion thirteen of section thirteen hundred ninety-nine-aa of this arti-  
19 cle].

20 2. (a) No person, corporation, partnership, sole proprietor, limited  
21 partnership, association or any other business entity may place, cause  
22 to be placed, maintain or to cause to be maintained, smoking paraper-  
23 nalia [or], tobacco product, [electronic cigarette,] or vapor product  
24 [intended or reasonably expected to be used with or for the consumption  
25 of nicotine] advertisements in a store front or exterior window or any  
26 door which is used for entry or egress by the public to the building or  
27 structure containing a place of business within one thousand five

1 hundred feet of a school, provided that within New York city such prohi-  
2 bitions shall only apply within five hundred feet of a school.

3 (b) Any person, corporation, partnership, sole proprietor, limited  
4 partnership, association or any other business entity in violation of  
5 this section shall be subject to a civil penalty of not more than five  
6 hundred dollars for a first violation and not more than one thousand  
7 dollars for a second or subsequent violation.

8 § 6. Subdivisions 2, 3 and 4 of section 1399-ee of the public health  
9 law, subdivision 2 and paragraphs (e) and (f) of subdivision 3 as  
10 amended by section 6 of part EE of chapter 56 of the laws of 2020 and  
11 subdivisions 3 and 4 as amended by chapter 162 of the laws of 2002, are  
12 amended to read as follows:

13 2. If the enforcement officer determines after a hearing that a  
14 violation of this article has occurred, [he or she] or that a state or  
15 local health official was denied access to a retail store including all  
16 product display and storage areas, for the purpose of evaluating compli-  
17 ance with this article, they shall impose a civil penalty of a minimum  
18 of three hundred dollars, but not to exceed one thousand five hundred  
19 dollars for a first violation, and a minimum of one thousand dollars,  
20 but not to exceed two thousand five hundred dollars for each subsequent  
21 violation, unless a different penalty is otherwise provided in this  
22 article. The enforcement officer shall advise the retail dealer that  
23 upon the accumulation of three or more points pursuant to this section  
24 the department of taxation and finance shall suspend the dealer's regis-  
25 tration. If the enforcement officer determines after a hearing that a  
26 retail dealer was selling tobacco or vapor products while their regis-  
27 tration was suspended or permanently revoked pursuant to subdivision

1 three or four of this section, [he or she] they shall impose a civil  
2 penalty of twenty-five hundred dollars.

3 3. (a) Imposition of points. If the enforcement officer determines,  
4 after a hearing, that the retail dealer violated subdivision [one] two  
5 of section thirteen hundred ninety-nine-cc of this article with respect  
6 to a prohibited sale to a minor, [he or she] they shall, in addition to  
7 imposing any other penalty required or permitted pursuant to this  
8 section, assign two points to the retail dealer's record where the indi-  
9 vidual who committed the violation did not hold a certificate of  
10 completion from a state certified tobacco sales training program and one  
11 point where the retail dealer demonstrates that the person who committed  
12 the violation held a certificate of completion from a state certified  
13 tobacco sales training program.

14 (b) Revocation. If the enforcement officer determines, after a hear-  
15 ing, that a retail dealer has violated this article four times within a  
16 three year time frame [he or she] they shall, in addition to imposing  
17 any other penalty required or permitted by this section, direct the  
18 commissioner of taxation and finance to revoke the dealer's registration  
19 for one year.

20 (c) Duration of points. Points assigned to a retail dealer's record  
21 shall be assessed for a period of thirty-six months beginning on the  
22 first day of the month following the assignment of points.

23 (d) Reinspection. Any retail dealer who is assigned points pursuant to  
24 paragraph (a) of this subdivision shall be reinspected at least two  
25 times a year by the enforcement officer until points assessed are  
26 removed from the retail dealer's record.

27 (e) Suspension. If the department determines that a retail dealer has  
28 accumulated three points or more, the department shall direct the

1 commissioner of taxation and finance to suspend such dealer's registra-  
2 tion for one year. The three points serving as the basis for a suspen-  
3 sion shall be erased upon the completion of the one year penalty.

4 (f) Surcharge. A two hundred fifty dollar surcharge to be assessed for  
5 every violation will be made available to enforcement officers and shall  
6 be used solely for compliance checks to be conducted to determine  
7 compliance with this section.

8 4. (a) If the enforcement officer determines, after a hearing, that a  
9 retail dealer has violated this article while their registration was  
10 suspended pursuant to subdivision three of this section, [he or she] the  
11 enforcement officer shall, in addition to imposing any other penalty  
12 required or permitted by this section, direct the commissioner of taxa-  
13 tion and finance to permanently revoke the dealer's registration and not  
14 permit the dealer to obtain a new registration.

15 (b) If the enforcement officer determines, after a hearing, that a  
16 vending machine operator has violated this article three times within a  
17 two year period, or four or more times cumulatively [he or she] they  
18 shall, in addition to imposing any other penalty required or permitted  
19 by this section, direct the commissioner of taxation and finance to  
20 suspend the vendor's registration for one year and not permit the vendor  
21 to obtain a new registration for such period.

22 § 7. Subdivision 1 of section 1399-ff of the public health law, as  
23 amended by chapter 100 of the laws of 2019, is amended to read as  
24 follows:

25 1. Where a civil penalty for a particular incident has not been  
26 imposed or an enforcement action regarding an alleged violation for a  
27 particular incident is not pending under section thirteen hundred nine-  
28 ty-nine-ee of this article, a parent or guardian of a person under twen-

1 ty-one years of age to whom tobacco products, herbal cigarettes [or  
2 electronic cigarettes], or vapor products are sold or distributed in  
3 violation of this article may submit a complaint to an enforcement offi-  
4 cer setting forth the name and address of the alleged violator, the date  
5 of the alleged violation, the name and address of the complainant and  
6 the person under twenty-one years of age, and a brief statement describ-  
7 ing the alleged violation. The enforcement officer shall notify the  
8 alleged violator by certified or registered mail, return receipt  
9 requested, that a complaint has been submitted, and shall set a date, at  
10 least fifteen days after the mailing of such notice, for a hearing on  
11 the complaint. Such notice shall contain the information submitted by  
12 the complainant.

13 § 8. Subdivision 1 of section 1399-gg of the public health law, as  
14 amended by chapter 513 of the laws of 2004, is amended to read as  
15 follows:

16 1. All tobacco cigarettes or vapor products sold or offered for sale  
17 by a retail dealer shall be sold or offered for sale in the package,  
18 box, carton or other container provided by the manufacturer, importer,  
19 or packager which bears all health warnings required by applicable law.

20 § 9. The opening paragraph and subdivision 3 of section 1399-hh of  
21 the public health law, as amended by section 8 of part EE of chapter 56  
22 of the laws of 2020, are amended to read as follows:

23 The commissioner shall develop, plan and implement a comprehensive  
24 program to reduce the prevalence of tobacco [use, and vapor product,  
25 intended or reasonably expected to be used with or for the consumption  
26 of nicotine,] and vapor product use particularly among persons less than  
27 twenty-one years of age. This program shall include, but not be limited  
28 to, support for enforcement of this article.

1 3. Monies made available to enforcement officers pursuant to this  
2 section shall only be used for local tobacco and vapor product[,  
3 intended or reasonably expected to be used with or for the consumption  
4 of nicotine,] enforcement activities approved by the commissioner.

5 § 10. Subdivision 2 of section 1399-ii of the public health law, as  
6 amended by section 12 of part EE of chapter 56 of the laws of 2020, is  
7 amended to read as follows:

8 2. The department shall support tobacco and vapor product use  
9 prevention and control activities including, but not limited to:

10 (a) Community programs to prevent and reduce tobacco use through local  
11 involvement and partnerships;

12 (b) School-based programs to prevent and reduce tobacco use and use of  
13 vapor products;

14 (c) Marketing and advertising to discourage tobacco and vapor product  
15 [and liquid nicotine] use;

16 (d) Nicotine cessation programs for youth and adults;

17 (e) Special projects to reduce the disparities in smoking prevalence  
18 among various populations;

19 (f) Restriction of youth access to tobacco products and vapor  
20 products;

21 (g) Surveillance of smoking and vaping rates; and

22 (h) Any other activities determined by the commissioner to be neces-  
23 sary to implement the provisions of this section.

24 Such programs shall be selected by the commissioner through an appli-  
25 cation process which takes into account whether a program utilizes meth-  
26 ods recognized as effective in reducing [nicotine] tobacco or vapor  
27 product use. Eligible applicants may include, but not be limited to, a  
28 health care provider, schools, a college or university, a local public

1 health department, a public health organization, a health care provider  
2 organization, association or society, municipal corporation, or a  
3 professional education organization.

4 § 11. Section 1399-ii-1 of the public health law, as added by section  
5 11 of part EE of chapter 56 of the laws of 2020, is amended to read as  
6 follows:

7 § 1399-ii-1. [Electronic cigarette and vaping] Vapor product  
8 prevention, awareness and control program. The commissioner shall, in  
9 consultation and collaboration with the commissioner of education,  
10 establish and develop [an electronic cigarette and vaping] a vapor prod-  
11 uct prevention, control and awareness program within the department.  
12 Such program shall be designed to educate students, parents and school  
13 personnel about the health risks associated with vapor product use and  
14 control measures to reduce the prevalence of vaping, particularly among  
15 persons less than twenty-one years of age. Such program shall include,  
16 but not be limited to, the creation of age-appropriate instructional  
17 tools and materials that may be used by all schools, and marketing and  
18 advertising materials to discourage [electronic cigarette] vapor product  
19 use.

20 § 12. Subdivisions 1, 2 and 3 of section 1399-jj of the public health  
21 law, as amended by section 9 of part EE of chapter 56 of the laws of  
22 2020, are amended to read as follows:

23 1. The commissioner shall evaluate the effectiveness of the efforts by  
24 state and local governments to reduce the use of tobacco products and  
25 vapor products[, intended or reasonably expected to be used with or for  
26 the consumption of nicotine,] among minors and adults. The principal  
27 measurements of effectiveness shall include negative attitudes toward  
28 tobacco and vapor products[, intended or reasonably expected to be used

1 with or for the consumption of nicotine,] use and reduction of tobacco  
2 and vapor products[, intended or reasonably expected to be used with or  
3 for the consumption of nicotine,] use among the general population, and  
4 given target populations.

5 2. The commissioner shall ensure that, to the extent practicable, the  
6 most current research findings regarding mechanisms to reduce and change  
7 attitudes toward tobacco and vapor products[, intended or reasonably  
8 expected to be used with or for the consumption of nicotine,] use are  
9 used in tobacco and vapor product[, intended or reasonably expected to  
10 be used with or for the consumption of nicotine,] education programs  
11 administered by the department.

12 3. To diminish tobacco and vapor product[, intended or reasonably  
13 expected to be used with or for the consumption of nicotine,] use among  
14 minors and adults, the commissioner shall ensure that, to the extent  
15 practicable, the following is achieved: The department shall conduct an  
16 independent evaluation of the statewide tobacco use prevention and  
17 control program under section thirteen hundred ninety-nine-ii of this  
18 article. The purpose of this evaluation is to direct the most efficient  
19 allocation of state resources devoted to tobacco and vapor product[,  
20 intended or reasonably expected to be used with or for the consumption  
21 of nicotine], education and cessation to accomplish the maximum  
22 prevention and reduction of tobacco and vapor product[, intended or  
23 reasonably expected to be used with or for the consumption of nicotine,]  
24 use among minors and adults. Such evaluation shall be provided to the  
25 governor, the majority leader of the senate and the speaker of the  
26 assembly on or before September first, two thousand one, and annually on  
27 or before such date thereafter. The comprehensive evaluation design  
28 shall be guided by the following:

1 (a) sound evaluation principles including, to the extent feasible,  
2 elements of controlled experimental methods;

3 (b) an evaluation of the comparative effectiveness of individual  
4 program designs which shall be used in funding decisions and program  
5 modifications; and

6 (c) an evaluation of other programs identified by state agencies,  
7 local lead agencies, and federal agencies.

8 § 13. The opening paragraph and subdivision 2 of section 1399-kk of  
9 the public health law, as amended by section 10 of part EE of chapter 56  
10 of the laws of 2020, are amended to read as follows:

11 The commissioner shall submit to the governor and the legislature an  
12 interim tobacco control report and annual tobacco control reports which  
13 shall describe the extent of the use of tobacco products and vapor  
14 products[, intended or reasonably expected to be used with or for the  
15 consumption of nicotine,] by those under twenty-one years of age in the  
16 state and document the progress state and local governments have made in  
17 reducing such use among those under twenty-one years of age.

18 2. The commissioner shall submit to the governor and the legislature  
19 an annual tobacco and vapor products[, intended or reasonably expected  
20 to be used with or for the consumption of nicotine,] control report  
21 which shall describe the extent of the use of tobacco products and vapor  
22 products[, intended or reasonably expected to be used with or for the  
23 consumption of nicotine,] by those under twenty-one years of age in the  
24 state and document the progress state and local governments have made in  
25 reducing such use among those under twenty-one years of age. The annual  
26 report shall be submitted to the governor and the legislature on or  
27 before March thirty-first of each year beginning on March thirty-first,  
28 nineteen hundred ninety-nine. The annual report shall, to the extent

1 practicable, include the following information on a county by county  
2 basis:

3 (a) number of licensed and registered tobacco retailers and vendors  
4 and licensed vapor products dealers;

5 (b) the names and addresses of retailers and vendors who have paid  
6 fines, or have been otherwise penalized, due to enforcement actions;

7 (c) the number of complaints filed against licensed and registered  
8 tobacco retailers and licensed vapor products dealers;

9 (d) the number of fires caused or believed to be caused by tobacco  
10 products and vapor products[, intended or reasonably expected to be used  
11 with or for the consumption of nicotine,] and deaths and injuries  
12 resulting therefrom;

13 (e) the number and type of compliance checks conducted;

14 (f) a survey of attitudes and behaviors regarding tobacco use among  
15 those under twenty-one years of age. The initial such survey shall be  
16 deemed to constitute the baseline survey;

17 (g) the number of tobacco and vapor product[, intended or reasonably  
18 expected to be used with or for the consumption of nicotine,] users and  
19 estimated trends in tobacco and vapor product[, intended or reasonably  
20 expected to be used with or for the consumption of nicotine,] use among  
21 those under twenty-one years of age;

22 (h) annual tobacco and vapor product[, intended or reasonably expected  
23 to be used with or for the consumption of nicotine,] sales;

24 (i) tax revenue collected from the sale of tobacco products and vapor  
25 products[, intended or reasonably expected to be used with or for the  
26 consumption of nicotine];

27 (j) the number of licensed tobacco retail outlets and licensed vapor  
28 products dealers;

- 1 (k) the number of cigarette vending machines;  
2 (l) the number and type of compliance checks;  
3 (m) the names of entities that have paid fines due to enforcement  
4 actions; and  
5 (n) the number of complaints filed against licensed tobacco retail  
6 outlets and licensed vapor products dealers.

7 The annual tobacco and vapor product[, intended or reasonably expected  
8 to be used with or for the consumption of nicotine,] control report  
9 shall, to the extent practicable, include the following information:

10 (a) tobacco and vapor product[, intended or reasonably expected to be  
11 used with or for the consumption of nicotine,] control efforts sponsored  
12 by state government agencies including money spent to educate those  
13 under twenty-one years of age on the hazards of tobacco and vapor prod-  
14 uct[, intended or reasonably expected to be used with or for the  
15 consumption of nicotine,] use;

16 (b) recommendations for improving tobacco and vapor product[, intended  
17 or reasonably expected to be used with or for the consumption of nico-  
18 tine,] control efforts in the state; and

19 (c) such other information as the commissioner deems appropriate.

20 § 14. Subdivisions 1-a, 2, 3, 4, 5 and 6 of section 1399-11 of the  
21 public health law, subdivisions 2, 3, 4, 5 and 6 as amended and subdivi-  
22 sion 1-a as added by section 3 of part EE of chapter 56 of the laws of  
23 2020, are amended to read as follows:

24 1-a. It shall be unlawful for any person engaged in the business of  
25 selling vapor products to ship or cause to be shipped any vapor products  
26 [intended or reasonably expected to be used with or for the consumption  
27 of nicotine] to any person in this state who is not: (a) a person that  
28 receives a certificate of registration as a vapor products dealer under

1 article [twenty eight-C] twenty-eight-C of the tax law; (b) an export  
2 warehouse proprietor pursuant to chapter 52 of the internal revenue code  
3 or an operator of a customs bonded warehouse pursuant to section 1311 or  
4 1555 of title 19 of the United States Code; or (c) a person who is an  
5 officer, employee or agent of the United States government, this state  
6 or a department, agency, instrumentality or political subdivision of the  
7 United States or this state and presents [himself or herself] themselves  
8 as such, when such person is acting in accordance with [his or her]  
9 their official duties. For purposes of this subdivision, a person is a  
10 licensed or registered agent or dealer described in paragraph (a) of  
11 this subdivision if [his or her] their name appears on a list of  
12 licensed or registered agents or vapor product dealers published by the  
13 department of taxation and finance, or if such person is licensed or  
14 registered as an agent or dealer under article [twenty eight-C] twenty-  
15 eight-C of the tax law.

16 2. It shall be unlawful for any common or contract carrier to knowing-  
17 ly transport cigarettes to any person in this state reasonably believed  
18 by such carrier to be other than a person described in paragraph (a),  
19 (b) or (c) of subdivision one of this section. For purposes of the  
20 preceding sentence, if cigarettes are transported to a home or resi-  
21 dence, it shall be presumed that the common or contract carrier knew  
22 that such person was not a person described in paragraph (a), (b) or (c)  
23 of subdivision one of this section. It shall be unlawful for any other  
24 person to knowingly transport cigarettes to any person in this state,  
25 other than to a person described in paragraph (a), (b) or (c) of subdivi-  
26 sion one of this section. Nothing in this subdivision shall be  
27 construed to prohibit a person other than a common or contract carrier  
28 from transporting not more than eight hundred cigarettes at any one time

1 to any person in this state. It shall be unlawful for any common or  
2 contract carrier to knowingly transport vapor products [intended or  
3 reasonably expected to be used with or for the consumption of nicotine]  
4 to any person in this state reasonably believed by such carrier to be  
5 other than a person described in paragraph (a), (b) or (c) of subdivi-  
6 sion one-a of this section. For purposes of the preceding sentence, if  
7 vapor products [intended or reasonably expected to be used with or for  
8 the consumption of nicotine] are transported to a home or residence, it  
9 shall be presumed that the common or contract carrier knew that such  
10 person was not a person described in paragraph (a), (b) or (c) of subdivi-  
11 sion one-a of this section. It shall be unlawful for any other person  
12 to knowingly transport vapor products [intended or reasonably expected  
13 to be used with or for the consumption of nicotine] to any person in  
14 this state, other than to a person described in paragraph (a), (b) or  
15 (c) of subdivision one of this section. Nothing in this subdivision  
16 shall be construed to prohibit a person other than a common or contract  
17 carrier from transporting vapor products, provided that the amount of  
18 vapor products [intended or reasonably expected to be used with or for  
19 the consumption of nicotine] shall not exceed the lesser of 500 millili-  
20 ters, or a total nicotine content of 3 grams at any one time to any  
21 person in this state.

22 3. When a person engaged in the business of selling cigarettes ships  
23 or causes to be shipped any cigarettes to any person in this state,  
24 other than in the cigarette manufacturer's original container or wrap-  
25 ping, the container or wrapping must be plainly and visibly marked with  
26 the word "cigarettes". When a person engaged in the business of selling  
27 vapor products ships or causes to be shipped any vapor products  
28 [intended or reasonably expected to be used with or for the consumption

1 of nicotine] to any person in this state, other than in the vapor  
2 products manufacturer's original container or wrapping, the container or  
3 wrapping must be plainly and visibly marked with the words "vapor  
4 products".

5 4. Whenever a police officer designated in section 1.20 of the crimi-  
6 nal procedure law or a peace officer designated in subdivision four of  
7 section 2.10 of such law, acting pursuant to [his or her] their special  
8 duties, shall discover any cigarettes or vapor products [intended or  
9 reasonably expected to be used with or for the consumption of nicotine]  
10 which have been or which are being shipped or transported in violation  
11 of this section, such person is hereby empowered and authorized to seize  
12 and take possession of such cigarettes or vapor products [intended or  
13 reasonably expected to be used with or for the consumption of nicotine],  
14 and such cigarettes or vapor products [intended or reasonably expected  
15 to be used with or for the consumption of nicotine] shall be subject to  
16 a forfeiture action pursuant to the procedures provided for in article  
17 thirteen-A of the civil practice law and rules, as if such article  
18 specifically provided for forfeiture of cigarettes or vapor products  
19 [intended or reasonably expected to be used with or for the consumption  
20 of nicotine] seized pursuant to this section as a pre-conviction forfei-  
21 ture crime.

22 5. Any person who violates the provisions of subdivision one, one-a,  
23 or two of this section shall be guilty of a class A misdemeanor and for  
24 a second or subsequent violation shall be guilty of a class E felony. In  
25 addition to the criminal penalty, any person who violates the provisions  
26 of subdivision one, one-a, two or three of this section shall be subject  
27 to a civil penalty not to exceed the greater of (a) five thousand  
28 dollars for each such violation; (b) one hundred dollars for each pack

1 of cigarettes shipped, caused to be shipped or transported in violation  
2 of such subdivision; or (c) one hundred dollars for each vapor product  
3 [intended or reasonably expected to be used with or for the consumption  
4 of nicotine] shipped, caused to be shipped or transported in violation  
5 of such subdivision.

6 6. The attorney general may bring an action to recover the civil  
7 penalties provided by subdivision five of this section and for such  
8 other relief as may be deemed necessary. In addition, the corporation  
9 counsel of any political subdivision that imposes a tax on cigarettes or  
10 vapor products [intended or reasonably expected to used with or for the  
11 consumption of nicotine] may bring an action to recover the civil penal-  
12 ties provided by subdivision five of this section and for such other  
13 relief as may be deemed necessary with respect to any cigarettes or  
14 vapor products [intended or reasonably expected to be used with or for  
15 the consumption of nicotine] shipped, caused to be shipped or trans-  
16 ported in violation of this section to any person located within such  
17 political subdivision. All civil penalties obtained in any such action  
18 shall be retained by the state or political subdivision bringing such  
19 action, provided that no person shall be required to pay civil penalties  
20 to both the state and a political subdivision with respect to the same  
21 violation of this section.

22 § 15. Paragraph (a) of subdivision 2 of section 1399-mm of the public  
23 health law, as added by chapter 549 of the laws of 2003, is amended to  
24 read as follows:

25 (a) The provisions of subdivision one of this section shall not apply  
26 to a tobacco business, as defined in subdivision eight of section thir-  
27 teen hundred [ninety-nine-n] ninety-nine-aa of this [chapter] article.

1 § 16. Section 1399-mm-1 of the public health law, as added by section  
2 1 of part EE of chapter 56 of the laws of 2020, is amended to read as  
3 follows:

4 § 1399-mm-1. Sale of flavored products prohibited. 1. For the purposes  
5 of this section "flavored" shall mean any vapor or tobacco product  
6 [intended or reasonably expected to be used with or for the consumption  
7 of nicotine,] with a [distinguishable] taste [or], aroma, or sensation,  
8 distinguishable by an ordinary consumer, other than the taste or aroma  
9 of tobacco, imparted either prior to or during consumption of such prod-  
10 uct or a component part thereof, including but not limited to tastes or  
11 aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa,  
12 dessert, alcoholic beverage, mint, wintergreen, menthol, herb or spice,  
13 or any concept flavor that imparts a taste or aroma that is distinguish-  
14 able from tobacco flavor but may not relate to any particular known  
15 flavor, or a cooling or numbing sensation imparted during consumption of  
16 a tobacco or vapor product. This shall not include any product approved  
17 by the United States Food and Drug Administration as a drug or medical  
18 device. A vapor or tobacco product [intended or reasonably expected to  
19 be used with or for the consumption of nicotine,] shall be presumed to  
20 be flavored if a product's packaging or labeling, or if the product's  
21 retailer, manufacturer, or a manufacturer's agent or employee, has made  
22 a statement or claim directed to consumers or the public, whether  
23 expressed or implied, that such product or device has a [distinguish-  
24 able] taste [or], aroma, or sensation, as distinguishable by the ordi-  
25 nary consumer, other than the taste [or], aroma, or sensation of tobac-  
26 co.

27 2. No vapor products dealer, or retail dealer, or tobacco or vapor  
28 seller, or any agent or employee of a vapor products dealer, retail

1 dealer, or a tobacco or vapor seller, shall sell or offer for sale [at  
2 retail in the state], or exchange or offer for exchange, for any form of  
3 consideration, any flavored vapor or tobacco product [intended or  
4 reasonably expected to be used with or for the consumption of nicotine],  
5 whether through retail or wholesale.

6 3. No vapor products dealer, retail dealer, or tobacco or vapor sell-  
7 er or any agent or employee of a vapor products dealer, retail dealer,  
8 or tobacco or vapor seller, acting in the capacity thereof, shall keep  
9 in inventory, store, stow, warehouse, process, package, ship, or  
10 distribute flavored vapor or tobacco products anywhere in, or adjacent  
11 to, a place of business where vapor or tobacco products are sold,  
12 offered for sale, exchanged, or offered for exchange, for any form of  
13 consideration, at retail.

14 4. Any vapor products dealer, retail dealer, or tobacco or vapor sell-  
15 er, or any agent or employee of a vapor products dealer, retail dealer,  
16 or tobacco or vapor seller, who violates the provisions of this section  
17 shall be subject to a civil penalty of not more than one hundred dollars  
18 for each individual package of flavored vapor or tobacco product  
19 [intended or reasonably expected to be used with or for the consumption  
20 of nicotine sold or offered for sale, provided, however, that with  
21 respect to a manufacturer, it shall be an affirmative defense to a find-  
22 ing of violation pursuant to this section that such sale or offer of  
23 sale, as applicable, occurred without the knowledge, consent, authori-  
24 zation, or involvement, direct or indirect, of such manufacturer] sold  
25 or offered for sale, or exchanged or offered for exchange, for any form  
26 of consideration, whether through retail or wholesale, or kept in inven-  
27 tory, stored, stowed, warehoused, processed, packaged, shipped, or  
28 distributed anywhere in, or adjacent to, a place of business where vapor

1 or tobacco products are sold, offered for sale, exchanged, or offered  
2 for exchange, for any form of consideration, at retail. Violations of  
3 the provisions of this section shall be enforced pursuant to [section]  
4 sections thirteen hundred ninety-nine-ff and thirteen hundred ninety-  
5 nine-ee of this article, [except that any] provided, however, that  
6 violations of the provisions of this section may also be enforced by the  
7 commissioner. Any person may submit a complaint to an enforcement offi-  
8 cer that a violation of this section has occurred.

9 [4. The provisions of this section shall not apply to any vapor  
10 products dealer, or any agent or employee of a vapor products dealer,  
11 who sells or offers for sale, or who possess with intent to sell or  
12 offer for sale, any flavored vapor product intended or reasonably  
13 expected to be used with or for the consumption of nicotine that the  
14 U.S. Food and Drug Administration has authorized to legally market as  
15 defined under 21 U.S.C. § 387j and that has received a premarket review  
16 approval order under 21 U.S.C. § 387j(c) et seq.] 5. Nothing in this  
17 section shall be construed to penalize the purchase, use, or possession  
18 of a tobacco product or vapor product by any person not engaged as a  
19 vapor products dealer, retail dealer, tobacco or vapor seller, or any  
20 agent or employee of a vapor products dealer, retail dealer, or tobacco  
21 or vapor seller.

22 § 17. Subdivision 1 of section 1399-mm-2 of the public health law, as  
23 added by section 1 of part EE of chapter 56 of the laws of 2020, is  
24 amended to read as follows:

25 1. No tobacco product, herbal cigarette, or vapor product [intended or  
26 reasonably expected to be used with or for the consumption of nicotine,]  
27 shall be sold in a pharmacy or in a retail establishment that contains a  
28 pharmacy operated as a department as defined by paragraph f of subdivi-

1 sion two of section sixty-eight hundred eight of the education law.  
2 Provided, however, that such prohibition on the sale of tobacco  
3 products, herbal cigarettes, or vapor products [intended or reasonably  
4 expected to be used with or for the consumption of nicotine,] shall not  
5 apply to any other business that owns or leases premises within any  
6 building or other facility that also contains a pharmacy or a retail  
7 establishment that contains a pharmacy operated as a department as  
8 defined by paragraph f of subdivision two of section sixty-eight hundred  
9 eight of the education law.

10 § 18. Subdivision 1 of section 1399-mm-3 of the public health law, as  
11 added by section 1 of part EE of chapter 56 of the laws of 2020, is  
12 amended to read as follows:

13 1. For the purposes of this section "carrier oils" shall mean any  
14 ingredient of a vapor product intended to control the consistency or  
15 other physical characteristics of such vapor product, to control the  
16 consistency or other physical characteristics of vapor, or to facilitate  
17 the production of vapor when such vapor product is used in an electronic  
18 [cigarette] device. "Carrier oils" shall not include any product  
19 approved by the United States [food and drug administration] Food and  
20 Drug Administration as a drug or medical device or manufactured and  
21 dispensed pursuant to title five-A of article thirty-three of this chap-  
22 ter.

23 § 19. This act shall take effect September 1, 2023.

24 PART P

25 Section 1. The public health law is amended by adding a new section  
26 2825-h to read as follows:

1 § 2825-h. Health care facility transformation program: statewide V.

2 1. A statewide health care facility transformation program is hereby  
3 established within the department for the purpose of transforming, rede-  
4 signing, and strengthening quality health care services in alignment  
5 with statewide and regional health care needs, and in the ongoing  
6 pandemic response. The program shall also provide funding, subject to  
7 lawful appropriation, in support of capital projects that facilitate  
8 furthering such transformational goals.

9 2. The commissioner shall enter into an agreement with the president  
10 of the dormitory authority of the state of New York pursuant to section  
11 sixteen hundred eighty-r of the public authorities law, which shall  
12 apply to this agreement, subject to the approval of the director of the  
13 division of the budget, for the purposes of the distribution and admin-  
14 istration of available funds pursuant to such agreement, and made avail-  
15 able pursuant to this section and appropriation. Such funds may be  
16 awarded and distributed by the department for grants to health care  
17 providers including but not limited to, hospitals, residential health  
18 care facilities, adult care facilities licensed under title two of arti-  
19 cle seven of the social services law, diagnostic and treatment centers  
20 licensed or granted an operating certificate under this chapter, clin-  
21 ics, including but not limited to those licensed or granted an operating  
22 certificate under this chapter or the mental hygiene law, children's  
23 residential treatment facilities licensed under article thirty-one of  
24 the mental hygiene law, assisted living programs approved by the depart-  
25 ment pursuant to section four hundred sixty-one-1 of the social services  
26 law, behavioral health facilities licensed or granted an operating  
27 certificate pursuant to articles thirty-one and thirty-two of the mental  
28 hygiene law, home care providers certified or licensed under article

1 thirty-six of this chapter, primary care providers, hospices licensed or  
2 granted an operating certificate pursuant to article forty of this chap-  
3 ter, community-based programs funded under the office of mental health,  
4 the office of addiction services and supports, the office for people  
5 with developmental disabilities, or through local governmental units as  
6 defined under article forty-one of the mental hygiene law, independent  
7 practice associations or organizations, and residential facilities or  
8 day program facilities licensed or granted an operating certificate  
9 under article sixteen of the mental hygiene law. A copy of such agree-  
10 ment, and any amendments thereto, shall be provided by the department to  
11 the chair of the senate finance committee, the chair of the assembly  
12 ways and means committee, and the director of the division of the budget  
13 no later than thirty days after such agreement is finalized. Projects  
14 awarded, in whole or part, under sections twenty-eight hundred twenty-  
15 five-a and twenty-eight hundred twenty-five-b of this article shall not  
16 be eligible for grants or awards made available under this section.

17 3. Notwithstanding section one hundred sixty-three of the state  
18 finance law, sections one hundred forty-two and one hundred forty-three  
19 of the economic development law, or any inconsistent provision of law to  
20 the contrary, up to five hundred million dollars of the funds appropri-  
21 ated for this program shall be awarded, without a competitive bid or  
22 request for proposal process, for grants to health care providers, as  
23 defined in subdivision two of this section. Awards made pursuant to this  
24 subdivision shall provide funding only for capital projects, to the  
25 extent lawful appropriation and funding is available, to build innova-  
26 tive, patient-centered models of care, increase access to care, to  
27 improve the quality of care and to ensure financial sustainability of  
28 health care providers.

1 4. Notwithstanding section one hundred sixty-three of the state  
2 finance law, sections one hundred forty-two and one hundred forty-three  
3 of the economic development law, or any inconsistent provision of law to  
4 the contrary, up to five hundred million dollars of the funds appropri-  
5 ated for this program shall be awarded, without a competitive bid or  
6 request for proposal process, for technological and telehealth transfor-  
7 mation projects.

8 5. Selection of awards made by the department pursuant to subdivisions  
9 three and four of this section shall be contingent on an evaluation  
10 process acceptable to the commissioner and approved by the director of  
11 the division of the budget. Disbursement of awards may be contingent on  
12 the health care provider as defined in subdivision two of this section  
13 achieving certain process and performance metrics and milestones that  
14 are structured to ensure that the goals of the project are achieved.

15 6. The department shall provide a report on a quarterly basis to the  
16 chairs of the senate finance, assembly ways and means, and senate and  
17 assembly health committees, until such time as the department determines  
18 that the projects that receive funding pursuant to this section are  
19 substantially complete. Such reports shall be submitted no later than  
20 sixty days after the close of the quarter, and shall include, for each  
21 award, the name of the health care provider as defined in subdivision  
22 two of this section, a description of the project or purpose, the amount  
23 of the award, disbursement date, and status of achievement of process  
24 and performance metrics and milestones pursuant to subdivision five of  
25 this section.

26 § 2. This act shall take effect immediately and shall be deemed to  
27 have been in full force and effect on and after April 1, 2023.

1

## PART Q

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

4 (kk) community health worker services for children under age twenty-  
5 one, and for adults with health-related social needs, when such services  
6 are recommended by a physician or other health care practitioner author-  
7 ized under title eight of the education law, and provided by qualified  
8 community health workers, as determined by the commissioner of health;  
9 provided, however, that the provisions of this paragraph shall not take  
10 effect unless all necessary approvals under federal law and regulation  
11 have been obtained to receive federal financial participation in the  
12 costs of health care services provided pursuant to this paragraph.  
13 Nothing in this paragraph shall be construed to modify any licensure,  
14 certification or scope of practice provision under title eight of the  
15 education law.

16 § 2. Clause (C) of subparagraph (ii) of paragraph (f) of subdivision  
17 2-a of section 2807 of the public health law, as amended by section 43  
18 of part B of chapter 58 of the laws of 2010, is amended to read as  
19 follows:

20 (C) [individual psychotherapy] services provided by licensed social  
21 workers, licensed mental health counselors and licensed marriage and  
22 family therapists, in accordance with licensing criteria set forth in  
23 applicable regulations[, to persons under the age of twenty-one and to  
24 persons requiring such services as a result of or related to pregnancy  
25 or giving birth]; and

26 § 3. This act shall take effect January 1, 2024.

1

## PART R

2 Section 1. Subdivision 2 of section 365-a of the social services law  
3 is amended by adding two new paragraphs (kk) and (ll) to read as  
4 follows:

5 (kk) care and services of nutritionists and dietitians certified  
6 pursuant to article one hundred fifty-seven of the education law acting  
7 within their scope of practice.

8 (ll) arthritis self-management training services for persons diagnosed  
9 with osteoarthritis when such services are ordered by a physician,  
10 registered physician's assistant, registered nurse practitioner, or  
11 licensed midwife and provided by qualified educators, as determined by  
12 the commissioner of health, provided, however, that the provisions of  
13 this paragraph shall not apply unless all necessary approvals under  
14 federal law and regulation have been obtained to receive federal finan-  
15 cial participation in the costs of health care services provided pursu-  
16 ant to this paragraph. Nothing in this paragraph shall be construed to  
17 modify any licensure, certification or scope of practice provision under  
18 title eight of the education law.

19 § 2. Clause (A) of subparagraph (ii) of paragraph (f) of subdivision  
20 2-a of section 2807 of the public health law, as amended by section 43  
21 of part B of chapter 58 of the laws of 2010, is amended to read as  
22 follows:

23 (A) services provided in accordance with the provisions of paragraphs  
24 (q) [and], (r), and (ll) of subdivision two of section three hundred  
25 sixty-five-a of the social services law; and

26 § 3. This act shall take effect July 1, 2023; provided, however, that  
27 paragraph (ll) of subdivision 2 of section 365-a of the social services

1 law added by section one of this act and section two of this act, shall  
2 take effect October 1, 2023.

3 PART S

4 Section 1. Subdivision 1 of section 3001 of the public health law, as  
5 amended by chapter 804 of the laws of 1992, is amended to read as  
6 follows:

7 1. "Emergency medical service" means [initial emergency medical  
8 assistance including, but not limited to, the treatment of trauma,  
9 burns, respiratory, circulatory and obstetrical emergencies] a coordi-  
10 nated system of healthcare delivery that responds to the needs of sick  
11 and injured adults and children, by providing: essential care at the  
12 scene of an emergency, non-emergency, specialty need or public event;  
13 community education and prevention programs; mobile integrated health-  
14 care programs; ground and air ambulance services; centralized access and  
15 emergency medical dispatch; training for emergency medical services  
16 practitioners; medical first response; mobile trauma care systems; mass  
17 casualty management; medical direction; or quality control and system  
18 evaluation procedures.

19 § 2. Section 3002 of the public health law is amended by adding a new  
20 subdivision 1-a to read as follows:

21 1-a. The state emergency medical services council shall advise and  
22 assist the commissioner on such issues as the commissioner may require  
23 related to the provision of emergency medical service, specialty care,  
24 designated facility care, and disaster medical care. This shall  
25 include, but shall not be limited to, the recommendation, periodic  
26 revision, and application of rules and regulations, appropriateness

1 review standards, treatment protocols, workforce development, and quali-  
2 ty improvement standards. The state emergency medical services council  
3 shall meet at least three times per year or more frequently at the  
4 request of the chairperson or department and approved by the commission-  
5 er.

6 § 2-a. Subdivision 1 of section 3002-a of the public health law, as  
7 amended by chapter 567 of the laws of 2011, is amended to read as  
8 follows:

9 1. There shall be a state emergency medical advisory committee of the  
10 state emergency medical services council consisting of thirty-one  
11 members. Twenty-three members shall be physicians appointed by the  
12 commissioner, including one [nominated by] member from each regional  
13 emergency medical services council, an additional physician from the  
14 city of New York, one pediatrician, one trauma surgeon, one [psychia-  
15 trist] physician at large and the chairperson. Each of the physicians  
16 shall have demonstrated knowledge and experience in emergency medical  
17 services. There shall be eight non-physician non-voting members  
18 appointed by the chairperson of the state council, at least five of whom  
19 shall be members of the state emergency medical services council at the  
20 time of their appointment. At least one of the eight shall be an emer-  
21 gency nurse, at least one shall be an advanced emergency medical techni-  
22 cian, at least one shall be a basic emergency medical technician, and at  
23 least one shall be employed in a hospital setting with administrative  
24 responsibility for a hospital emergency department or service.

25 § 3. Section 3003 of the public health law is amended by adding a new  
26 subdivision 1-a to read as follows:

27 1-a. Each regional emergency medical services council shall advise the  
28 state emergency medical services council and department on such issues

1 as the state emergency medical services council or department may  
2 require, related to the provision of emergency medical service, special-  
3 ty care, designated facility care, and disaster medical care, and shall  
4 carry out duties to assist in the regional coordination of such, as  
5 outlined by the state emergency medical services council with approval  
6 of the department.

7 § 4. The public health law is amended by adding a new section 3004 to  
8 read as follows:

9 § 3004. Emergency medical services system and agency performance stan-  
10 dards. 1. The state emergency medical services council, in collaboration  
11 and with final approval of the department, shall create an emergency  
12 medical services system and agency performance standards (hereinafter  
13 referred to as "performance standards") for the purpose of sustaining  
14 and evolving a reliable emergency medical services system including but  
15 not limited to emergency medical services agencies and any facility or  
16 agency that dispatches or accepts emergency medical services resources.

17 2. The performance standards may include but shall not be limited to:  
18 safety initiatives, emergency vehicle operations, operational competen-  
19 cies, planning, training, onboarding, workforce development and engage-  
20 ment, survey responses, leadership and other standards and metrics as  
21 determined by the state emergency medical services council, with  
22 approval of the department, to promote positive patient outcomes, safe-  
23 ty, provider retention and emergency medical services system sustaina-  
24 bility throughout the state.

25 3. The performance standards shall require each emergency medical  
26 services agency, dispatch agency or facility that accepts emergency  
27 medical services resources to perform regular and periodic review of the  
28 performance standards and its metrics, perform surveys, identification

1 of agency deficiencies and strengths, development of programs to improve  
2 agency metrics, strengthen system sustainability and operations, and  
3 improve the delivery of patient care.

4 4. The department, after consultation with the state emergency medical  
5 services council, may contract for services with subject matter experts  
6 to assist in the oversight of the performance standards statewide.

7 5. Emergency medical services agencies that do not meet the perform-  
8 ance standards set forth in this section may be subject to enforcement  
9 actions, including but not limited to revocation, suspension, perform-  
10 ance improvement plans, or restriction from specific types of response  
11 including but not limited to suspension of ability to respond to  
12 requests for emergency medical assistance or to perform emergency  
13 medical services.

14 § 5. The public health law is amended by adding a new section 3018 to  
15 read as follows:

16 § 3018. Statewide comprehensive emergency medical service system plan.

17 1. The state emergency medical services council, in collaboration and  
18 with final approval of the department, shall develop and maintain a  
19 statewide comprehensive emergency medical service system plan that shall  
20 provide for a coordinated emergency medical services system in New York  
21 state, including but not limited to:

22 (a) establishing a comprehensive statewide emergency medical service  
23 system, consisting of facilities, transportation, workforce, communi-  
24 cations, and other components, to improve the delivery of emergency  
25 medical services and thereby decrease morbidity, hospitalization, disa-  
26 bility, and mortality;

27 (b) improving the accessibility of high-quality emergency medical  
28 service;

1 (c) coordinating professional medical organizations, hospitals, and  
2 other public and private agencies in developing alternative delivery  
3 models whereby persons who are presently using the existing emergency  
4 department for routine, nonurgent, and primary medical care will be  
5 served appropriately; and

6 (d) conducting, promoting, and encouraging programs of education and  
7 training designed to upgrade the knowledge and skills of emergency  
8 medical service practitioners training throughout New York state with  
9 emphasis on regions with limited access to emergency medical services  
10 training.

11 2. The statewide comprehensive emergency medical service system plan  
12 shall be reviewed, updated if necessary, and published every five years  
13 on the department's website, or at such times as may be necessary to  
14 improve the effectiveness and efficiency of the state's emergency  
15 medical service system.

16 3. Each regional emergency medical services council shall develop and  
17 maintain a comprehensive regional emergency medical service system plan  
18 or adopt the statewide comprehensive emergency medical service system  
19 plan, to provide for a coordinated emergency medical service system  
20 within the region. Such plans shall be written in a format approved by  
21 the state emergency medical services council. Further, such plans shall  
22 be subject to review and approval by the state emergency medical  
23 services council and final approval by the department.

24 4. Each county shall develop and maintain a comprehensive county emer-  
25 gency medical service system plan that shall provide for a coordinated  
26 emergency medical service system within the county, to provide essential  
27 emergency medical services for all residents within the county. Such  
28 plan shall be written in a format approved by the state emergency

1 medical services council. The county office of emergency medical  
2 services shall be responsible for the development, implementation, and  
3 maintenance of the comprehensive county emergency medical service system  
4 plan. Such plans, as determined by the department and the state emer-  
5 gency medical services council, may require review and approval by the  
6 regional emergency medical services council, the state emergency medical  
7 services council and the department. Such plan shall outline the  
8 primary responding emergency medical services agency for requests for  
9 service for each part of the county.

10 § 6. The public health law is amended by adding a new section 3019 to  
11 read as follows:

12 § 3019. Emergency medical service training programs. 1. The state  
13 emergency medical services council shall make recommendations to the  
14 department for the department to implement standards related to the  
15 establishment of training programs for emergency medical service systems  
16 that includes but is not limited to students, emergency medical service  
17 practitioners, emergency medical services agencies, approved educational  
18 institutions, geographic areas, facilities, and personnel, and the  
19 commissioner shall fund such training programs in full or in part based  
20 on state appropriations. Until such time as the department announces the  
21 standards for training programs pursuant to this section, all current  
22 standards, curriculums, and requirements for students, emergency medical  
23 service practitioners, agencies, facilities, and personnel shall remain  
24 in effect.

25 2. The state emergency medical services council, with final approval  
26 of the department, shall establish minimum education standards, curric-  
27 ulums, performance metrics and requirements for all emergency medical  
28 system educational institutions. No person or educational institution

1 shall profess to provide emergency medical services training without  
2 meeting the requirements set forth in regulation and only after approval  
3 of the department and in the geographical area determined by the depart-  
4 ment.

5 3. The department is authorized to provide, either directly or through  
6 contract, for local or statewide initiatives, emergency medical system  
7 training for emergency medical service practitioners and emergency  
8 medical services agency personnel, using funding including but not  
9 limited to allocations to aid to localities for emergency medical  
10 services training.

11 4. The department may visit and inspect any emergency medical system  
12 training program or training center operating under this article to  
13 ensure compliance with all applicable regulations and standards. The  
14 department may request the state or regional emergency medical services  
15 council's assistance to ensure the compliance, maintenance, and coordi-  
16 nation of training programs. The department, in consultation with the  
17 state emergency medical services council, may set standards and regu-  
18 lations for emergency medical services educational institutions. Emer-  
19 gency medical services educational institutions that fail to meet appli-  
20 cable standards and regulations may be subject to enforcement action,  
21 including but not limited to revocation, suspension, performance  
22 improvement plans, or restriction from specific types of education.

23 5. Students of an emergency medical services educational institution  
24 authorized pursuant to this section, shall be considered emergency  
25 medical services students and subject to the standards established in  
26 this article, regulations promulgated pursuant to this article and all  
27 applicable standards, as if they were a licensed emergency medical  
28 services practitioner and may be subject to enforcement action as such.

1 § 7. Section 3012 of the public health law is amended by adding a new  
2 subdivision 5 to read as follows:

3 5. It shall be a violation of this chapter, subject to civil penal-  
4 ties, for any person to hold themselves out as an emergency medical  
5 services practitioner who is not designated by the department pursuant  
6 to this article or otherwise lawfully authorized, to provide emergency  
7 medical services, or to attempt to become an emergency medical practi-  
8 tioner in an unlawful or unethical manner.

9 § 8. The public health law is amended by adding a new section 3020 to  
10 read as follows:

11 § 3020. Recruitment and retention. 1. The commissioner shall estab-  
12 lish and fund within amounts appropriated, a public service campaign to  
13 recruit additional personnel into the emergency medical system fields.

14 2. The commissioner shall establish and fund within amounts appropri-  
15 ated an emergency medical system mental health and wellness program that  
16 provides resources to emergency medical service practitioners.

17 3. The commissioner may establish in regulation standards for the  
18 licensure of emergency medical services practitioners by the department  
19 of health.

20 4. The department, with the approval of the state emergency medical  
21 services council, may create or adopt additional standards, training,  
22 and criteria to become an emergency medical service practitioner creden-  
23 tialed to provide specialized, advanced, or other services that further  
24 support or advance the emergency medical system. The department, with  
25 approval of the state emergency medical services council may also set  
26 standards and requirements to require specialized credentials to perform  
27 certain functions in the emergency medical services system.

1 5. The department, with approval of the state emergency medical  
2 services council may also set standards for emergency medical system  
3 agencies to become accredited in a specific area to increase system  
4 performance and agency recognition.

5 § 9. Section 3008 of the public health law is REPEALED and a new  
6 section 3008 is added to read as follows:

7 § 3008. Applications for new or modified operating authority. 1. Every  
8 application for new or modified operating authority shall be made in  
9 writing to the state emergency medical services council and shall speci-  
10 fy the primary territory within which the applicant requests to operate,  
11 be verified under oath, and shall be in such form and contain such  
12 information as required by the rules and regulations promulgated pursu-  
13 ant to this article.

14 2. Notice of the application shall be forwarded to the appropriate  
15 regional emergency medical services council.

16 3. All determinations of new or modified operating authority shall be  
17 made by the state emergency medical services council and shall be  
18 consistent with the state emergency medical system plan, once estab-  
19 lished pursuant to section three thousand eighteen of this article. The  
20 department may promulgate regulations to provide for standards for eval-  
21 uation of new or modified operating authority, and the process for  
22 determination of operating authority shall be approved by the state  
23 emergency medical services council and carried out thereafter.

24 4. The state emergency medical services council may create a new  
25 committee to hear and make determinations on all requests for new or  
26 modified operating authority. Such committee shall be comprised of one  
27 state emergency medical council member from each regional emergency  
28 medical services council.

1 5. If the state emergency medical services council proposes to disap-  
2 prove an application under this section, it shall afford the applicant  
3 an opportunity to request a public hearing. The state emergency medical  
4 services council may hold a public hearing on the application on its own  
5 motion. Any public hearing held pursuant to this subdivision may be  
6 conducted by the state emergency medical services council, or by any  
7 individual designated by the state emergency medical services council.

8 6. Notwithstanding the provisions of subdivisions one and three of  
9 this section, during an emergency the commissioner may waive the  
10 requirement for a determination of operating authority and issue a  
11 temporary emergency medical system agency certificate.

12 7. Notwithstanding the provisions of subdivisions one and three of  
13 this section, the commissioner may waive the requirement for a determi-  
14 nation of operating authority and issue a municipality, special taxing  
15 district, government agency or Native American tribal council, an emer-  
16 gency medical system agency certificate, provided the issuance of such  
17 certificate is financially supported by the municipality, special taxing  
18 district, government agency or Native American tribal council.

19 § 10. Section 3032 of the public health law is REPEALED.

20 § 11. The public health law is amended by adding six new sections  
21 3032, 3033, 3034, 3035, 3036 and 3037 to read as follows:

22 § 3032. Mobile integrated healthcare. 1. "Mobile integrated health-  
23 care" means the provision of patient-centered mobile resources which  
24 includes a well-organized system of services to address healthcare gaps  
25 and decrease demand on portions of the healthcare system identified by a  
26 community needs assessment, integrated into the local healthcare system  
27 working in a collaborative manner as a patient care team that may  
28 include, but not limited to, physicians, mid-level practitioners, nurs-

1 es, home care agencies, emergency medical services practitioners, emer-  
2 gency medical services agencies and other community health team  
3 colleagues, to meet the needs of the community.

4 2. Emergency medical service agencies may establish a mobile inte-  
5 grated healthcare program, provided they meet all standards established  
6 by the department, that the delivery of such services in full or in part  
7 will not decrease the agency's ability to respond to requests for emer-  
8 gency assistance and the agency receives express approval from the  
9 department. The department may revoke or suspend an emergency medical  
10 service agency's approval to provide a mobile integrated healthcare  
11 program if the department finds that one or more standards established  
12 by the department have not been met. The department, in collaboration  
13 with the state emergency medical services council, shall establish  
14 criteria and standards for the operation of mobile integrated healthcare  
15 programs and mobile integrated healthcare programs shall adhere to such  
16 criteria and standards.

17 3. Notwithstanding sections sixty-five hundred twenty-one and sixty-  
18 nine hundred two of the education law, an emergency medical services  
19 practitioner, licensed pursuant to this article, shall be authorized to  
20 administer immunizations pursuant to a patient specific or non-patient  
21 specific standing regimen ordered by a licensed physician and pursuant  
22 to protocols adopted by the state emergency medical services council and  
23 any standards established by the department.

24 4. Notwithstanding sections sixty-five hundred twenty-one and sixty-  
25 nine hundred two of the education law, an emergency medical services  
26 practitioner, licensed pursuant to this article, may be authorized by  
27 the department to administer buprenorphine pursuant to a non-patient  
28 specific standing regimen ordered by a licensed physician and pursuant

1 to protocols adopted by the state emergency medical services council and  
2 any standards established by the department.

3 § 3033. Regional emergency medical service district. 1. A "regional  
4 emergency medical service district" means a special district as defined  
5 in subdivision sixteen of section one hundred two of the real property  
6 tax law created for the purpose of ensuring the essential services of  
7 emergency medical care, coordinating the emergency medical system within  
8 the district and providing when needed emergency medical services on a  
9 regional basis either directly or through contract with but not limited  
10 to towns, counties, municipalities, licensed ambulance and first  
11 response agencies, air medical providers and others as determined by the  
12 district council. There shall be ten regional service districts which  
13 will correspond to economic development regions as established in  
14 section two hundred thirty of the economic development law that are  
15 established in all areas of the state and operate under the direction of  
16 the department.

17 2. A group of five emergency medical service providers in each region,  
18 with nominations made from anyone in the district and appointment by the  
19 commissioner, shall act as a council to direct the operations of the  
20 emergency medical services system in their region. No less than one  
21 member of the council shall be a licensed physician who is board certi-  
22 fied in emergency medicine or emergency medical services and has experi-  
23 ence working with emergency medical services organizations, unless  
24 otherwise determined by the commissioner. The department shall establish  
25 term limits in regulation.

26 3. An emergency medical service practitioner, nominated by the  
27 regional emergency medical service district council and appointed by the  
28 commissioner, shall be the regional emergency medical service district

1 director and shall be charged with carrying out the administration of  
2 the regional emergency medical service district when the council is not  
3 in session.

4 4. A physician board certified in emergency medicine or emergency  
5 medical services and who has experience working with emergency medical  
6 services organizations, nominated by the regional emergency medical  
7 service district council and appointed by the commissioner, shall be the  
8 regional emergency medical services medical director. The regional emer-  
9 gency medical services medical director shall report to the district  
10 director or their designee, and shall be charged with providing medical  
11 direction oversight and quality assurance to the regional emergency  
12 medical service district.

13 5. The regional emergency medical services districts shall operate  
14 under the direction and oversight of the department to ensure the emer-  
15 gency medical services system is reliable, sustainable and provides  
16 quality care to the residents, commuters and visitors of the district.

17 § 3034. State emergency medical services task force. 1. The department  
18 shall develop a state emergency medical services (EMS) task force, oper-  
19 ated by the department, that may coordinate and operate resources that  
20 are needed around the state in situations such as but not limited to a  
21 disaster, large event, specialized response, community need, or other  
22 need as determined by the commissioner.

23 2. The state EMS task force shall be made up of non-government and  
24 government agencies, that are licensed to provide emergency medical  
25 services in the state including but not limited to commercial agencies,  
26 nonprofits, fire departments and third services.

27 3. The department will allocate funds to effectuate the delivery of  
28 the state EMS task force that will allow for contracting with licensed

1 emergency medical services agencies, the purchase of specialized  
2 response equipment, staff to carry out the daily functions of the state  
3 EMS task force either directly or by contract and other functions as  
4 determined by the department.

5 4. The state emergency medical services council shall make recommenda-  
6 tions to the department to effectuate the development and delivery of  
7 care by the state EMS task force.

8 5. The state EMS task force shall have the authority to operate  
9 throughout New York state or outside of the state with prior permission  
10 of the commissioner. Notwithstanding any law to the contrary, contracts  
11 let by the state EMS task force shall be exempt from sections one  
12 hundred twelve and one hundred sixty-three of the state finance law.

13 § 3035. Demonstration projects. The department, in consultation with  
14 the state emergency medical services council, may allow demonstration  
15 projects related to the emergency medical system. Such demonstration  
16 projects may allow for waivers of certain parts of this article, article  
17 thirty-A of this chapter, and applicable regulations, provided the  
18 demonstration project meets any applicable standards set forth by the  
19 department.

20 § 3036. Emergency medical system support services. The commissioner  
21 may promulgate regulations, with the approval of the state emergency  
22 medical services council, to set standards and criteria for basic life  
23 support first response agencies, emergency medical dispatch, and special  
24 event services, to strengthen the emergency medical service system.  
25 These organizations shall not be required to meet the standards set for  
26 determination of operating authority as outlined in section three thou-  
27 sand eight of this article unless otherwise determined by the state  
28 emergency medical services council and approved by the department.

1 § 3037. Rules and regulations. The commissioner, upon approval of the  
2 state emergency medical services council, may promulgate rules and regu-  
3 lations to effectuate the purposes of this article.

4 § 12. Section 6909 of the education law is amended by adding a new  
5 subdivision 11 to read as follows:

6 11. A certified nurse practitioner may prescribe and order a non-pa-  
7 tient specific regimen to an emergency medical services practitioner  
8 licensed by the department of health pursuant to article thirty of the  
9 public health law, pursuant to regulations promulgated by the commis-  
10 sioner, and consistent with the public health law, for administering  
11 immunizations. Nothing in this subdivision shall authorize unlicensed  
12 persons to administer immunizations, vaccines or other drugs.

13 § 13. Section 6527 of the education law is amended by adding a new  
14 subdivision 11 to read as follows:

15 11. A licensed physician may prescribe and order a non-patient specif-  
16 ic regimen to an emergency medical services practitioner licensed by the  
17 department of health pursuant to article thirty of the public health  
18 law, pursuant to regulations promulgated by the commissioner, and  
19 consistent with the public health law, for administering immunizations.  
20 Nothing in this subdivision shall authorize unlicensed persons to admin-  
21 ister immunizations, vaccines or other drugs.

22 § 14. This act shall take effect immediately; provided, however, that  
23 section 3033 of the public health law, as added by section eleven of  
24 this act, shall take effect on the ninetieth day after it shall have  
25 become a law.

1 Section 1. The public health law is amended by adding a new section  
2 1377 to read as follows:

3 § 1377. State rental registry and proactive inspections to identify  
4 lead hazards. 1. The department shall develop a registry for all resi-  
5 dential dwellings with two or more units built prior to nineteen hundred  
6 eighty which, by virtue of their municipal zoning designation, are  
7 potentially eligible for rental, lease, let or hiring out, and are  
8 located within communities of concern as identified by the department.  
9 Such registry shall only include qualifying residential dwellings  
10 outside New York city.

11 2. All residential dwellings qualifying for registration in accord  
12 with this section must be certified as free of lead paint hazards based  
13 on inspections conducted on a tri-annual basis. Inspection certif-  
14 ications must be submitted to the local health department or their  
15 designee for recording in the rental registry.

16 3. The commissioner shall promulgate regulations as needed to adminis-  
17 ter, coordinate, and enforce this section, including the establishment  
18 of fines to be levied in the event of non-compliance with the require-  
19 ments of this section.

20 4. Inspection requirements shall be based on regulation and guidance  
21 from the department and may include qualifications for inspectors, mini-  
22 mum requirements of a compliant inspection and a process for reporting  
23 inspection results to local health departments. Minimum inspection  
24 requirements may include visual inspections for deteriorated paint and  
25 outdoor soil conditions, as well as the collection of dust wipe samples  
26 obtained in accordance with United States Environmental Protection Agen-  
27 cy protocols for such procedures.

1 5. Remediation of lead-based paint hazards must be conducted in  
2 compliance with all municipal requirements and specific requirements  
3 specified in regulation.

4 § 2. Paragraphs h and i of subdivision 1 of section 381 of the execu-  
5 tive law, as added by chapter 560 of the laws of 2010, are amended and a  
6 new paragraph j is added to read as follows:

7 h. minimum basic training and in-service training requirements for  
8 personnel charged with administration and enforcement of the state ener-  
9 gy conservation construction code; [and]

10 i. standards and procedures for measuring the rate of compliance with  
11 the state energy conservation construction code, and provisions requir-  
12 ing that such rate of compliance be measured on an annual basis[.]; and

13 j. procedures requiring the documentation of compliance with regu-  
14 lations adopted pursuant to section thirteen hundred seventy-seven of  
15 the public health law as a condition to issuance of a certificate of  
16 occupancy or certificate of compliance following a periodic fire safety  
17 and property maintenance inspection for multiple dwellings.

18 § 3. This act shall take effect immediately; provided, however,  
19 section one of this act shall take effect eighteen months after it shall  
20 have become a law; and provided further, however, section two of this  
21 act shall take effect two years after it shall have become a law.  
22 Effective immediately, the addition, amendment, and/or repeal of any  
23 rule or regulation necessary for the timely implementation of this act  
24 on or before its effective date are authorized to be made and completed  
25 on or before such effective date.

1 Section 1. The general business law is amended by adding a new  
2 section 394-f to read as follows:

3 § 394-f. Warrants for reproductive health related electronic data. 1.  
4 For the purposes of this section, the following terms shall have the  
5 following meanings:

6 a. "Electronic communication" means any transfer of signs, signals,  
7 writing, images, sounds, data, or intelligence of any nature transmitted  
8 in whole or in part by a wire, radio, electromagnetic, photoelectronic  
9 or photo-optical system; provided, however, such term shall not include:

10 i. any telephonic or telegraphic communication.

11 ii. any communication made through a tone only paging device.

12 iii. any communication made through a tracking device consisting of an  
13 electronic or mechanical device which permits the tracking of the move-  
14 ment of a person or object.

15 iv. any communication that is disseminated by the sender through a  
16 method of transmission that is configured so that such communication is  
17 readily accessible to the public.

18 b. "Electronic communication services" means any service which  
19 provides to users thereof the ability to send or receive wire or elec-  
20 tronic communications.

21 c. "Prohibited violation" means any civil or criminal offense defined  
22 under the laws of another state that creates civil or criminal liability  
23 or any theory of vicarious, joint, several or conspiracy liability for,  
24 in whole or in part based on or arising out of, either of the following,  
25 unless such out-of-state proceeding i. sounds in tort or contract; ii.  
26 is actionable, in an equivalent or similar manner, under the laws of  
27 this state; or iii. was brought by the patient who received reproductive  
28 health care, or the patient's legal representative:

1 (1) providing, facilitating, or obtaining reproductive health care  
2 services that are lawful under New York law; or

3 (2) intending or attempting to provide, facilitate, or obtain repro-  
4 ductive health care services that are lawful under New York law.

5 d. "Reproductive health care services" means any services related to  
6 the performance or aiding within the performance of an abortion  
7 performed within this state that is performed in accordance with the  
8 applicable law of this state, ending, seeking to end, or aiding another  
9 in ending their pregnancy within this state, or procuring or aiding in  
10 the procurement of an abortion within this state.

11 2. Any person or entity that is headquartered or incorporated in New  
12 York that provides electronic communications services to the general  
13 public, when served with a warrant issued by another state to produce  
14 records that would reveal the identity of the customers using those  
15 services, data stored by or on behalf of the customers, the customers'  
16 usage of those services, the recipient or destination of communications  
17 sent to or from those customers, or the content of those communications,  
18 shall not produce those records when the corporation knows or should  
19 know that the warrant relates to an investigation into, or enforcement  
20 of, a prohibited violation.

21 3. Any person or entity that is headquartered or incorporated in New  
22 York may comply with a warrant as described in subdivision two of this  
23 section if the warrant is accompanied by an attestation made by the  
24 entity seeking the records that the evidence sought is not related to an  
25 investigation into, or enforcement of, a prohibited violation.

26 4. The attorney general may commence a civil action to compel any  
27 corporation headquartered or incorporated in New York that provides

1 electronic communications services or remote computing services to the  
2 general public to comply with the provisions of this section.

3 § 2. The general business law is amended by adding a new section 394-g  
4 to read as follows:

5 § 394-g. Geofencing of health care facilities. 1. For the purposes of  
6 this section, the following terms shall have the following meanings:

7 a. "Digital advertisement" means any communication delivered by elec-  
8 tronic means that is intended to be used for the purposes of marketing,  
9 solicitation, or dissemination of information related, directly or indi-  
10 rectly, to goods or services provided by the digital advertiser or a  
11 third party.

12 b. "Geofencing" means a technology that uses global positioning system  
13 coordinates, cell tower connectivity, cellular data, radio frequency  
14 identification, Wi-Fi data and/or any other form of location detection,  
15 to establish a virtual boundary or "geofence" around a particular  
16 location that allows a digital advertiser to track the location  
17 of an individual user and electronically deliver targeted digital  
18 advertisements directly to such user's mobile device upon such user's  
19 entry into the geofenced area.

20 c. "Health care facility" means any governmental or private agency,  
21 department, institution, clinic, laboratory, hospital, physician's  
22 office, nursing care facility, health maintenance organization, associ-  
23 ation or other similar entity that provides medical care or related  
24 services pursuant to the provisions of the public health law or the  
25 mental hygiene law, including the building or structure in which the  
26 facility is located.

1 d. "User" means a natural person who owns or uses a mobile device or  
2 any other connected electronic device capable of receiving digital  
3 advertisements.

4 2. It shall be unlawful for any person, corporation, partnership, or  
5 association to establish a geofence or similar virtual boundary around  
6 any health care facility, as defined pursuant to paragraph c of subdivi-  
7 sion one of this section, for the purpose of delivering by electronic  
8 means a digital advertisement to a user at or within such health care  
9 facility, and it shall be unlawful for any person, corporation, partner-  
10 ship, or association to deliver by electronic means any digital adver-  
11 tisement to a user at or within any such health care facility through  
12 the use of geofencing or similar virtual boundary.

13 § 3. Severability. If any provision of this article or the application  
14 thereof to any person or circumstances is held invalid, the invalidity  
15 thereof shall not affect other provisions or applications of the article  
16 which can be given effect without the invalid provision or application,  
17 and to this end the provisions of this article are severable.

18 § 4. This act shall take effect on the thirtieth day after it shall  
19 have become a law.

20 PART V

21 Section 1. Section 6801 of the education law is amended by adding a  
22 new subdivision 9 to read as follows:

23 9. A licensed pharmacist within their lawful scope of practice may  
24 prescribe and order self-administered hormonal contraceptives and emer-  
25 gency contraceptive drug therapy in accordance with standardized proce-

1 dures or protocols developed and approved by the board of pharmacy in  
2 consultation with the department of health.

3 (a) The standardized procedure or protocol shall require that the  
4 patient use a self-screening tool that will identify patient risk  
5 factors for use of self-administered hormonal contraceptives and emer-  
6 gency contraceptive drug therapy, based on the current United States  
7 Medical Eligibility Criteria (USMEC) for Contraceptive Use developed by  
8 the federal Centers for Disease Control and Prevention, and that the  
9 pharmacist refer the patient to the patient's primary care provider or,  
10 if the patient does not have a primary care provider, to nearby clinics,  
11 upon furnishing a self-administered hormonal contraceptive or emergency  
12 contraceptive drug therapy pursuant to this subdivision, or if it is  
13 determined that use of a self-administered hormonal contraceptive or  
14 emergency contraceptive drug therapy is not recommended.

15 (b) Prior to prescribing self-administered hormonal contraceptives or  
16 emergency contraceptive drug therapy under this subdivision, a pharma-  
17 cist shall complete a training program on self-administered hormonal  
18 contraceptives or emergency contraceptive drug therapy, as applicable,  
19 that consists of at least one hour of approved continuing education on  
20 self-administered hormonal contraceptives or emergency contraceptive  
21 drug therapy.

22 (c) A pharmacist, pharmacist's employer, or pharmacist's agent shall  
23 not directly charge a patient a separate consultation fee for self-ad-  
24 ministered hormonal contraceptives or emergency contraceptive drug ther-  
25 apy services initiated pursuant to this subdivision, but may charge an  
26 administrative fee not to exceed ten dollars above the retail cost of  
27 the drug. Upon an oral, telephonic, electronic, or written request from  
28 a patient or customer, a pharmacist or pharmacist's employee shall

1 disclose the total retail price that a consumer would pay for self-ad-  
2 ministered hormonal contraceptives or emergency contraceptive drug ther-  
3 apy. As used in this paragraph, total retail price includes providing  
4 the consumer with specific information regarding the price of the self-  
5 administered hormonal contraceptives or emergency contraceptive drug  
6 therapy and the price of the administrative fee charged. This limitation  
7 is not intended to interfere with other contractually agreed-upon terms  
8 between a pharmacist, a pharmacist's employer, or a pharmacist's agent,  
9 and a health care service plan or insurer. Patients who are insured or  
10 covered and receive a pharmacy benefit that covers the cost of self-ad-  
11 ministered hormonal contraceptives or emergency contraceptive drug ther-  
12 apy shall not be required to pay an administrative fee. Such patients  
13 shall be required to pay copayments pursuant to the terms and conditions  
14 of their coverage. This paragraph shall not apply to dedicated emergency  
15 contraceptive drugs classified as over-the-counter products by the  
16 federal Food and Drug Administration.

17 (d) For each emergency contraceptive drug therapy or self-administered  
18 hormonal contraceptive initiated pursuant to this subdivision, the phar-  
19 macist shall provide the recipient of the drug with a standardized  
20 factsheet that includes, but is not limited to, the indications and  
21 contraindications for use of the drug, the appropriate method for using  
22 the drug, the need for medical follow-up, and other appropriate informa-  
23 tion. The board of pharmacy shall develop this form in consultation with  
24 the department of health. This section does not preclude the use of  
25 existing publications developed by nationally recognized medical organ-  
26 izations.

27 § 2. This act shall take effect immediately.

1

## PART W

2 Section 1. Subdivision 7-a of section 6527 of the education law, as  
3 added by chapter 502 of the laws of 2016, is amended to read as follows:

4 7-a. A licensed physician may prescribe and order a patient specific  
5 order or non-patient specific order to a licensed pharmacist, pursuant  
6 to regulations promulgated by the commissioner in consultation with the  
7 commissioner of health, and consistent with the public health law, for  
8 dispensing up to a seven day starter pack of HIV post-exposure prophy-  
9 laxis for the purpose of preventing human immunodeficiency virus  
10 infection following a potential human immunodeficiency virus exposure.  
11 A licensed physician may also prescribe and order a patient specific or  
12 non-patient specific order to a licensed pharmacist, pursuant to regu-  
13 lations promulgated by the commissioner in consultation with the commis-  
14 sioner of health, and consistent with the public health law and section  
15 sixty-eight hundred one of this title, for HIV pre-exposure prophylaxis,  
16 provided, however, that the regulations promulgated pursuant to this  
17 subdivision shall require that the HIV pre-exposure prophylaxis author-  
18 ized to be dispensed by a licensed pharmacist shall provide for at least  
19 a thirty-day, but no more than a sixty-day, supply of such prophylaxis.

20 § 2. Subdivision 8 of section 6909 of the education law, as added by  
21 chapter 502 of the laws of 2016, is amended to read as follows:

22 8. A certified nurse practitioner may prescribe and order a patient  
23 specific order or non-patient specific order to a licensed pharmacist,  
24 pursuant to regulations promulgated by the commissioner in consultation  
25 with the commissioner of health, and consistent with the public health  
26 law, for dispensing up to a seven day starter pack of HIV post-exposure  
27 prophylaxis for the purpose of preventing human immunodeficiency virus

1 infection following a potential human immunodeficiency virus exposure.  
2 A certified nurse practitioner may also prescribe and order a patient  
3 specific or non-patient specific order to a licensed pharmacist, pursu-  
4 ant to regulations promulgated by the commissioner in consultation with  
5 the commissioner of health, and consistent with the public health law  
6 and section sixty-eight hundred one of this title, for HIV pre-exposure  
7 prophylaxis, provided, however, that the regulations promulgated pursu-  
8 ant to this subdivision shall require that the HIV pre-exposure prophy-  
9 laxis authorized to be dispensed by a licensed pharmacist shall provide  
10 for at least a thirty-day, but no more than a sixty-day, supply of such  
11 prophylaxis.

12 § 3. Subdivision 5 of section 6801 of the education law, as added by  
13 chapter 502 of the laws of 2016, is amended and a new subdivision 9 is  
14 added to read as follows:

15 5. A licensed pharmacist may execute a non-patient specific order, for  
16 dispensing up to a seven day starter pack of HIV post-exposure prophy-  
17 laxis medications for the purpose of preventing human immunodeficiency  
18 virus infection, by a physician licensed in this state or nurse practi-  
19 tioner certified in this state, pursuant to rules and regulations  
20 promulgated by the commissioner in consultation with the commissioner of  
21 health following a potential human immunodeficiency virus exposure. The  
22 pharmacist shall also inform the patient of the availability of pre-ex-  
23 posure prophylaxis for persons who are at substantial risk of acquiring  
24 HIV.

25 9. A licensed pharmacist may execute a non-patient specific order, for  
26 dispensing HIV pre-exposure prophylaxis, pursuant to rules and regu-  
27 lations promulgated by the commissioner in consultation with the commis-  
28 sioner of health provided, however, that the rules and regulations

1 promulgated pursuant to this subdivision shall require that the HIV  
2 pre-exposure prophylaxis authorized to be dispensed by a licensed phar-  
3 macist shall provide for at least a thirty-day, but no more than a  
4 sixty-day, supply of such prophylaxis. And provided further, that the  
5 following conditions shall be met before a pharmacist may dispense pre-  
6 exposure prophylaxis:

7 (a) The pharmacist has completed a training program created or  
8 approved by the department of health on the use of pre-exposure prophy-  
9 laxis. The training program shall educate pharmacists about the require-  
10 ments of this subdivision, the risks and side effects of the medication,  
11 patient insurance and cost burdens, and any other information the  
12 department of health deems necessary or important;

13 (b) The patient is HIV negative, as documented by a negative HIV test  
14 result obtained within the previous seven days from an HIV  
15 antigen/antibody test or antibody-only test or from a rapid, point-of-  
16 care fingerstick blood test approved by the federal food and drug admin-  
17 istration. If the patient does not provide evidence of a negative HIV  
18 test in accordance with this paragraph, the pharmacist may recommend or  
19 order an HIV test. If the patient tests positive for HIV infection, the  
20 pharmacist shall direct the patient to a licensed physician and provide  
21 the patient with a list of health care service providers and clinics  
22 within the county where the pharmacist is located or adjacent counties;

23 (c) The patient does not report any signs or symptoms of acute HIV  
24 infection on a self-reported checklist of acute HIV infection signs and  
25 symptoms;

26 (d) The patient does not report taking any contraindicated medica-  
27 tions;

1 (e) The pharmacist does not furnish more than a sixty-day supply of  
2 pre-exposure prophylaxis to a single patient more than once every year,  
3 unless directed otherwise by a prescriber;

4 (f) The pharmacist provides written information, published by the  
5 department of health, to the patient on the ongoing use of pre-exposure  
6 prophylaxis, which may include education about side effects, safety  
7 during pregnancy and breastfeeding, adherence to recommended dosing, and  
8 the importance of timely testing and treatment, as applicable, for HIV,  
9 renal function, hepatitis B, hepatitis C, sexually transmitted diseases,  
10 and pregnancy for individuals of child-bearing capacity. The pharmacist  
11 shall notify the patient that the patient must be seen by a licensed  
12 physician to receive subsequent prescriptions for pre-exposure prophy-  
13 laxis; and

14 (g) The pharmacist provides information, developed by the commissioner  
15 of health, to the patient, or when the patient lacks capacity to consent  
16 to a person authorized to consent to health care for such individual, on  
17 the importance of having a health care provider and if the patient does  
18 not have a health care provider the pharmacist shall provide the patient  
19 a list of licensed physicians, clinics, or other health care service  
20 providers within the county where the pharmacist is located or adjacent  
21 counties.

22 § 4. Subdivision 6 of section 571 of the public health law, as amended  
23 by section 1 of part C of chapter 57 of the laws of 2022, is amended to  
24 read as follows:

25 6. "Qualified health care professional" means a physician, dentist,  
26 podiatrist, optometrist performing a clinical laboratory test that does  
27 not use an invasive modality as defined in section seventy-one hundred  
28 one of the education law, pharmacist administering [COVID-19 and influ-

1 enza] tests pursuant to subdivision seven of section sixty-eight hundred  
2 one of the education law, physician assistant, specialist assistant,  
3 nurse practitioner, or midwife, who is licensed and registered with the  
4 state education department.

5 § 5. Subdivision 7 of section 6801 of the education law, as amended by  
6 section 2 of part C of chapter 57 of the laws of 2022, is amended to  
7 read as follows:

8 7. A licensed pharmacist is a qualified health care professional under  
9 section five hundred seventy-one of the public health law for the  
10 purposes of directing a limited service laboratory and ordering and  
11 administering [COVID-19 and influenza] tests authorized by the Food and  
12 Drug Administration (FDA), subject to certificate of waiver requirements  
13 established pursuant to the federal clinical laboratory improvement act  
14 of nineteen hundred eighty-eight.

15 § 6. Section 8 of part C of chapter 57 of the laws of 2022 amending  
16 the public health law and the education law relating to allowing pharma-  
17 cists to direct limited service laboratories and order and administer  
18 COVID-19 and influenza tests and modernizing nurse practitioners, is  
19 amended to read as follows:

20 § 8. This act shall take effect immediately and shall be deemed to  
21 have been in full force and effect on and after April 1, 2022; provided,  
22 however, that sections [one, two,] three[, ] and four[, six and seven] of  
23 this act shall expire and be deemed repealed two years after it shall  
24 have become a law.

25 § 7. Section 6801 of the education law is amended by adding a new  
26 subdivision 10 to read as follows:

1 10. A licensed pharmacist within their lawful scope of practice may  
2 prescribe and order medications to treat nicotine dependence approved by  
3 the federal food and drug administration for smoking cessation.

4 § 8. Section 6801 of the education law is amended by adding a new  
5 subdivision 11 to read as follows:

6 11. A licensed pharmacist within their lawful scope of practice may  
7 prescribe and order opioid antagonists, limited to naloxone and other  
8 medications approved by the department of health for such purpose pursu-  
9 ant to sections thirty-three hundred nine and thirty-three hundred  
10 nine-b of the public health law.

11 § 9. Section 6801-a of the education law, as amended by chapter 238 of  
12 the laws of 2015, is amended to read as follows:

13 § 6801-a. Collaborative drug therapy management [demonstration  
14 program]. 1. As used in this section, the following terms shall have  
15 the following meanings:

16 a. "Board" shall mean the state board of pharmacy as established by  
17 section sixty-eight hundred four of this article.

18 b. "Clinical services" shall mean the collection and interpretation of  
19 patient data for the purpose of [initiating, modifying and] monitoring  
20 drug therapy and prescribing in order to adjust or manage drug therapy  
21 with associated accountability and responsibility for outcomes in a  
22 direct patient care setting.

23 c. "Collaborative drug therapy management" shall mean the performance  
24 of clinical services by a pharmacist relating to the review, evaluation  
25 and management of drug therapy to a patient, who is being treated by a  
26 physician or nurse practitioner for a specific disease or associated  
27 disease states, in accordance with a written agreement or protocol with  
28 a voluntarily participating physician [and in accordance with the poli-

1 cies, procedures, and protocols of the facility] or nurse practitioner.  
2 Such agreement or protocol as entered into by the physician or nurse  
3 practitioner, and a pharmacist, may include[, and shall be limited to]:  
4 (i) [adjusting or managing] prescribing in order to adjust or manage a  
5 drug regimen of a patient, pursuant to a patient specific order or non-  
6 patient specific protocol made by the patient's physician, or nurse  
7 practitioner, which may include adjusting drug strength, frequency of  
8 administration or route of administration[. Adjusting the drug regimen  
9 shall not include substituting] or selecting a [different] drug which  
10 differs from that initially prescribed by the patient's physician  
11 [unless such substitution is expressly] or nurse practitioner as author-  
12 ized in the written [order] agreement or protocol, provided, however,  
13 that the pharmacist shall appropriately consider clinical benefit and  
14 cost to the patient and/or payer in discharging these responsibilities.  
15 The pharmacist shall be required to immediately document in the patient  
16 record changes made to the patient's drug therapy and shall use any  
17 reasonable means or method established by the facility or practice to  
18 notify the patient's other treating physicians [with whom he or she does  
19 not have a written agreement or protocol regarding such changes. The  
20 patient's physician may prohibit, by written instruction, any adjustment  
21 or change in the patient's drug regimen by the pharmacist], physician  
22 assistants, nurse practitioners and other professionals as required by  
23 the facility or the collaborative practice agreement;  
24 (ii) evaluating and[, only if specifically] as authorized by the writ-  
25 ten agreement or protocol and only to the extent necessary to discharge  
26 the responsibilities set forth in this section, ordering disease state  
27 laboratory tests related to the drug therapy management for the specific

1 disease or disease [state] states specified within the written agreement  
2 or protocol; and

3 (iii) [only if specifically] as authorized by the written agreement or  
4 protocol and only to the extent necessary to discharge the responsibil-  
5 ities set forth in this section, ordering or performing routine patient  
6 monitoring functions as may be necessary in the drug therapy manage-  
7 ment[, including the collecting and reviewing of patient histories, and  
8 ordering or checking patient vital signs, including pulse, temperature,  
9 blood pressure and respiration].

10 d. "Facility" shall mean[: (i)] a [teaching hospital or] general  
11 hospital, [including any] diagnostic center, treatment center, or hospi-  
12 tal-based outpatient department as defined in section twenty-eight  
13 hundred one of the public health law[; or (ii)], a residential health  
14 care facility or a nursing home with an on-site pharmacy staffed by a  
15 licensed pharmacist or any facility as defined in section twenty-eight  
16 hundred one of the public health law or other entity that provides  
17 direct patient care under the auspices of a medical director; provided,  
18 however, for the purposes of this section the term "facility" shall not  
19 include dental clinics, dental dispensaries, [residential health care  
20 facilities] and rehabilitation centers.

21 For the purposes of this section, [a "teaching hospital" shall mean a  
22 hospital licensed pursuant to article twenty-eight of the public health  
23 law that is eligible to receive direct or indirect graduate medical  
24 education payments pursuant to article twenty-eight of the public health  
25 law] a "practice" shall mean a place or situation in which physicians,  
26 and nurse practitioners either alone or in group practices provide diag-  
27 nostic and treatment care for patients.

1 e. ["Physician"] "Physician or nurse practitioner" shall mean the  
2 physician or nurse practitioner selected by or assigned to a patient,  
3 who has primary responsibility for the treatment and care of the patient  
4 for the disease and associated disease states that are the subject of  
5 the collaborative drug therapy management.

6 f. "Written agreement or protocol" shall mean a written document,  
7 pursuant to and consistent with any applicable state or federal require-  
8 ments, that addresses a specific disease or associated disease states  
9 and that describes the nature and scope of collaborative drug therapy  
10 management to be undertaken by the pharmacists, in collaboration with  
11 the participating physician, nurse practitioner or facility in accord-  
12 ance with the provisions of this section.

13 2. a. A pharmacist who meets the experience requirements of paragraph  
14 b of this subdivision and who is [employed by or otherwise affiliated  
15 with a facility] certified by the department to engage in collaborative  
16 drug therapy management and who is either employed by or otherwise  
17 affiliated with a facility or is participating with a practicing physi-  
18 cian or nurse practitioner shall be permitted to enter into a written  
19 agreement or protocol with a physician, or nurse practitioner or facili-  
20 ty authorizing collaborative drug therapy management, subject to the  
21 limitations set forth in this section, within the scope of such employ-  
22 ment [or], affiliation or participation. Only pharmacists so certified  
23 may engage in collaborative drug therapy management as defined in this  
24 section.

25 b. A participating pharmacist must[:

26 (i) (A) have been awarded either a master of science in clinical phar-  
27 macy or a doctor of pharmacy degree;

28 (B)] maintain a current unrestricted license[;], and

1 [(C) have a minimum of two years experience, of which at least one  
2 year of such experience shall include clinical experience in a health  
3 facility, which involves consultation with physicians with respect to  
4 drug therapy and may include a residency at a facility involving such  
5 consultation; or

6 (ii) (A) have been awarded a bachelor of science in pharmacy;

7 (B) maintain a current unrestricted license; and

8 (C) within the last seven years, have a minimum of three years experi-  
9 ence, of which at least one year of such experience shall include clin-  
10 ical experience in a health facility, which involves consultation with  
11 physicians with respect to drug therapy and may include a residency at a  
12 facility involving such consultation; and

13 (iii) meet any additional education, experience, or other requirements  
14 set forth by the department in consultation with the board] shall satis-  
15 fy any two of the following criteria:

16 (i) certification in a relevant area of practice including but not  
17 limited to ambulatory care, critical care, geriatric pharmacy, nuclear  
18 pharmacy, nutrition support pharmacy, oncology pharmacy, pediatric phar-  
19 macy, pharmacotherapy, or psychiatric pharmacy, from a national accred-  
20 iting body as approved by the department;

21 (ii) postgraduate residency through an accredited postgraduate program  
22 requiring at least fifty percent of the experience be in direct patient  
23 care services with interdisciplinary terms; or

24 (iii) have provided clinical services to patients for at least one  
25 year either:

26 (A) under a collaborative practice agreement or protocol with a physi-  
27 cian, nurse practitioner or facility; or

1 (B) have documented experience in provision of clinical services to  
2 patients for at least one year or one thousand hours, and deemed accept-  
3 able to the department upon recommendation of the board of pharmacy.

4 c. Notwithstanding any provision of law, nothing in this section shall  
5 prohibit a licensed pharmacist from engaging in clinical services asso-  
6 ciated with collaborative drug therapy management, in order to gain  
7 experience necessary to qualify under [clause (C) of subparagraph (i) or  
8 (ii) of paragraph b] clause (B) of subparagraph (iii) of paragraph b of  
9 this subdivision, provided that such practice is under the supervision  
10 of a pharmacist that currently meets the referenced requirement, and  
11 that such practice is authorized under the written agreement or protocol  
12 with the physician or nurse practitioner or facility.

13 d. Notwithstanding any provision of this section, nothing herein shall  
14 authorize the pharmacist to diagnose disease. In the event that a treat-  
15 ing physician or nurse practitioner may disagree with the exercise of  
16 professional judgment by a pharmacist, the judgment of the treating  
17 physician or nurse practitioner shall prevail.

18 3. [The physician who is a party to a written agreement or protocol  
19 authorizing collaborative drug therapy management shall be employed by  
20 or otherwise affiliated with the same facility with which the pharmacist  
21 is also employed or affiliated.

22 4. The existence of a written agreement or protocol on collaborative  
23 drug therapy management and the patient's right to choose to not partic-  
24 ipate in collaborative drug therapy management shall be disclosed to any  
25 patient who is eligible to receive collaborative drug therapy manage-  
26 ment. Collaborative drug therapy management shall not be utilized unless  
27 the patient or the patient's authorized representative consents, in  
28 writing, to such management. If the patient or the patient's authorized

1 representative consents, it shall be noted on the patient's medical  
2 record. If the patient or the patient's authorized representative who  
3 consented to collaborative drug therapy management chooses to no longer  
4 participate in such management, at any time, it shall be noted on the  
5 patient's medical record. In addition, the existence of the written  
6 agreement or protocol and the patient's consent to such management shall  
7 be disclosed to the patient's primary physician and any other treating  
8 physician or healthcare provider.

9 5.] A pharmacist who is certified by the department to engage in  
10 collaborative drug therapy management may enter into a written collabo-  
11 rative practice agreement or protocol with a physician, nurse practi-  
12 tioner or facility and may practice as an independent pharmacist or as  
13 an employee of a pharmacy or other health care provider. In a facility,  
14 the physician or nurse practitioner and the pharmacist who are parties  
15 to a written agreement or protocol authorizing collaborative drug thera-  
16 py management shall be employed by or be otherwise affiliated with the  
17 facility.

18 4. Participation in a written agreement or protocol authorizing colla-  
19 borative drug therapy management shall be voluntary, and no patient,  
20 physician, nurse practitioner, pharmacist, or facility shall be required  
21 to participate.

22 [6. Nothing in this section shall be deemed to limit the scope of  
23 practice of pharmacy nor be deemed to limit the authority of pharmacists  
24 and physicians to engage in medication management prior to the effective  
25 date of this section and to the extent authorized by law.]

26 § 10. Section 6601 of the education law, as amended by chapter 576 of  
27 the laws of 2001, is amended to read as follows:

1 § 6601. Definition of practice of dentistry. The practice of the  
2 profession of dentistry is defined as diagnosing, treating, operating,  
3 or prescribing for any disease, pain, injury, deformity, or physical  
4 condition of the oral and maxillofacial area related to restoring and  
5 maintaining dental health. The practice of dentistry includes the  
6 prescribing and fabrication of dental prostheses and appliances. The  
7 practice of dentistry may include performing physical evaluations in  
8 conjunction with the provision of dental treatment. The practice of  
9 dentistry may also include ordering and administering HIV and hepatitis  
10 C screening tests or diagnostic tests authorized by the Food and Drug  
11 Administration (FDA) and subject to certificate of waiver requirements  
12 established pursuant to the federal clinical laboratory improvement act  
13 of nineteen hundred eighty-eight.

14 § 11. Subdivision 4 of section 6909 of the education law is amended by  
15 adding four new paragraphs (i), (j), (k) and (l) to read as follows:

16 (i) the ordering of asthma self-management education and home-based  
17 asthma services.

18 (j) the urgent or emergency treatment of asthma.

19 (k) providing stool tests to screen for colorectal cancer.

20 (l) the ordering of diabetes self-management education and support.

21 § 12. Subdivision 6 of section 6527 of the education law is amended by  
22 adding four new paragraphs (i), (j), (k) and (l) to read as follows:

23 (i) the ordering of asthma self-management education and home-based  
24 asthma services.

25 (j) the urgent or emergency treatment of asthma.

26 (k) providing stool tests to screen for colorectal cancer.

27 (l) the ordering of diabetes self-management education and support.

1 § 13. Section 6801 of the education law is amended by adding a new  
2 subdivision 12 to read as follows:

3 12. A licensed pharmacist within their lawful scope of practice may  
4 order diabetes self-management education and support and asthma self-  
5 management education and home-based asthma services for patients, and  
6 any other services authorized in regulation by the commissioner in  
7 collaboration with the commissioner of health.

8 § 14. Paragraph (q) of subdivision 2 of section 365-a of the social  
9 services law, as amended by section 35 of part B of chapter 58 of the  
10 laws of 2010, is amended to read as follows:

11 (q) diabetes self-management training services for persons diagnosed  
12 with diabetes when such services are ordered by a physician, registered  
13 physician assistant, registered nurse practitioner, licensed pharmacist  
14 or licensed midwife and provided by a licensed, registered, or certified  
15 health care professional, as determined by the commissioner of health,  
16 who is certified as a diabetes educator by the National Certification  
17 Board for Diabetes Educators, or a successor national certification  
18 board, or provided by such a professional who is affiliated with a  
19 program certified by the American Diabetes Association, the American  
20 Association of Diabetes Educators, the Indian Health Services, or any  
21 other national accreditation organization approved by the federal  
22 centers for medicare and medicaid services; provided, however, that the  
23 provisions of this paragraph shall not take effect unless all necessary  
24 approvals under federal law and regulation have been obtained to receive  
25 federal financial participation in the costs of health care services  
26 provided pursuant to this paragraph. Nothing in this paragraph shall be  
27 construed to modify any licensure, certification or scope of practice  
28 provision under title eight of the education law.

1 § 15. Paragraph (r) of subdivision 2 of section 365-a of the social  
2 services law, as added by section 32 of part C of chapter 58 of the laws  
3 of 2008, is amended to read as follows:

4 (r) asthma self-management training services for persons diagnosed  
5 with asthma when such services are ordered by a physician, registered  
6 physician's assistant, registered nurse practitioner, registered  
7 professional nurse, licensed pharmacist or licensed midwife and provided  
8 by a licensed, registered, or certified health care professional, as  
9 determined by the commissioner of health, who is certified as an asthma  
10 educator by the National Asthma Educator Certification Board, or a  
11 successor national certification board; provided, however, that the  
12 provisions of this paragraph shall not take effect unless all necessary  
13 approvals under federal law and regulation have been obtained to receive  
14 federal financial participation in the costs of health care services  
15 provided pursuant to this paragraph. Nothing in this paragraph shall be  
16 construed to modify any licensure, certification or scope of practice  
17 provision under title eight of the education law.

18 § 16. Paragraph (v) of subdivision 2 of section 365-a of the social  
19 services law, as added by section 4 of part B of chapter 58 of the laws  
20 of 2010, is amended to read as follows:

21 (v) ordering and administration of vaccinations [in a pharmacy], medi-  
22 cations, self-management education, and home-based services by a [certi-  
23 fied] licensed pharmacist within [his or her] their scope of practice.

24 § 17. Section 6542 of the education law, as amended by chapter 48 of  
25 the laws of 2012, subdivisions 3 and 5 as amended by section 1 of part T  
26 of chapter 57 of the laws of 2013, is amended to read as follows:

27 § 6542. Performance of medical services. 1. Notwithstanding any other  
28 provision of law, a physician assistant may perform medical services,

1 but only when under the supervision of a physician and only when such  
2 acts and duties as are assigned to him or her are within the scope of  
3 practice of such supervising physician unless otherwise permitted by  
4 this section.

5 1-a. A physician assistant may practice without the supervision of a  
6 physician under the following circumstances:

7 a. Where the physician assistant, licensed under section sixty-five  
8 hundred forty-one of this article has practiced for more than eight  
9 thousand hours and:

10 (i) is practicing in primary care. For purposes of this paragraph,  
11 "primary care" shall mean non-surgical care in the fields of general  
12 pediatrics, general adult medicine, general geriatric medicine, general  
13 internal medicine, obstetrics and gynecology, family medicine, or such  
14 other related areas as determined by the commissioner of health; or

15 (ii) is employed by a health system or hospital established under  
16 article twenty-eight of the public health law, and the health system or  
17 hospital determines the physician assistant meets the qualifications of  
18 the medical staff bylaws and the health system or hospital gives the  
19 physician assistant privileges;

20 b. Where a physician assistant licensed under section sixty-five  
21 hundred forty-one of this article has completed a program approved by  
22 the department of health, in consultation with the department, when such  
23 services are performed within the scope of such program.

24 c. The department and the department of health are authorized to  
25 promulgate and update regulations pursuant to this section.

26 2. [Supervision] Where supervision is required by this section, it  
27 shall be continuous but shall not be construed as necessarily requiring

1 the physical presence of the supervising physician at the time and place  
2 where such services are performed.

3 3. [No physician shall employ or supervise more than four physician  
4 assistants in his or her private practice.

5 4.] Nothing in this article shall prohibit a hospital from employing  
6 physician assistants provided they [work under the supervision of a  
7 physician designated by the hospital and not beyond the scope of prac-  
8 tice of such physician. The numerical limitation of subdivision three of  
9 this section shall not apply to services performed in a hospital.

10 5. Notwithstanding any other provision of this article, nothing shall  
11 prohibit a physician employed by or rendering services to the department  
12 of corrections and community supervision under contract from supervising  
13 no more than six physician assistants in his or her practice for the  
14 department of corrections and community supervision.

15 6. Notwithstanding any other provision of law, a trainee in an  
16 approved program may perform medical services when such services are  
17 performed within the scope of such program.] meet the qualifications of  
18 the medical staff bylaws and are given privileges and otherwise meet the  
19 requirements of this section.

20 4. A physician assistant shall be authorized to prescribe, dispense,  
21 order, administer, or procure items necessary to commence or complete a  
22 course of therapy.

23 5. A physician assistant may prescribe and order a patient specific  
24 order or non-patient specific regimen to a licensed pharmacist or regis-  
25 tered professional nurse, pursuant to regulations promulgated by the  
26 commissioner of health, and consistent with the public health law, for  
27 administering immunizations. Nothing in this subdivision shall authorize  
28 unlicensed persons to administer immunizations, vaccines or other drugs.

1 6. Where a physician assistant licensed under section sixty-five  
2 hundred forty-one of this article has completed a program approved by  
3 the department of health, in consultation with the department, when such  
4 services are performed within the scope of such program.

5 7. Nothing in this article, or in article thirty-seven of the public  
6 health law, shall be construed to authorize physician assistants to  
7 perform those specific functions and duties specifically delegated by  
8 law to those persons licensed as allied health professionals under the  
9 public health law or this chapter.

10 § 18. Subdivision 1 of section 3701 of the public health law, as  
11 amended by chapter 48 of the laws of 2012, is amended to read as  
12 follows:

13 1. to promulgate regulations defining and restricting the duties  
14 [which may be assigned to] of physician assistants [by their supervising  
15 physician, the degree of supervision required and the manner in which  
16 such duties may be performed] consistent with section sixty-five hundred  
17 forty-two of the education law.;

18 § 19. Section 3702 of the public health law, as amended by chapter 48  
19 of the laws of 2012, is amended to read as follows:

20 § 3702. Special provisions. 1. Inpatient medical orders. A licensed  
21 physician assistant employed or extended privileges by a hospital may,  
22 if permissible under the bylaws, rules and regulations of the hospital,  
23 write medical orders, including those for controlled substances and  
24 durable medical equipment, for inpatients [under the care of the physi-  
25 cian responsible for his or her supervision. Countersignature of such  
26 orders may be required if deemed necessary and appropriate by the super-  
27 vising physician or the hospital, but in no event shall countersignature  
28 be required prior to execution].

1 2. Withdrawing blood. A licensed physician assistant or certified  
2 nurse practitioner acting within his or her lawful scope of practice may  
3 supervise and direct the withdrawal of blood for the purpose of deter-  
4 mining the alcoholic or drug content therein under subparagraph one of  
5 paragraph (a) of subdivision four of section eleven hundred ninety-four  
6 of the vehicle and traffic law, notwithstanding any provision to the  
7 contrary in clause (ii) of such subparagraph.

8 3. Prescriptions for controlled substances. A licensed physician  
9 assistant, in good faith and acting within his or her lawful scope of  
10 practice, and to the extent assigned by his or her supervising physician  
11 as applicable by section sixty-five hundred forty-two of the education  
12 law, may prescribe controlled substances as a practitioner under article  
13 thirty-three of this chapter, to patients under the care of such physi-  
14 cian responsible for his or her supervision. The commissioner, in  
15 consultation with the commissioner of education, may promulgate such  
16 regulations as are necessary to carry out the purposes of this section.

17 § 20. Section 3703 of the public health law, as amended by chapter 48  
18 of the laws of 2012, is amended to read as follows:

19 § 3703. Statutory construction. A physician assistant may perform any  
20 function in conjunction with a medical service lawfully performed by the  
21 physician assistant, in any health care setting, that a statute author-  
22 izes or directs a physician to perform and that is appropriate to the  
23 education, training and experience of the licensed physician assistant  
24 and within the ordinary practice of the supervising physician, as appli-  
25 cable pursuant to section sixty-five hundred forty-two of the education  
26 law. This section shall not be construed to increase or decrease the  
27 lawful scope of practice of a physician assistant under the education  
28 law.

1 § 21. Paragraph a of subdivision 2 of section 902 of the education  
2 law, as amended by chapter 376 of the laws of 2015, is amended to read  
3 as follows:

4 a. The board of education, and the trustee or board of trustees of  
5 each school district, shall employ, at a compensation to be agreed upon  
6 by the parties, a qualified physician, a physician assistant, or a nurse  
7 practitioner to the extent authorized by the nurse practice act and  
8 consistent with subdivision three of section six thousand nine hundred  
9 two of this chapter, to perform the duties of the director of school  
10 health services, including any duties conferred on the school physician  
11 or school medical inspector under any provision of law, to perform and  
12 coordinate the provision of health services in the public schools and to  
13 provide health appraisals of students attending the public schools in  
14 the city or district. The physicians, physicians assistants or nurse  
15 practitioners so employed shall be duly licensed pursuant to applicable  
16 law.

17 § 22. Subdivision 5 of section 6810 of the education law, as added by  
18 chapter 881 of the laws of 1972, is amended to read as follows:

19 5. Records of all prescriptions filled or refilled shall be maintained  
20 for a period of at least five years and upon request made available for  
21 inspection and copying by a representative of the department. Such  
22 records shall indicate date of filling or refilling, [doctor's]  
23 prescriber's name, patient's name and address and the name or initials  
24 of the pharmacist who prepared, compounded, or dispensed the  
25 prescription. Records of prescriptions for controlled substances shall  
26 be maintained pursuant to requirements of article thirty-three of the  
27 public health law.

1 § 23. Subdivision 27 of section 3302 of the public health law, as  
2 amended by chapter 92 of the laws of 2021, is amended to read as  
3 follows:

4 27. "Practitioner" means:

5 A physician, physician assistant, dentist, podiatrist, veterinarian,  
6 scientific investigator, or other person licensed, or otherwise permit-  
7 ted to dispense, administer or conduct research with respect to a  
8 controlled substance in the course of a licensed professional practice  
9 or research licensed pursuant to this article. Such person shall be  
10 deemed a "practitioner" only as to such substances, or conduct relating  
11 to such substances, as is permitted by [his] their license, permit or  
12 otherwise permitted by law.

13 § 24. Paragraph b of subdivision 2 of section 6908 of the education  
14 law, as added by chapter 471 of the laws of 2016, is amended to read as  
15 follows:

16 b. provide that advanced tasks performed by advanced home health aides  
17 may be performed only under the [direct] supervision of a registered  
18 professional nurse licensed in New York state, as set forth in this  
19 subdivision and subdivision eight of section sixty-nine hundred nine of  
20 this article, where such nurse is employed by a home care services agen-  
21 cy licensed or certified pursuant to article thirty-six of the public  
22 health law, a hospice program certified pursuant to article forty of the  
23 public health law, or an enhanced assisted living residence licensed  
24 pursuant to article seven of the social services law and certified  
25 pursuant to article forty-six-B of the public health law. Such nursing  
26 supervision shall:

27 (i) include training and periodic assessment of the performance of  
28 advanced tasks;

1 (ii) be determined by the registered professional nurse responsible  
2 for supervising such advanced tasks based upon the complexity of such  
3 advanced tasks, the skill and experience of the advanced home health  
4 aide, and the health status of the individual for whom such advanced  
5 tasks are being performed;

6 (iii) include a comprehensive initial and thereafter regular and ongo-  
7 ing assessment of the individual's needs;

8 (iv) include as a requirement that the supervising registered profes-  
9 sional nurse shall visit individuals receiving services for the purpose  
10 of supervising the services provided by advanced home health aides [no  
11 less than once every two weeks] and include as a requirement that a  
12 registered professional nurse shall be available by telephone to the  
13 advanced home health aide twenty-four hours a day, seven days a week,  
14 provided that a registered professional nurse shall be available to  
15 visit an individual receiving services as necessary to protect the  
16 health and safety of such individual; and

17 (v) as shall be specified by the commissioner, be provided in a manner  
18 that takes into account individual care needs, case mix complexity and  
19 geographic considerations and provide that the number of individuals  
20 served by a supervising registered professional nurse is reasonable and  
21 prudent.

22 § 25. Subparagraph (i) of paragraph (c) of subdivision 8 of section  
23 6909 of the education law, as added by chapter 471 of the laws of 2016,  
24 is amended to read as follows:

25 (i) visit individuals receiving services for the purpose of supervis-  
26 ing the services provided by advanced home health aides [no less than  
27 once every two weeks]; and

1 § 26. Subdivision (b) of section 12 of chapter 471 of the laws of 2016  
2 amending the education law and the public health law relating to author-  
3 izing certain advanced home health aides to perform certain advanced  
4 tasks, is amended to read as follows:

5 b. this act shall expire and be deemed repealed March 31, [2023] 2029.

6 § 27. Section 6908 of the education law is amended by adding a new  
7 subdivision 3 to read as follows:

8 3. This article shall not be construed as prohibiting medication  
9 related tasks provided by a certified medication aide in accordance with  
10 regulations developed by the commissioner, in consultation with the  
11 commissioner of health. At a minimum, such regulations shall:

12 a. specify the medication-related tasks that may be performed by  
13 certified medication aides pursuant to this subdivision. Such tasks  
14 shall include the administration of medications which are routine and  
15 pre-filled or otherwise packaged in a manner that promotes relative ease  
16 of administration, provided that administration of medications by  
17 injection, sterile procedures, and central line maintenance shall be  
18 prohibited. Provided, however, such prohibition shall not apply to  
19 injections of insulin or other injections for diabetes care, to  
20 injections of low molecular weight heparin, and to pre-filled auto-in-  
21 jections of naloxone and epinephrine for emergency purposes, and  
22 provided, further, that entities employing certified medication aides  
23 pursuant to this subdivision shall establish a systematic approach to  
24 address drug diversion;

25 b. provide that medication-related tasks performed by certified medi-  
26 cation aides may be performed only under the supervision of a registered  
27 professional nurse licensed in New York state, as set forth in this  
28 subdivision and subdivision eleven of section sixty-nine hundred nine of

1 this article, where such nurse is employed by a residential health care  
2 facility licensed pursuant to article twenty-eight of the public health  
3 law;

4 c. establish a process by which a registered professional nurse may  
5 assign medication-related tasks to a certified medication aide. Such  
6 process shall include, but not be limited to:

7 (i) allowing assignment of medication-related tasks to a certified  
8 medication aide only where such certified medication aide has demon-  
9 strated to the satisfaction of the supervising registered professional  
10 nurse competency in every medication-related task that such certified  
11 medication aide is authorized to perform, a willingness to perform such  
12 medication-related tasks, and the ability to effectively and efficiently  
13 communicate with the individual receiving services and understand such  
14 individual's needs;

15 (ii) authorizing the supervising registered professional nurse to  
16 revoke any assigned medication-related task from a certified medication  
17 aide for any reason; and

18 (iii) authorizing multiple registered professional nurses to jointly  
19 agree to assign medication-related tasks to a certified medication aide,  
20 provided further that only one registered professional nurse shall be  
21 required to determine if the certified medication aide has demonstrated  
22 competency in the medication-related task to be performed;

23 d. provide that medication-related tasks may be performed only in  
24 accordance with and pursuant to an authorized health practitioner's  
25 ordered care;

26 e. provide that only a certified nurse aide may perform medication-re-  
27 lated tasks as a certified medication aide when such aide has:

28 (i) a valid New York state nurse aide certificate;

1 (ii) a high school diploma, GED or similar education credential;  
2 (iii) evidence of being at least eighteen years old;  
3 (iv) at least one year of experience providing nurse aide services in  
4 an article twenty-eight residential health care facility;  
5 (v) the ability to read, write, and speak English and to perform basic  
6 math skills;  
7 (vi) completed the requisite training and demonstrated competencies of  
8 a certified medication aide as determined by the commissioner in consul-  
9 tation with the commissioner of health;  
10 (vii) successfully completed competency examinations satisfactory to  
11 the commissioner in consultation with the commissioner of health; and  
12 (viii) meets other appropriate qualifications as determined by the  
13 commissioner in consultation with the commissioner of health;  
14 f. prohibit a certified medication aide from holding themselves out, or  
15 accepting employment as, a person licensed to practice nursing under the  
16 provisions of this article;  
17 g. provide that a certified medication aide is not required nor  
18 permitted to assess the medication or medical needs of an individual;  
19 h. provide that a certified medication aide shall not be authorized to  
20 perform any medication-related tasks or activities pursuant to this  
21 subdivision that are outside the scope of practice of a licensed practi-  
22 cal nurse or any medication-related tasks that have not been appropri-  
23 ately assigned by the supervising registered professional nurse;  
24 i. provide that a certified medication aide shall document all medica-  
25 tion-related tasks provided to an individual, including medication  
26 administration to each individual through the use of a medication admin-  
27 istration record; and

1 j. provide that the supervising registered professional nurse shall  
2 retain the discretion to decide whether to assign medication-related  
3 tasks to certified medication aides under this program and shall not be  
4 subject to coercion, retaliation, or the threat of retaliation.

5 § 28. Section 6909 of the education law is amended by adding a new  
6 subdivision 11 to read as follows:

7 11. A registered professional nurse, while working for a residential  
8 health care facility licensed pursuant to article twenty-eight of the  
9 public health law, may, in accordance with this subdivision, assign  
10 certified medication aides to perform medication-related tasks for indi-  
11 viduals pursuant to the provisions of subdivision three of section  
12 sixty-nine hundred eight of this article and supervise certified medica-  
13 tion aides who perform assigned medication-related tasks.

14 § 29. Paragraph (a) of subdivision 3 of section 2803-j of the public  
15 health law, as added by chapter 717 of the laws of 1989, is amended to  
16 read as follows:

17 (a) Identification of individuals who have successfully completed a  
18 nurse aide training and competency evaluation program, [or] a nurse aide  
19 competency evaluation program, or a medication aide program;

20 § 30. The education law is amended by adding a new article 169 to read  
21 as follows:

22 ARTICLE 169

23 INTERSTATE MEDICAL LICENSURE COMPACT

24 Section 8860. Short title.

25 8861. Purpose.

26 8862. Definitions.

27 8863. Eligibility.

28 8864. Designation of state of principal license.

- 1        8865. Application and issuance of expedited licensure.
- 2        8866. Fees for expedited licensure.
- 3        8867. Renewal and continued participation.
- 4        8868. Coordinated information system.
- 5        8869. Joint investigations.
- 6        8870. Disciplinary actions.
- 7        8871. Interstate medical licensure compact commission.
- 8        8872. Powers and duties of the interstate commission.
- 9        8873. Finance powers.
- 10       8874. Organization and operation of the interstate commission.
- 11       8875. Rulemaking functions of the interstate commission.
- 12       8876. Oversight of interstate compact.
- 13       8877. Enforcement of interstate compact.
- 14       8878. Default procedures.
- 15       8879. Dispute resolution.
- 16       8880. Member states, effective date and amendment.
- 17       8881. Withdrawal.
- 18       8882. Dissolution.
- 19       8883. Severability and construction.
- 20       8884. Binding effect of compact and other laws.
- 21       § 8860. Short title. This article shall be known and may be cited as
- 22 the "interstate medical licensure compact".
- 23       § 8861. Purpose. In order to strengthen access to health care, and in
- 24 recognition of the advances in the delivery of health care, the member
- 25 states of the interstate medical licensure compact have allied in common
- 26 purpose to develop a comprehensive process that complements the existing
- 27 licensing and regulatory authority of state medical boards, provides a
- 28 streamlined process that allows physicians to become licensed in multi-

1 ple states, thereby enhancing the portability of a medical license and  
2 ensuring the safety of patients. The compact creates another pathway  
3 for licensure and does not otherwise change a state's existing medical  
4 practice act. The compact also adopts the prevailing standard for licen-  
5 sure and affirms that the practice of medicine occurs where the patient  
6 is located at the time of the physician-patient encounter, and there-  
7 fore, requires the physician to be under the jurisdiction of the state  
8 medical board where the patient is located. State medical boards that  
9 participate in the compact retain the jurisdiction to impose an adverse  
10 action against a license to practice medicine in that state issued to a  
11 physician through the procedures in the compact.

12 § 8862. Definitions. In this compact:

13 1. "Bylaws" means those bylaws established by the interstate commis-  
14 sion pursuant to section eighty-eight hundred seventy-one of this arti-  
15 cle for its governance, or for directing and controlling its actions and  
16 conduct.

17 2. "Commissioner" means the voting representative appointed by each  
18 member board pursuant to section eighty-eight hundred seventy-one of  
19 this article.

20 3. "Conviction" means a finding by a court that an individual is guil-  
21 ty of a criminal offense through adjudication, or entry of a plea of  
22 guilt or no contest to the charge by the offender. Evidence of an entry  
23 of a conviction of a criminal offense by the court shall be considered  
24 final for purposes of disciplinary action by a member board.

25 4. "Expedited license" means a full and unrestricted medical license  
26 granted by a member state to an eligible physician through the process  
27 set forth in the compact.

1 5. "Interstate commission" means the interstate commission created  
2 pursuant to section eighty-eight hundred seventy-one of this article.

3 6. "License" means authorization by a state for a physician to engage  
4 in the practice of medicine, which would be unlawful without the author-  
5 ization.

6 7. "Medical practice act" means laws and regulations governing the  
7 practice of allopathic and osteopathic medicine within a member state.

8 8. "Member board" means a state agency in a member state that acts in  
9 the sovereign interests of the state by protecting the public through  
10 licensure, regulation, and education of physicians as directed by the  
11 state government.

12 9. "Member state" means a state that has enacted the compact.

13 10. "Practice of medicine" means the clinical prevention, diagnosis,  
14 or treatment of human disease, injury, or condition requiring a physi-  
15 cian to obtain and maintain a license in compliance with the medical  
16 practice act of a member state.

17 11. "Physician" means any person who:

18 (a) Is a graduate of a medical school accredited by the Liaison  
19 Committee on Medical Education, the Commission on Osteopathic College  
20 Accreditation, or a medical school listed in the International Medical  
21 Education Directory or its equivalent;

22 (b) Passed each component of the United States Medical Licensing Exam-  
23 ination (USMLE) or the Comprehensive Osteopathic Medical Licensing Exam-  
24 ination (COMLEX-USA) within three attempts, or any of its predecessor  
25 examinations accepted by a state medical board as an equivalent examina-  
26 tion for licensure purposes;

1 (c) Successfully completed graduate medical education approved by the  
2 Accreditation Council for Graduate Medical Education or the American  
3 Osteopathic Association;

4 (d) Holds specialty certification or a time-unlimited specialty  
5 certificate recognized by the American Board of Medical Specialties or  
6 the American Osteopathic Association's Bureau of Osteopathic Special-  
7 ists;

8 (e) Possesses a full and unrestricted license to engage in the prac-  
9 tice of medicine issued by a member board;

10 (f) Has never been convicted, received adjudication, deferred adjudi-  
11 cation, community supervision, or deferred disposition for any offense  
12 by a court of appropriate jurisdiction;

13 (g) Has never held a license authorizing the practice of medicine  
14 subjected to discipline by a licensing agency in any state, federal, or  
15 foreign jurisdiction, excluding any action related to non-payment of  
16 fees related to a license;

17 (h) Has never had a controlled substance license or permit suspended  
18 or revoked by a state or the United States drug enforcement adminis-  
19 tration; and

20 (i) Is not under active investigation by a licensing agency or law  
21 enforcement authority in any state, federal, or foreign jurisdiction.

22 12. "Offense" means a felony, gross misdemeanor, or crime of moral  
23 turpitude.

24 13. "Rule" means a written statement by the interstate commission  
25 promulgated pursuant to section eighty-eight hundred seventy-two of this  
26 article that is of general applicability, implements, interprets, or  
27 prescribes a policy or provision of the compact, or an organizational,  
28 procedural, or practice requirement of the interstate commission, and

1 has the force and effect of statutory law in a member state, and  
2 includes the amendment, repeal, or suspension of an existing rule.

3 14. "State" means any state, commonwealth, district, or territory of  
4 the United States.

5 15. "State of principal license" means a member state where a physi-  
6 cian holds a license to practice medicine and which has been designated  
7 as such by the physician for purposes of registration and participation  
8 in the compact.

9 § 8863. Eligibility. 1. A physician must meet the eligibility require-  
10 ments as defined in subdivision eleven of section eighty-eight hundred  
11 sixty-two of this article to receive an expedited license under the  
12 terms and provisions of the compact.

13 2. A physician who does not meet the requirements of subdivision elev-  
14 en of section eighty-eight hundred sixty-two of this article may obtain  
15 a license to practice medicine in a member state if the individual  
16 complies with all laws and requirements, other than the compact, relat-  
17 ing to the issuance of a license to practice medicine in that state.

18 § 8864. Designation of state of principal license. 1. A physician  
19 shall designate a member state as the state of principal license for  
20 purposes of registration for expedited licensure through the compact if  
21 the physician possesses a full and unrestricted license to practice  
22 medicine in that state, and the state is:

23 (a) the state of primary residence for the physician, or

24 (b) the state where at least twenty-five percent of the practice of  
25 medicine occurs, or

26 (c) the location of the physician's employer, or

1 (d) if no state qualifies under paragraph (a), (b), or (c) of this  
2 subdivision, the state designated as state of residence for purpose of  
3 federal income tax.

4 2. A physician may redesignate a member state as state of principal  
5 license at any time, as long as the state meets the requirements of  
6 subdivision one of this section.

7 3. The interstate commission is authorized to develop rules to facili-  
8 tate redesignation of another member state as the state of principal  
9 license.

10 § 8865. Application and issuance of expedited licensure. 1. A physi-  
11 cian seeking licensure through the compact shall file an application for  
12 an expedited license with the member board of the state selected by the  
13 physician as the state of principal license.

14 2. Upon receipt of an application for an expedited license, the member  
15 board within the state selected as the state of principal license shall  
16 evaluate whether the physician is eligible for expedited licensure and  
17 issue a letter of qualification, verifying or denying the physician's  
18 eligibility, to the interstate commission.

19 (a) Static qualifications, which include verification of medical  
20 education, graduate medical education, results of any medical or licens-  
21 ing examination, and other qualifications as determined by the inter-  
22 state commission through rule, shall not be subject to additional prima-  
23 ry source verification where already primary source verified by the  
24 state of principal license.

25 (b) The member board within the state selected as the state of princi-  
26 pal license shall, in the course of verifying eligibility, perform a  
27 criminal background check of an applicant, including the use of the  
28 results of fingerprint or other biometric data checks compliant with the

1 requirements of the Federal Bureau of Investigation, with the exception  
2 of federal employees who have suitability determination in accordance  
3 with U.S. C.F.R. § 731.202.

4 (c) Appeal on the determination of eligibility shall be made to the  
5 member state where the application was filed and shall be subject to the  
6 law of that state.

7 3. Upon verification under subdivision two of this section, physicians  
8 eligible for an expedited license shall complete the registration proc-  
9 ess established by the interstate commission to receive a license in a  
10 member state selected pursuant to subdivision one of this section,  
11 including the payment of any applicable fees.

12 4. After receiving verification of eligibility under subdivision two  
13 of this section and any fees under subdivision three of this section, a  
14 member board shall issue an expedited license to the physician. This  
15 license shall authorize the physician to practice medicine in the issu-  
16 ing state consistent with the medical practice act and all applicable  
17 laws and regulations of the issuing member board and member state.

18 5. An expedited license shall be valid for a period consistent with  
19 the licensure period in the member state and in the same manner as  
20 required for other physicians holding a full and unrestricted license  
21 within the member state.

22 6. An expedited license obtained through the compact shall be termi-  
23 nated if a physician fails to maintain a license in the state of princi-  
24 pal licensure for a non-disciplinary reason, without redesignation of a  
25 new state of principal licensure.

26 7. The interstate commission is authorized to develop rules regarding  
27 the application process, including payment of any applicable fees, and  
28 the issuance of an expedited license.

1 § 8866. Fees for expedited licensure. 1. A member state issuing an  
2 expedited license authorizing the practice of medicine in that state may  
3 impose a fee for a license issued or renewed through the compact.

4 2. The interstate commission is authorized to develop rules regarding  
5 fees for expedited licenses.

6 § 8867. Renewal and continued participation. 1. A physician seeking to  
7 renew an expedited license granted in a member state shall complete a  
8 renewal process with the interstate commission if the physician:

9 (a) Maintains a full and unrestricted license in a state of principal  
10 license;

11 (b) Has not been convicted, received adjudication, deferred adjudi-  
12 cation, community supervision, or deferred disposition for any offense  
13 by a court of appropriate jurisdiction;

14 (c) Has not had a license authorizing the practice of medicine subject  
15 to discipline by a licensing agency in any state, federal, or foreign  
16 jurisdiction, excluding any action related to non-payment of fees  
17 related to a license; and

18 (d) Has not had a controlled substance license or permit suspended or  
19 revoked by a state or the United States drug enforcement administration.

20 2. Physicians shall comply with all continuing professional develop-  
21 ment or continuing medical education requirements for renewal of a  
22 license issued by a member state.

23 3. The interstate commission shall collect any renewal fees charged  
24 for the renewal of a license and distribute the fees to the applicable  
25 member board.

26 4. Upon receipt of any renewal fees collected in subdivision three of  
27 this section, a member board shall renew the physician's license.

1 5. Physician information collected by the interstate commission during  
2 the renewal process will be distributed to all member boards.

3 6. The interstate commission is authorized to develop rules to address  
4 renewal of licenses obtained through the compact.

5 § 8868. Coordinated information system. 1. The interstate commission  
6 shall establish a database of all physicians licensed, or who have  
7 applied for licensure, under section eighty-eight hundred sixty-five of  
8 this article.

9 2. Notwithstanding any other provision of law, member boards shall  
10 report to the interstate commission any public action or complaints  
11 against a licensed physician who has applied or received an expedited  
12 license through the compact.

13 3. Member boards shall report disciplinary or investigatory informa-  
14 tion determined as necessary and proper by rule of the interstate  
15 commission.

16 4. Member boards may report any non-public complaint, disciplinary, or  
17 investigatory information not required by subdivision three of this  
18 section to the interstate commission.

19 5. Member boards shall share complaint or disciplinary information  
20 about a physician upon request of another member board.

21 6. All information provided to the interstate commission or distrib-  
22 uted by member boards shall be confidential, filed under seal, and used  
23 only for investigatory or disciplinary matters.

24 7. The interstate commission is authorized to develop rules for  
25 mandated or discretionary sharing of information by member boards.

26 § 8869. Joint investigations. 1. Licensure and disciplinary records of  
27 physicians are deemed investigative.

1 2. In addition to the authority granted to a member board by its  
2 respective medical practice act or other applicable state law, a member  
3 board may participate with other member boards in joint investigations  
4 of physicians licensed by the member boards.

5 3. A subpoena issued by a member state shall be enforceable in other  
6 member states.

7 4. Member boards may share any investigative, litigation, or compli-  
8 ance materials in furtherance of any joint or individual investigation  
9 initiated under the compact.

10 5. Any member state may investigate actual or alleged violations of  
11 the statutes authorizing the practice of medicine in any other member  
12 state in which a physician holds a license to practice medicine.

13 § 8870. Disciplinary actions. 1. Any disciplinary action taken by any  
14 member board against a physician licensed through the compact shall be  
15 deemed unprofessional conduct which may be subject to discipline by  
16 other member boards, in addition to any violation of the medical prac-  
17 tice act or regulations in that state.

18 2. If a license granted to a physician by the member board in the  
19 state of principal license is revoked, surrendered or relinquished in  
20 lieu of discipline, or suspended, then all licenses issued to the physi-  
21 cian by member boards shall automatically be placed, without further  
22 action necessary by any member board, on the same status. If the member  
23 board in the state of principal license subsequently reinstates the  
24 physician's license, a license issued to the physician by any other  
25 member board shall remain encumbered until that respective member board  
26 takes action to reinstate the license in a manner consistent with the  
27 medical practice act of that state.

1 3. If disciplinary action is taken against a physician by a member  
2 board not in the state of principal license, any other member board may  
3 deem the action conclusive as to matter of law and fact decided, and:

4 (a) impose the same or lesser sanction or sanctions against the physi-  
5 cian so long as such sanctions are consistent with the medical practice  
6 act of that state; or

7 (b) pursue separate disciplinary action against the physician under  
8 its respective medical practice act, regardless of the action taken in  
9 other member states.

10 4. If a license granted to a physician by a member board is revoked,  
11 surrendered, or relinquished in lieu of discipline, or suspended, then  
12 any license or licenses issued to the physician by any other member  
13 board or boards shall be suspended, automatically and immediately with-  
14 out further action necessary by the other member board or boards, for  
15 ninety days upon entry of the order by the disciplining board, to permit  
16 the member board or boards to investigate the basis for the action under  
17 the medical practice act of that state. A member board may terminate the  
18 automatic suspension of the license it issued prior to the completion of  
19 the ninety day suspension period in a manner consistent with the medical  
20 practice act of that state.

21 § 8871. Interstate medical licensure compact commission. 1. The member  
22 states hereby create the "interstate medical licensure compact commis-  
23 sion".

24 2. The purpose of the interstate commission is the administration of  
25 the interstate medical licensure compact, which is a discretionary state  
26 function.

27 3. The interstate commission shall be a body corporate and joint agen-  
28 cy of the member states and shall have all the responsibilities, powers,

1 and duties set forth in the compact, and such additional powers as may  
2 be conferred upon it by a subsequent concurrent action of the respective  
3 legislatures of the member states in accordance with the terms of the  
4 compact.

5 4. The interstate commission shall consist of two voting represen-  
6 tatives appointed by each member state who shall serve as commissioners.  
7 In states where allopathic and osteopathic physicians are regulated by  
8 separate member boards, or if the licensing and disciplinary authority  
9 is split between multiple member boards within a member state, the  
10 member state shall appoint one representative from each member board. A  
11 commissioner shall be a or an:

12 (a) Allopathic or osteopathic physician appointed to a member board;  
13 (b) Executive director, executive secretary, or similar executive of a  
14 member board; or  
15 (c) Member of the public appointed to a member board.

16 5. The interstate commission shall meet at least once each calendar  
17 year. A portion of this meeting shall be a business meeting to address  
18 such matters as may properly come before the commission, including the  
19 election of officers. The chairperson may call additional meetings and  
20 shall call for a meeting upon the request of a majority of the member  
21 states.

22 6. The bylaws may provide for meetings of the interstate commission to  
23 be conducted by telecommunication or electronic communication.

24 7. Each commissioner participating at a meeting of the interstate  
25 commission is entitled to one vote. A majority of commissioners shall  
26 constitute a quorum for the transaction of business, unless a larger  
27 quorum is required by the bylaws of the interstate commission. A commis-  
28 sioner shall not delegate a vote to another commissioner. In the absence

1 of its commissioner, a member state may delegate voting authority for a  
2 specified meeting to another person from that state who shall meet the  
3 requirements of subdivision four of this section.

4 8. The interstate commission shall provide public notice of all meet-  
5 ings and all meetings shall be open to the public. The interstate  
6 commission may close a meeting, in full or in portion, where it deter-  
7 mines by a two-thirds vote of the commissioners present that an open  
8 meeting would be likely to:

9 (a) Relate solely to the internal personnel practices and procedures  
10 of the interstate commission;

11 (b) Discuss matters specifically exempted from disclosure by federal  
12 statute;

13 (c) Discuss trade secrets, commercial, or financial information that  
14 is privileged or confidential;

15 (d) Involve accusing a person of a crime, or formally censuring a  
16 person;

17 (e) Discuss information of a personal nature where disclosure would  
18 constitute a clearly unwarranted invasion of personal privacy;

19 (f) Discuss investigative records compiled for law enforcement  
20 purposes; or

21 (g) Specifically relate to the participation in a civil action or  
22 other legal proceeding.

23 9. The interstate commission shall keep minutes which shall fully  
24 describe all matters discussed in a meeting and shall provide a full and  
25 accurate summary of actions taken, including record of any roll call  
26 votes.

1 10. The interstate commission shall make its information and official  
2 records, to the extent not otherwise designated in the compact or by its  
3 rules, available to the public for inspection.

4 11. The interstate commission shall establish an executive committee,  
5 which shall include officers, members, and others as determined by the  
6 bylaws. The executive committee shall have the power to act on behalf of  
7 the interstate commission, with the exception of rulemaking, during  
8 periods when the interstate commission is not in session. When acting on  
9 behalf of the interstate commission, the executive committee shall over-  
10 see the administration of the compact including enforcement and compli-  
11 ance with the provisions of the compact, its bylaws and rules, and other  
12 such duties as necessary.

13 12. The interstate commission may establish other committees for  
14 governance and administration of the compact.

15 § 8872. Powers and duties of the interstate commission. The interstate  
16 commission shall have the duty and power to:

17 1. Oversee and maintain the administration of the compact;

18 2. Promulgate rules which shall be binding to the extent and in the  
19 manner provided for in the compact;

20 3. Issue, upon the request of a member state or member board, advisory  
21 opinions concerning the meaning or interpretation of the compact, its  
22 bylaws, rules, and actions;

23 4. Enforce compliance with compact provisions, the rules promulgated  
24 by the interstate commission, and the bylaws, using all necessary and  
25 proper means, including but not limited to the use of judicial process;

26 5. Establish and appoint committees including, but not limited to, an  
27 executive committee as required by section eighty-eight hundred seven-

1 ty-one of this article, which shall have the power to act on behalf of  
2 the interstate commission in carrying out its powers and duties;

3 6. Pay, or provide for the payment of the expenses related to the  
4 establishment, organization, and ongoing activities of the interstate  
5 commission;

6 7. Establish and maintain one or more offices;

7 8. Borrow, accept, hire, or contract for services of personnel;

8 9. Purchase and maintain insurance and bonds;

9 10. Employ an executive director who shall have such powers to employ,  
10 select or appoint employees, agents, or consultants, and to determine  
11 their qualifications, define their duties, and fix their compensation;

12 11. Establish personnel policies and programs relating to conflicts of  
13 interest, rates of compensation, and qualifications of personnel;

14 12. Accept donations and grants of money, equipment, supplies, materi-  
15 als and services, and to receive, utilize, and dispose of it in a manner  
16 consistent with the conflict of interest policies established by the  
17 interstate commission;

18 13. Lease, purchase, accept contributions or donations of, or other-  
19 wise to own, hold, improve, or use, any property, real, personal, or  
20 mixed;

21 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or  
22 otherwise dispose of any property, real, personal, or mixed;

23 15. Establish a budget and make expenditures;

24 16. Adopt a seal and bylaws governing the management and operation of  
25 the interstate commission;

26 17. Report annually to the legislatures and governors of the member  
27 states concerning the activities of the interstate commission during the  
28 preceding year. Such reports shall also include reports of financial

1 audits and any recommendations that may have been adopted by the inter-  
2 state commission;

3 18. Coordinate education, training, and public awareness regarding the  
4 compact, its implementation, and its operation;

5 19. Maintain records in accordance with the bylaws;

6 20. Seek and obtain trademarks, copyrights, and patents; and

7 21. Perform such functions as may be necessary or appropriate to  
8 achieve the purposes of the compact.

9 § 8873. Finance powers. 1. The interstate commission may levy on and  
10 collect an annual assessment from each member state to cover the cost of  
11 the operations and activities of the interstate commission and its  
12 staff. The total assessment must be sufficient to cover the annual budg-  
13 et approved each year for which revenue is not provided by other sourc-  
14 es. The aggregate annual assessment amount shall be allocated upon a  
15 formula to be determined by the interstate commission, which shall  
16 promulgate a rule binding upon all member states.

17 2. The interstate commission shall not incur obligations of any kind  
18 prior to securing the funds adequate to meet the same.

19 3. The interstate commission shall not pledge the credit of any of the  
20 member states, except by, and with the authority of, the member state.

21 4. The interstate commission shall be subject to a yearly financial  
22 audit conducted by a certified or licensed public accountant and the  
23 report of the audit shall be included in the annual report of the inter-  
24 state commission.

25 § 8874. Organization and operation of the interstate commission. 1.  
26 The interstate commission shall, by a majority of commissioners present  
27 and voting, adopt bylaws to govern its conduct as may be necessary or

1 appropriate to carry out the purposes of the compact within twelve  
2 months of the first interstate commission meeting.

3 2. The interstate commission shall elect or appoint annually from  
4 among its commissioners a chairperson, a vice-chairperson, and a treas-  
5 urer, each of whom shall have such authority and duties as may be speci-  
6 fied in the bylaws. The chairperson, or in the chairperson's absence or  
7 disability, the vice-chairperson, shall preside at all meetings of the  
8 interstate commission.

9 3. Officers selected pursuant to subdivision two of this section shall  
10 serve without remuneration from the interstate commission.

11 4. The officers and employees of the interstate commission shall be  
12 immune from suit and liability, either personally or in their official  
13 capacity, for a claim for damage to or loss of property or personal  
14 injury or other civil liability caused or arising out of, or relating  
15 to, an actual or alleged act, error, or omission that occurred, or that  
16 such person had a reasonable basis for believing occurred, within the  
17 scope of interstate commission employment, duties, or responsibilities;  
18 provided that such person shall not be protected from suit or liability  
19 for damage, loss, injury, or liability caused by the intentional or  
20 willful and wanton misconduct of such person.

21 (a) The liability of the executive director and employees of the  
22 interstate commission or representatives of the interstate commission,  
23 acting within the scope of such person's employment or duties for acts,  
24 errors, or omissions occurring within such person's state, may not  
25 exceed the limits of liability set forth under the constitution and laws  
26 of that state for state officials, employees, and agents. The interstate  
27 commission is considered to be an instrumentality of the states for the  
28 purposes of any such action. Nothing in this paragraph shall be

1 construed to protect such person from suit or liability for damage,  
2 loss, injury, or liability caused by the intentional or willful and  
3 wanton misconduct of such person.

4 (b) The interstate commission shall defend the executive director, its  
5 employees, and subject to the approval of the attorney general or other  
6 appropriate legal counsel of the member state represented by an inter-  
7 state commission representative, shall defend such interstate commission  
8 representative in any civil action seeking to impose liability arising  
9 out of an actual or alleged act, error or omission that occurred within  
10 the scope of interstate commission employment, duties or responsibil-  
11 ities, or that the defendant had a reasonable basis for believing  
12 occurred within the scope of interstate commission employment, duties,  
13 or responsibilities, provided that the actual or alleged act, error, or  
14 omission did not result from intentional or willful and wanton miscon-  
15 duct on the part of such person.

16 (c) To the extent not covered by the state involved, member state, or  
17 the interstate commission, the representatives or employees of the  
18 interstate commission shall be held harmless in the amount of a settle-  
19 ment or judgment, including attorney's fees and costs, obtained against  
20 such persons arising out of an actual or alleged act, error, or omission  
21 that occurred within the scope of interstate commission employment,  
22 duties, or responsibilities, or that such persons had a reasonable basis  
23 for believing occurred within the scope of interstate commission employ-  
24 ment, duties, or responsibilities, provided that the actual or alleged  
25 act, error, or omission did not result from intentional or willful and  
26 wanton misconduct on the part of such persons.

27 § 8875. Rulemaking functions of the interstate commission. 1. The  
28 interstate commission shall promulgate reasonable rules in order to

1 effectively and efficiently achieve the purposes of the compact.  
2 Notwithstanding the foregoing, in the event the interstate commission  
3 exercises its rulemaking authority in a manner that is beyond the scope  
4 of the purposes of the compact, or the powers granted hereunder, then  
5 such an action by the interstate commission shall be invalid and have no  
6 force or effect.

7 2. Rules deemed appropriate for the operations of the interstate  
8 commission shall be made pursuant to a rulemaking process that substan-  
9 tially conforms to the federal Model State Administrative Procedure Act  
10 of 2010, and subsequent amendments thereto.

11 3. Not later than thirty days after a rule is promulgated, any person  
12 may file a petition for judicial review of the rule in the United States  
13 District Court for the District of Columbia or the federal district  
14 where the interstate commission has its principal offices, provided that  
15 the filing of such a petition shall not stay or otherwise prevent the  
16 rule from becoming effective unless the court finds that the petitioner  
17 has a substantial likelihood of success. The court shall give deference  
18 to the actions of the interstate commission consistent with applicable  
19 law and shall not find the rule to be unlawful if the rule represents a  
20 reasonable exercise of the authority granted to the interstate commis-  
21 sion.

22 § 8876. Oversight of interstate compact. 1. The executive, legisla-  
23 tive, and judicial branches of state government in each member state  
24 shall enforce the compact and shall take all actions necessary and  
25 appropriate to effectuate the compact's purposes and intent. The  
26 provisions of the compact and the rules promulgated hereunder shall have  
27 standing as statutory law but shall not override existing state authori-  
28 ty to regulate the practice of medicine.

1 2. All courts shall take judicial notice of the compact and the rules  
2 in any judicial or administrative proceeding in a member state pertain-  
3 ing to the subject matter of the compact which may affect the powers,  
4 responsibilities or actions of the interstate commission.

5 3. The interstate commission shall be entitled to receive all service  
6 of process in any such proceeding, and shall have standing to intervene  
7 in the proceeding for all purposes. Failure to provide service of proc-  
8 ess to the interstate commission shall render a judgment or order void  
9 as to the interstate commission, the compact, or promulgated rules.

10 § 8877. Enforcement of interstate compact. 1. The interstate commis-  
11 sion, in the reasonable exercise of its discretion, shall enforce the  
12 provisions and rules of the compact.

13 2. The interstate commission may, by majority vote of the commission-  
14 ers, initiate legal action in the United States District Court for the  
15 District of Columbia, or, at the discretion of the interstate commis-  
16 sion, in the federal district where the interstate commission has its  
17 principal offices, to enforce compliance with the provisions of the  
18 compact, and its promulgated rules and bylaws, against a member state in  
19 default. The relief sought may include both injunctive relief and  
20 damages. In the event judicial enforcement is necessary, the prevailing  
21 party shall be awarded all costs of such litigation including reasonable  
22 attorney's fees.

23 3. The remedies herein shall not be the exclusive remedies of the  
24 interstate commission. The interstate commission may avail itself of  
25 any other remedies available under state law or the regulation of a  
26 profession.

27 § 8878. Default procedures. 1. The grounds for default include, but  
28 are not limited to, failure of a member state to perform such obli-

1 gations or responsibilities imposed upon it by the compact, or the rules  
2 and bylaws of the interstate commission promulgated under the compact.

3 2. If the interstate commission determines that a member state has  
4 defaulted in the performance of its obligations or responsibilities  
5 under the compact, or the bylaws or promulgated rules, the interstate  
6 commission shall:

7 (a) Provide written notice to the defaulting state and other member  
8 states, of the nature of the default, the means of curing the default,  
9 and any action taken by the interstate commission. The interstate  
10 commission shall specify the conditions by which the defaulting state  
11 must cure its default; and

12 (b) Provide remedial training and specific technical assistance  
13 regarding the default.

14 3. If the defaulting state fails to cure the default, the defaulting  
15 state shall be terminated from the compact upon an affirmative vote of a  
16 majority of the commissioners and all rights, privileges, and benefits  
17 conferred by the compact shall terminate on the effective date of termi-  
18 nation. A cure of the default does not relieve the offending state of  
19 obligations or liabilities incurred during the period of the default.

20 4. Termination of membership in the compact shall be imposed only  
21 after all other means of securing compliance have been exhausted. Notice  
22 of intent to terminate shall be given by the interstate commission to  
23 the governor, the majority and minority leaders of the defaulting  
24 state's legislature, and each of the member states.

25 5. The interstate commission shall establish rules and procedures to  
26 address licenses and physicians that are materially impacted by the  
27 termination of a member state, or the withdrawal of a member state.

1 6. The member state which has been terminated is responsible for all  
2 dues, obligations, and liabilities incurred through the effective date  
3 of termination including obligations, the performance of which extends  
4 beyond the effective date of termination.

5 7. The interstate commission shall not bear any costs relating to any  
6 state that has been found to be in default or which has been terminated  
7 from the compact, unless otherwise mutually agreed upon in writing  
8 between the interstate commission and the defaulting state.

9 8. The defaulting state may appeal the action of the interstate  
10 commission by petitioning the United States District Court for the  
11 District of Columbia or the federal district where the interstate  
12 commission has its principal offices. The prevailing party shall be  
13 awarded all costs of such litigation including reasonable attorney's  
14 fees.

15 § 8879. Dispute resolution. 1. The interstate commission shall  
16 attempt, upon the request of a member state, to resolve disputes which  
17 are subject to the compact and which may arise among member states or  
18 member boards.

19 2. The interstate commission shall promulgate rules providing for both  
20 mediation and binding dispute resolution as appropriate.

21 § 8880. Member states, effective date and amendment. 1. Any state is  
22 eligible to become a member state of the compact.

23 2. The compact shall become effective and binding upon legislative  
24 enactment of the compact into law by no less than seven states. There-  
25 after, it shall become effective and binding on a state upon enactment  
26 of the compact into law by that state.

1     3. The governors of non-member states, or their designees, shall be  
2 invited to participate in the activities of the interstate commission on  
3 a non-voting basis prior to adoption of the compact by all states.

4     4. The interstate commission may propose amendments to the compact for  
5 enactment by the member states. No amendment shall become effective and  
6 binding upon the interstate commission and the member states unless and  
7 until it is enacted into law by unanimous consent of the member states.

8     § 8881. Withdrawal. 1. Once effective, the compact shall continue in  
9 force and remain binding upon each and every member state; provided that  
10 a member state may withdraw from the compact by specifically repealing  
11 the statute which enacted the compact into law.

12     2. Withdrawal from the compact shall be by the enactment of a statute  
13 repealing the same, but shall not take effect until one year after the  
14 effective date of such statute and until written notice of the with-  
15 drawal has been given by the withdrawing state to the governor of each  
16 other member state.

17     3. The withdrawing state shall immediately notify the chairperson of  
18 the interstate commission in writing upon the introduction of legis-  
19 lation repealing the compact in the withdrawing state.

20     4. The interstate commission shall notify the other member states of  
21 the withdrawing state's intent to withdraw within sixty days of its  
22 receipt of notice provided under subdivision three of this section.

23     5. The withdrawing state is responsible for all dues, obligations and  
24 liabilities incurred through the effective date of withdrawal, including  
25 obligations, the performance of which extend beyond the effective date  
26 of withdrawal.

1 6. Reinstatement following withdrawal of a member state shall occur  
2 upon the withdrawing state reenacting the compact or upon such later  
3 date as determined by the interstate commission.

4 7. The interstate commission is authorized to develop rules to address  
5 the impact of the withdrawal of a member state on licenses granted in  
6 other member states to physicians who designated the withdrawing member  
7 state as the state of principal license.

8 § 8882. Dissolution. 1. The compact shall dissolve effective upon the  
9 date of the withdrawal or default of the member state which reduces the  
10 membership in the compact to one member state.

11 2. Upon the dissolution of the compact, the compact becomes null and  
12 void and shall be of no further force or effect, and the business and  
13 affairs of the interstate commission shall be concluded and surplus  
14 funds shall be distributed in accordance with the bylaws.

15 § 8883. Severability and construction. 1. The provisions of the  
16 compact shall be severable, and if any phrase, clause, sentence, or  
17 provision is deemed unenforceable, the remaining provisions of the  
18 compact shall be enforceable.

19 2. The provisions of the compact shall be liberally construed to  
20 effectuate its purposes.

21 3. Nothing in the compact shall be construed to prohibit the applica-  
22 bility of other interstate compacts to which the states are members.

23 § 8884. Binding effect of compact and other laws. 1. Nothing contained  
24 in this article shall prevent the enforcement of any other law of a  
25 member state that is not inconsistent with the compact.

26 2. All laws in a member state in conflict with the compact are super-  
27 seded to the extent of the conflict.

1 3. All lawful actions of the interstate commission, including all  
2 rules and bylaws promulgated by the commission, are binding upon the  
3 member states.

4 4. All agreements between the interstate commission and the member  
5 states are binding in accordance with their terms.

6 5. In the event any provision of the compact exceeds the constitu-  
7 tional limits imposed on the legislature of any member state, such  
8 provision shall be ineffective to the extent of the conflict with the  
9 constitutional provision in question in that member state.

10 § 31. Article 170 of the education law is renumbered article 171 and a  
11 new article 170 is added to title 8 of the education law to read as  
12 follows:

13 ARTICLE 170

14 NURSE LICENSURE COMPACT

15 Section 8900. Nurse licensure compact.

16 8901. Findings and declaration of purpose.

17 8902. Definitions.

18 8903. General provisions and jurisdiction.

19 8904. Applications for licensure in a party state.

20 8905. Additional authorities invested in party state licensing  
21 boards.

22 8906. Coordinated licensure information system and exchange of  
23 information.

24 8907. Establishment of the interstate commission of nurse licen-  
25 sure compact administrators.

26 8908. Rulemaking.

27 8909. Oversight, dispute resolution and enforcement.

28 8910. Effective date, withdrawal and amendment.

1           8911. Construction and severability.

2       § 8900. Nurse licensure compact. The nurse license compact as set  
3 forth in the article is hereby adopted and entered into with all party  
4 states joining therein.

5       § 8901. Findings and declaration of purpose 1. Findings. The party  
6 states find that:

7       a. The health and safety of the public are affected by the degree of  
8 compliance with and the effectiveness of enforcement activities related  
9 to state nurse licensure laws;

10       b. Violations of nurse licensure and other laws regulating the prac-  
11 tice of nursing may result in injury or harm to the public;

12       c. The expanded mobility of nurses and the use of advanced communi-  
13 cation technologies as part of our nation's health care delivery system  
14 require greater coordination and cooperation among states in the areas  
15 of nurse licensure and regulation;

16       d. New practice modalities and technology make compliance with indi-  
17 vidual state nurse licensure laws difficult and complex;

18       e. The current system of duplicative licensure for nurses practicing  
19 in multiple states is cumbersome and redundant for both nurses and  
20 states; and

21       f. Uniformity of nurse licensure requirements throughout the states  
22 promotes public safety and public health benefits.

23       2. Declaration of purpose. The general purposes of this compact are  
24 to:

25       a. Facilitate the states' responsibility to protect the public's  
26 health and safety;

27       b. Ensure and encourage the cooperation of party states in the areas  
28 of nurse licensure and regulation;

1 c. Facilitate the exchange of information between party states in the  
2 areas of nurse regulation, investigation and adverse actions;

3 d. Promote compliance with the laws governing the practice of nursing  
4 in each jurisdiction;

5 e. Invest all party states with the authority to hold a nurse account-  
6 able for meeting all state practice laws in the state in which the  
7 patient is located at the time care is rendered through the mutual  
8 recognition of party state licenses;

9 f. Decrease redundancies in the consideration and issuance of nurse  
10 licenses; and

11 g. Provide opportunities for interstate practice by nurses who meet  
12 uniform licensure requirements.

13 § 8902. Definitions. 1. Definitions. As used in this compact:

14 a. "Adverse action" means any administrative, civil, equitable or  
15 criminal action permitted by a state's laws which is imposed by a  
16 licensing board or other authority against a nurse, including actions  
17 against an individual's license or multistate licensure privilege such  
18 as revocation, suspension, probation, monitoring of the licensee, limi-  
19 tation on the licensee's practice, or any other encumbrance on licensure  
20 affecting a nurse's authorization to practice, including issuance of a  
21 cease and desist action.

22 b. "Alternative program" means a non-disciplinary monitoring program  
23 approved by a licensing board.

24 c. "Coordinated licensure information system" means an integrated  
25 process for collecting, storing and sharing information on nurse licen-  
26 sure and enforcement activities related to nurse licensure laws that is  
27 administered by a nonprofit organization composed of and controlled by  
28 licensing boards.

1 d. "Commission" means the interstate commission of nurse licensure  
2 compact administrators.

3 e. "Current significant investigative information" means:

4 1. Investigative information that a licensing board, after a prelimi-  
5 nary inquiry that includes notification and an opportunity for the nurse  
6 to respond, if required by state law, has reason to believe is not  
7 groundless and, if proved true, would indicate more than a minor infrac-  
8 tion; or

9 2. Investigative information that indicates that the nurse represents  
10 an immediate threat to public health and safety regardless of whether  
11 the nurse has been notified and had an opportunity to respond; or

12 3. Any information concerning a nurse reported to a licensing board by  
13 a health care entity, health care professional, or any other person,  
14 which indicates that the nurse demonstrated an impairment, gross incom-  
15 petence, or unprofessional conduct that would present an imminent danger  
16 to a patient or the public health, safety, or welfare.

17 f. "Encumbrance" means a revocation or suspension of, or any limita-  
18 tion on, the full and unrestricted practice of nursing imposed by a  
19 licensing board.

20 g. "Home state" means the party state which is the nurse's primary  
21 state of residence.

22 h. "Licensing board" means a party state's regulatory body responsible  
23 for issuing nurse licenses.

24 i. "Multistate license" means a license to practice as a registered  
25 nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which  
26 is issued by a home state licensing board, and which authorizes the  
27 licensed nurse to practice in all party states under a multistate licen-  
28 sure privilege.

1 j. "Multistate licensure privilege" means a legal authorization asso-  
2 ciated with a multistate license permitting the practice of nursing as  
3 either a RN or a LPN/VN in a remote state.

4 k. "Nurse" means RN or LPN/VN, as those terms are defined by each  
5 party state's practice laws.

6 l. "Party state" means any state that has adopted this compact.

7 m. "Remote state" means a party state, other than the home state.

8 n. "Single-state license" means a nurse license issued by a party  
9 state that authorizes practice only within the issuing state and does  
10 not include a multistate licensure privilege to practice in any other  
11 party state.

12 o. "State" means a state, territory or possession of the United States  
13 and the District of Columbia.

14 p. "State practice laws" means a party state's laws, rules and regu-  
15 lations that govern the practice of nursing, define the scope of nursing  
16 practice, and create the methods and grounds for imposing discipline.  
17 "State practice laws" shall not include requirements necessary to obtain  
18 and retain a license, except for qualifications or requirements of the  
19 home state.

20 § 8903. General provisions and jurisdiction. 1. General provisions and  
21 jurisdiction. a. A multistate license to practice registered or licensed  
22 practical/vocational nursing issued by a home state to a resident in  
23 that state will be recognized by each party state as authorizing a nurse  
24 to practice as a registered nurse (RN) or as a licensed  
25 practical/vocational nurse (LPN/VN), under a multistate licensure privi-  
26 lege, in each party state.

27 b. A state shall implement procedures for considering the criminal  
28 history records of applicants for an initial multistate license or

1 licensure by endorsement. Such procedures shall include the submission  
2 of fingerprints or other biometric-based information by applicants for  
3 the purpose of obtaining an applicant's criminal history record informa-  
4 tion from the federal bureau of investigation and the agency responsible  
5 for retaining that state's criminal records.

6 c. Each party state shall require its licensing board to authorize an  
7 applicant to obtain or retain a multistate license in the home state  
8 only if the applicant:

9 i. Meets the home state's qualifications for licensure or renewal of  
10 licensure, and complies with all other applicable state laws;

11 ii. (1) Has graduated or is eligible to graduate from a licensing  
12 board-approved RN or LPN/VN prelicensure education program; or

13 (2) Has graduated from a foreign RN or LPN/VN prelicensure education  
14 program that has been: (A) approved by the authorized accrediting body  
15 in the applicable country, and (B) verified by an independent creden-  
16 tials review agency to be comparable to a licensing board-approved prel-  
17 icensure education program;

18 iii. Has, if a graduate of a foreign prelicensure education program  
19 not taught in English or if English is not the individual's native  
20 language, successfully passed an English proficiency examination that  
21 includes the components of reading, speaking, writing and listening;

22 iv. Has successfully passed an NCLEX-RN or NCLEX-PN examination or  
23 recognized predecessor, as applicable;

24 v. Is eligible for or holds an active, unencumbered license;

25 vi. Has submitted, in connection with an application for initial  
26 licensure or licensure by endorsement, fingerprints or other biometric  
27 data for the purpose of obtaining criminal history record information

1 from the federal bureau of investigation and the agency responsible for  
2 retaining that state's criminal records;

3 vii. Has not been convicted or found guilty, or has entered into an  
4 agreed disposition, of a felony offense under applicable state or feder-  
5 al criminal law;

6 viii. Has not been convicted or found guilty, or has entered into an  
7 agreed disposition, of a misdemeanor offense related to the practice of  
8 nursing as determined on a case-by-case basis;

9 ix. Is not currently enrolled in an alternative program;

10 x. Is subject to self-disclosure requirements regarding current  
11 participation in an alternative program; and

12 xi. Has a valid United States social security number.

13 d. All party states shall be authorized, in accordance with existing  
14 state due process law, to take adverse action against a nurse's multi-  
15 state licensure privilege such as revocation, suspension, probation or  
16 any other action that affects a nurse's authorization to practice under  
17 a multistate licensure privilege, including cease and desist actions. If  
18 a party state takes such action, it shall promptly notify the adminis-  
19 trator of the coordinated licensure information system. The administra-  
20 tor of the coordinated licensure information system shall promptly noti-  
21 fy the home state of any such actions by remote states.

22 e. A nurse practicing in a party state shall comply with the state  
23 practice laws of the state in which the client is located at the time  
24 service is provided. The practice of nursing is not limited to patient  
25 care but shall include all nursing practice as defined by the state  
26 practice laws of the party state in which the client is located. The  
27 practice of nursing in a party state under a multistate licensure privi-  
28 lege will subject a nurse to the jurisdiction of the licensing board,

1 the courts and the laws of the party state in which the client is  
2 located at the time service is provided.

3 f. Individuals not residing in a party state shall continue to be able  
4 to apply for a party state's single-state license as provided under the  
5 laws of each party state. However, the single-state license granted to  
6 these individuals will not be recognized as granting the privilege to  
7 practice nursing in any other party state. Nothing in this compact shall  
8 affect the requirements established by a party state for the issuance of  
9 a single-state license.

10 g. Any nurse holding a home state multistate license, on the effective  
11 date of this compact, may retain and renew the multistate license issued  
12 by the nurse's then-current home state, provided that:

13 i. A nurse, who changes primary state of residence after this  
14 compact's effective date, shall meet all applicable requirements set  
15 forth in this article to obtain a multistate license from a new home  
16 state.

17 ii. A nurse who fails to satisfy the multistate licensure requirements  
18 set forth in this article due to a disqualifying event occurring after  
19 this compact's effective date shall be ineligible to retain or renew a  
20 multistate license, and the nurse's multistate license shall be revoked  
21 or deactivated in accordance with applicable rules adopted by the  
22 commission.

23 § 8904. Applications for licensure in a party state. 1. Applications  
24 for licensure in a party state. a. Upon application for a multistate  
25 license, the licensing board in the issuing party state shall ascertain,  
26 through the coordinated licensure information system, whether the appli-  
27 cant has ever held, or is the holder of, a license issued by any other  
28 state, whether there are any encumbrances on any license or multistate

1 licensure privilege held by the applicant, whether any adverse action  
2 has been taken against any license or multistate licensure privilege  
3 held by the applicant and whether the applicant is currently participat-  
4 ing in an alternative program.

5 b. A nurse may hold a multistate license, issued by the home state, in  
6 only one party state at a time.

7 c. If a nurse changes primary state of residence by moving between two  
8 party states, the nurse must apply for licensure in the new home state,  
9 and the multistate license issued by the prior home state will be deac-  
10 tivated in accordance with applicable rules adopted by the commission.

11 i. The nurse may apply for licensure in advance of a change in primary  
12 state of residence.

13 ii. A multistate license shall not be issued by the new home state  
14 until the nurse provides satisfactory evidence of a change in primary  
15 state of residence to the new home state and satisfies all applicable  
16 requirements to obtain a multistate license from the new home state.

17 d. If a nurse changes primary state of residence by moving from a  
18 party state to a non-party state, the multistate license issued by the  
19 prior home state will convert to a single-state license, valid only in  
20 the former home state.

21 § 8905. Additional authorities invested in party state licensing  
22 boards. 1. Licensing board authority. In addition to the other powers  
23 conferred by state law, a licensing board shall have the authority to:

24 a. Take adverse action against a nurse's multistate licensure privi-  
25 lege to practice within that party state.

26 i. Only the home state shall have the power to take adverse action  
27 against a nurse's license issued by the home state.

1 ii. For purposes of taking adverse action, the home state licensing  
2 board shall give the same priority and effect to reported conduct  
3 received from a remote state as it would if such conduct had occurred  
4 within the home state. In so doing, the home state shall apply its own  
5 state laws to determine appropriate action.

6 b. Issue cease and desist orders or impose an encumbrance on a nurse's  
7 authority to practice within that party state.

8 c. Complete any pending investigations of a nurse who changes primary  
9 state of residence during the course of such investigations. The licens-  
10 ing board shall also have the authority to take appropriate action or  
11 actions and shall promptly report the conclusions of such investigations  
12 to the administrator of the coordinated licensure information system.  
13 The administrator of the coordinated licensure information system shall  
14 promptly notify the new home state of any such actions.

15 d. Issue subpoenas for both hearings and investigations that require  
16 the attendance and testimony of witnesses, as well as the production of  
17 evidence. Subpoenas issued by a licensing board in a party state for the  
18 attendance and testimony of witnesses or the production of evidence from  
19 another party state shall be enforced in the latter state by any court  
20 of competent jurisdiction, according to the practice and procedure of  
21 that court applicable to subpoenas issued in proceedings pending before  
22 it. The issuing authority shall pay any witness fees, travel expenses,  
23 mileage and other fees required by the service statutes of the state in  
24 which the witnesses or evidence are located.

25 e. Obtain and submit, for each nurse licensure applicant, fingerprint  
26 or other biometric-based information to the federal bureau of investi-  
27 gation for criminal background checks, receive the results of the feder-

1 al bureau of investigation record search on criminal background checks  
2 and use the results in making licensure decisions.

3 f. If otherwise permitted by state law, recover from the affected  
4 nurse the costs of investigations and disposition of cases resulting  
5 from any adverse action taken against that nurse.

6 g. Take adverse action based on the factual findings of the remote  
7 state, provided that the licensing board follows its own procedures for  
8 taking such adverse action.

9 2. Adverse actions. a. If adverse action is taken by the home state  
10 against a nurse's multistate license, the nurse's multistate licensure  
11 privilege to practice in all other party states shall be deactivated  
12 until all encumbrances have been removed from the multistate license.  
13 All home state disciplinary orders that impose adverse action against a  
14 nurse's multistate license shall include a statement that the nurse's  
15 multistate licensure privilege is deactivated in all party states during  
16 the pendency of the order.

17 b. Nothing in this compact shall override a party state's decision  
18 that participation in an alternative program may be used in lieu of  
19 adverse action. The home state licensing board shall deactivate the  
20 multistate licensure privilege under the multistate license of any nurse  
21 for the duration of the nurse's participation in an alternative program.

22 § 8906. Coordinated licensure information system and exchange of  
23 information. 1. Coordinated licensure information system and exchange  
24 of information. a. All party states shall participate in a coordinated  
25 licensure information system of all licensed registered nurses (RNs) and  
26 licensed practical/vocational nurses (LPNs/VNs). This system will  
27 include information on the licensure and disciplinary history of each

1 nurse, as submitted by party states, to assist in the coordination of  
2 nurse licensure and enforcement efforts.

3 b. The commission, in consultation with the administrator of the coor-  
4 dated licensure information system, shall formulate necessary and  
5 proper procedures for the identification, collection and exchange of  
6 information under this compact.

7 c. All licensing boards shall promptly report to the coordinated  
8 licensure information system any adverse action, any current significant  
9 investigative information, denials of applications with the reasons for  
10 such denials and nurse participation in alternative programs known to  
11 the licensing board regardless of whether such participation is deemed  
12 nonpublic or confidential under state law.

13 d. Current significant investigative information and participation in  
14 nonpublic or confidential alternative programs shall be transmitted  
15 through the coordinated licensure information system only to party state  
16 licensing boards.

17 e. Notwithstanding any other provision of law, all party state licens-  
18 ing boards contributing information to the coordinated licensure infor-  
19 mation system may designate information that may not be shared with  
20 non-party states or disclosed to other entities or individuals without  
21 the express permission of the contributing state.

22 f. Any personally identifiable information obtained from the coordi-  
23 nated licensure information system by a party state licensing board  
24 shall not be shared with non-party states or disclosed to other entities  
25 or individuals except to the extent permitted by the laws of the party  
26 state contributing the information.

27 g. Any information contributed to the coordinated licensure informa-  
28 tion system that is subsequently required to be expunged by the laws of

1 the party state contributing that information shall also be expunged  
2 from the coordinated licensure information system.

3 h. The compact administrator of each party state shall furnish a  
4 uniform data set to the compact administrator of each other party state,  
5 which shall include, at a minimum:

6 i. Identifying information;

7 ii. Licensure data;

8 iii. Information related to alternative program participation; and

9 iv. Other information that may facilitate the administration of this  
10 compact, as determined by commission rules.

11 i. The compact administrator of a party state shall provide all inves-  
12 tigative documents and information requested by another party state.

13 § 8907. Establishment of the interstate commission of nurse licensure  
14 compact administrators. 1. Commission of nurse licensure compact admin-  
15 istrators. The party states hereby create and establish a joint public  
16 entity known as the interstate commission of nurse licensure compact  
17 administrators. The commission is an instrumentality of the party  
18 states.

19 2. Venue. Venue is proper, and judicial proceedings by or against the  
20 commission shall be brought solely and exclusively, in a court of compe-  
21 tent jurisdiction where the principal office of the commission is  
22 located. The commission may waive venue and jurisdictional defenses to  
23 the extent it adopts or consents to participate in alternative dispute  
24 resolution proceedings.

25 3. Sovereign immunity. Nothing in this compact shall be construed to  
26 be a waiver of sovereign immunity.

27 4. Membership, voting and meetings. a. Each party state shall have and  
28 be limited to one administrator. The head of the state licensing board

1 or designee shall be the administrator of this compact for each party  
2 state. Any administrator may be removed or suspended from office as  
3 provided by the law of the state from which the administrator is  
4 appointed. Any vacancy occurring in the commission shall be filled in  
5 accordance with the laws of the party state in which the vacancy exists.

6 b. Each administrator shall be entitled to one vote with regard to the  
7 promulgation of rules and creation of bylaws and shall otherwise have an  
8 opportunity to participate in the business and affairs of the commis-  
9 sion. An administrator shall vote in person or by such other means as  
10 provided in the bylaws. The bylaws may provide for an administrator's  
11 participation in meetings by telephone or other means of communication.

12 c. The commission shall meet at least once during each calendar year.  
13 Additional meetings shall be held as set forth in the bylaws or rules of  
14 the commission.

15 d. All meetings shall be open to the public, and public notice of  
16 meetings shall be given in the same manner as required under the rule-  
17 making provisions in section eighty-nine hundred three of this article.

18 5. Closed meetings. a. The commission may convene in a closed, nonpub-  
19 lic meeting if the commission shall discuss:

20 i. Noncompliance of a party state with its obligations under this  
21 compact;

22 ii. The employment, compensation, discipline or other personnel  
23 matters, practices or procedures related to specific employees or other  
24 matters related to the commission's internal personnel practices and  
25 procedures;

26 iii. Current, threatened or reasonably anticipated litigation;

27 iv. Negotiation of contracts for the purchase or sale of goods,  
28 services or real estate;

- 1 v. Accusing any person of a crime or formally censuring any person;  
2 vi. Disclosure of trade secrets or commercial or financial information  
3 that is privileged or confidential;  
4 vii. Disclosure of information of a personal nature where disclosure  
5 would constitute a clearly unwarranted invasion of personal privacy;  
6 viii. Disclosure of investigatory records compiled for law enforcement  
7 purposes;  
8 ix. Disclosure of information related to any reports prepared by or on  
9 behalf of the commission for the purpose of investigation of compliance  
10 with this compact; or  
11 x. Matters specifically exempted from disclosure by federal or state  
12 statute.
- 13 b. If a meeting, or portion of a meeting, is closed pursuant to this  
14 paragraph the commission's legal counsel or designee shall certify that  
15 the meeting may be closed and shall reference each relevant exempting  
16 provision. The commission shall keep minutes that fully and clearly  
17 describe all matters discussed in a meeting and shall provide a full and  
18 accurate summary of actions taken, and the reasons therefor, including a  
19 description of the views expressed. All documents considered in  
20 connection with an action shall be identified in such minutes. All  
21 minutes and documents of a closed meeting shall remain under seal,  
22 subject to release by a majority vote of the commission or order of a  
23 court of competent jurisdiction.
- 24 c. The commission shall, by a majority vote of the administrators,  
25 prescribe bylaws or rules to govern its conduct as may be necessary or  
26 appropriate to carry out the purposes and exercise the powers of this  
27 compact, including but not limited to:  
28 i. Establishing the fiscal year of the commission;

1 ii. Providing reasonable standards and procedures:

2 (1) For the establishment and meetings of other committees; and

3 (2) Governing any general or specific delegation of any authority or  
4 function of the commission;

5 iii. Providing reasonable procedures for calling and conducting meet-  
6 ings of the commission, ensuring reasonable advance notice of all meet-  
7 ings and providing an opportunity for attendance of such meetings by  
8 interested parties, with enumerated exceptions designed to protect the  
9 public's interest, the privacy of individuals, and proprietary informa-  
10 tion, including trade secrets. The commission may meet in closed session  
11 only after a majority of the administrators vote to close a meeting in  
12 whole or in part. As soon as practicable, the commission must make  
13 public a copy of the vote to close the meeting revealing the vote of  
14 each administrator, with no proxy votes allowed;

15 iv. Establishing the titles, duties and authority and reasonable  
16 procedures for the election of the officers of the commission;

17 v. Providing reasonable standards and procedures for the establishment  
18 of the personnel policies and programs of the commission. Notwithstand-  
19 ing any civil service or other similar laws of any party state, the  
20 bylaws shall exclusively govern the personnel policies and programs of  
21 the commission; and

22 vi. Providing a mechanism for winding up the operations of the commis-  
23 sion and the equitable disposition of any surplus funds that may exist  
24 after the termination of this compact after the payment or reserving of  
25 all of its debts and obligations.

26 6. General provisions. a. The commission shall publish its bylaws and  
27 rules, and any amendments thereto, in a convenient form on the website  
28 of the commission.

1 b. The commission shall maintain its financial records in accordance  
2 with the bylaws.

3 c. The commission shall meet and take such actions as are consistent  
4 with the provisions of this compact and the bylaws.

5 7. Powers of the commission. The commission shall have the following  
6 powers:

7 a. To promulgate uniform rules to facilitate and coordinate implemen-  
8 tation and administration of this compact. The rules shall have the  
9 force and effect of law and shall be binding in all party states;

10 b. To bring and prosecute legal proceedings or actions in the name of  
11 the commission, provided that the standing of any licensing board to sue  
12 or be sued under applicable law shall not be affected;

13 c. To purchase and maintain insurance and bonds;

14 d. To borrow, accept or contract for services of personnel, including,  
15 but not limited to, employees of a party state or nonprofit organiza-  
16 tions;

17 e. To cooperate with other organizations that administer state  
18 compacts related to the regulation of nursing, including but not limited  
19 to sharing administrative or staff expenses, office space or other  
20 resources;

21 f. To hire employees, elect or appoint officers, fix compensation,  
22 define duties, grant such individuals appropriate authority to carry out  
23 the purposes of this compact, and to establish the commission's person-  
24 nel policies and programs relating to conflicts of interest, qualifica-  
25 tions of personnel and other related personnel matters;

26 g. To accept any and all appropriate donations, grants and gifts of  
27 money, equipment, supplies, materials and services, and to receive,

1 utilize and dispose of the same; provided that at all times the commis-  
2 sion shall avoid any appearance of impropriety or conflict of interest;

3 h. To lease, purchase, accept appropriate gifts or donations of, or  
4 otherwise to own, hold, improve or use, any property, whether real,  
5 personal or mixed; provided that at all times the commission shall avoid  
6 any appearance of impropriety;

7 i. To sell, convey, mortgage, pledge, lease, exchange, abandon or  
8 otherwise dispose of any property, whether real, personal or mixed;

9 j. To establish a budget and make expenditures;

10 k. To borrow money;

11 l. To appoint committees, including advisory committees comprised of  
12 administrators, state nursing regulators, state legislators or their  
13 representatives, and consumer representatives, and other such interested  
14 persons;

15 m. To provide and receive information from, and to cooperate with, law  
16 enforcement agencies;

17 n. To adopt and use an official seal; and

18 o. To perform such other functions as may be necessary or appropriate  
19 to achieve the purposes of this compact consistent with the state regu-  
20 lation of nurse licensure and practice.

21 8. Financing of the commission. a. The commission shall pay, or  
22 provide for the payment of, the reasonable expenses of its establish-  
23 ment, organization and ongoing activities.

24 b. The commission may also levy on and collect an annual assessment  
25 from each party state to cover the cost of its operations, activities  
26 and staff in its annual budget as approved each year. The aggregate  
27 annual assessment amount, if any, shall be allocated based upon a formu-

1 la to be determined by the commission, which shall promulgate a rule  
2 that is binding upon all party states.

3 c. The commission shall not incur obligations of any kind prior to  
4 securing the funds adequate to meet the same; nor shall the commission  
5 pledge the credit of any of the party states, except by, and with the  
6 authority of, such party state.

7 d. The commission shall keep accurate accounts of all receipts and  
8 disbursements. The receipts and disbursements of the commission shall be  
9 subject to the audit and accounting procedures established under its  
10 bylaws. However, all receipts and disbursements of funds handled by the  
11 commission shall be audited yearly by a certified or licensed public  
12 accountant, and the report of the audit shall be included in and become  
13 part of the annual report of the commission.

14 9. Qualified immunity, defense and indemnification. a. The administra-  
15 tors, officers, executive director, employees and representatives of the  
16 commission shall be immune from suit and liability, either personally or  
17 in their official capacity, for any claim for damage to or loss of prop-  
18 erty or personal injury or other civil liability caused by or arising  
19 out of any actual or alleged act, error or omission that occurred, or  
20 that the person against whom the claim is made had a reasonable basis  
21 for believing occurred, within the scope of the commission's employment,  
22 duties or responsibilities; provided that nothing in this paragraph  
23 shall be construed to protect any such person from suit or liability for  
24 any damage, loss, injury or liability caused by the intentional, willful  
25 or wanton misconduct of that person.

26 b. The commission shall defend any administrator, officer, executive  
27 director, employee or representative of the commission in any civil  
28 action seeking to impose liability arising out of any actual or alleged

1 act, error or omission that occurred within the scope of the commis-  
2 sion's employment, duties or responsibilities, or that the person  
3 against whom the claim is made had a reasonable basis for believing  
4 occurred within the scope of the commission's employment, duties or  
5 responsibilities; provided that nothing herein shall be construed to  
6 prohibit that person from retaining his or her own counsel; and provided  
7 further that the actual or alleged act, error or omission did not result  
8 from that person's intentional, willful or wanton misconduct.

9 c. The commission shall indemnify and hold harmless any administrator,  
10 officer, executive director, employee or representative of the commis-  
11 sion for the amount of any settlement or judgment obtained against that  
12 person arising out of any actual or alleged act, error or omission that  
13 occurred within the scope of the commission's employment, duties or  
14 responsibilities, or that such person had a reasonable basis for believ-  
15 ing occurred within the scope of the commission's employment, duties or  
16 responsibilities, provided that the actual or alleged act, error or  
17 omission did not result from the intentional, willful or wanton miscon-  
18 duct of that person.

19 § 8908. Rulemaking. 1. Rulemaking. a. The commission shall exercise  
20 its rulemaking powers pursuant to the criteria set forth in this article  
21 and the rules adopted thereunder. Rules and amendments shall become  
22 binding as of the date specified in each rule or amendment and shall  
23 have the same force and effect as provisions of this compact.

24 b. Rules or amendments to the rules shall be adopted at a regular or  
25 special meeting of the commission.

26 2. Notice. a. Prior to promulgation and adoption of a final rule or  
27 rules by the commission, and at least sixty days in advance of the meet-

1 ing at which the rule will be considered and voted upon, the commission  
2 shall file a notice of proposed rulemaking:  
3 i. On the website of the commission; and  
4 ii. On the website of each licensing board or the publication in which  
5 each state would otherwise publish proposed rules.  
6 b. The notice of proposed rulemaking shall include:  
7 i. The proposed time, date and location of the meeting in which the  
8 rule will be considered and voted upon;  
9 ii. The text of the proposed rule or amendment, and the reason for the  
10 proposed rule;  
11 iii. A request for comments on the proposed rule from any interested  
12 person; and  
13 iv. The manner in which interested persons may submit notice to the  
14 commission of their intention to attend the public hearing and any writ-  
15 ten comments.  
16 c. Prior to adoption of a proposed rule, the commission shall allow  
17 persons to submit written data, facts, opinions and arguments, which  
18 shall be made available to the public.  
19 3. Public hearings on rules. a. The commission shall grant an opportu-  
20 nity for a public hearing before it adopts a rule or amendment.  
21 b. The commission shall publish the place, time and date of the sched-  
22 uled public hearing.  
23 i. Hearings shall be conducted in a manner providing each person who  
24 wishes to comment a fair and reasonable opportunity to comment orally or  
25 in writing. All hearings will be recorded, and a copy will be made  
26 available upon request.

1 ii. Nothing in this section shall be construed as requiring a separate  
2 hearing on each rule. Rules may be grouped for the convenience of the  
3 commission at hearings required by this section.

4 c. If no one appears at the public hearing, the commission may proceed  
5 with promulgation of the proposed rule.

6 d. Following the scheduled hearing date, or by the close of business  
7 on the scheduled hearing date if the hearing was not held, the commis-  
8 sion shall consider all written and oral comments received.

9 4. Voting on rules. The commission shall, by majority vote of all  
10 administrators, take final action on the proposed rule and shall deter-  
11 mine the effective date of the rule, if any, based on the rulemaking  
12 record and the full text of the rule.

13 5. Emergency rules. Upon determination that an emergency exists, the  
14 commission may consider and adopt an emergency rule without prior  
15 notice, opportunity for comment or hearing, provided that the usual  
16 rulemaking procedures provided in this compact and in this section shall  
17 be retroactively applied to the rule as soon as reasonably possible, in  
18 no event later than ninety days after the effective date of the rule.  
19 For the purposes of this provision, an emergency rule is one that must  
20 be adopted immediately in order to:

21 a. Meet an imminent threat to public health, safety or welfare;

22 b. Prevent a loss of the commission or party state funds; or

23 c. Meet a deadline for the promulgation of an administrative rule that  
24 is required by federal law or rule.

25 6. Revisions. The commission may direct revisions to a previously  
26 adopted rule or amendment for purposes of correcting typographical  
27 errors, errors in format, errors in consistency or grammatical errors.  
28 Public notice of any revisions shall be posted on the website of the

1 commission. The revision shall be subject to challenge by any person for  
2 a period of thirty days after posting. The revision may be challenged  
3 only on grounds that the revision results in a material change to a  
4 rule. A challenge shall be made in writing, and delivered to the  
5 commission, prior to the end of the notice period. If no challenge is  
6 made, the revision will take effect without further action. If the  
7 revision is challenged, the revision may not take effect without the  
8 approval of the commission.

9 § 8909. Oversight, dispute resolution and enforcement. 1. Oversight.

10 a. Each party state shall enforce this compact and take all actions  
11 necessary and appropriate to effectuate this compact's purposes and  
12 intent.

13 b. The commission shall be entitled to receive service of process in  
14 any proceeding that may affect the powers, responsibilities or actions  
15 of the commission, and shall have standing to intervene in such a  
16 proceeding for all purposes. Failure to provide service of process in  
17 such proceeding to the commission shall render a judgment or order void  
18 as to the commission, this compact or promulgated rules.

19 2. Default, technical assistance and termination. a. If the commission  
20 determines that a party state has defaulted in the performance of its  
21 obligations or responsibilities under this compact or the promulgated  
22 rules, the commission shall:

23 i. Provide written notice to the defaulting state and other party  
24 states of the nature of the default, the proposed means of curing the  
25 default or any other action to be taken by the commission; and

26 ii. Provide remedial training and specific technical assistance  
27 regarding the default.

1 b. If a state in default fails to cure the default, the defaulting  
2 state's membership in this compact may be terminated upon an affirmative  
3 vote of a majority of the administrators, and all rights, privileges and  
4 benefits conferred by this compact may be terminated on the effective  
5 date of termination. A cure of the default does not relieve the offend-  
6 ing state of obligations or liabilities incurred during the period of  
7 default.

8 c. Termination of membership in this compact shall be imposed only  
9 after all other means of securing compliance have been exhausted. Notice  
10 of intent to suspend or terminate shall be given by the commission to  
11 the governor of the defaulting state and to the executive officer of the  
12 defaulting state's licensing board and each of the party states.

13 d. A state whose membership in this compact has been terminated is  
14 responsible for all assessments, obligations and liabilities incurred  
15 through the effective date of termination, including obligations that  
16 extend beyond the effective date of termination.

17 e. The commission shall not bear any costs related to a state that is  
18 found to be in default or whose membership in this compact has been  
19 terminated unless agreed upon in writing between the commission and the  
20 defaulting state.

21 f. The defaulting state may appeal the action of the commission by  
22 petitioning the U.S. District Court for the District of Columbia or the  
23 federal district in which the commission has its principal offices. The  
24 prevailing party shall be awarded all costs of such litigation, includ-  
25 ing reasonable attorneys' fees.

26 3. Dispute resolution. a. Upon request by a party state, the commis-  
27 sion shall attempt to resolve disputes related to the compact that arise  
28 among party states and between party and non-party states.

1 b. The commission shall promulgate a rule providing for both mediation  
2 and binding dispute resolution for disputes, as appropriate.

3 c. In the event the commission cannot resolve disputes among party  
4 states arising under this compact:

5 i. The party states may submit the issues in dispute to an arbitration  
6 panel, which will be comprised of individuals appointed by the compact  
7 administrator in each of the affected party states, and an individual  
8 mutually agreed upon by the compact administrators of all the party  
9 states involved in the dispute.

10 ii. The decision of a majority of the arbitrators shall be final and  
11 binding.

12 4. Enforcement. a. The commission, in the reasonable exercise of its  
13 discretion, shall enforce the provisions and rules of this compact.

14 b. By majority vote, the commission may initiate legal action in the  
15 U.S. District Court for the District of Columbia or the federal  
16 district in which the commission has its principal offices against a  
17 party state that is in default to enforce compliance with the provisions  
18 of this compact and its promulgated rules and bylaws. The relief sought  
19 may include both injunctive relief and damages. In the event judicial  
20 enforcement is necessary, the prevailing party shall be awarded all  
21 costs of such litigation, including reasonable attorneys' fees.

22 c. The remedies herein shall not be the exclusive remedies of the  
23 commission. The commission may pursue any other remedies available under  
24 federal or state law.

25 § 8910. Effective date, withdrawal and amendment. 1. Effective date.

26 a. This compact shall become effective and binding on the earlier of  
27 the date of legislative enactment of this compact into law by no less  
28 than twenty-six states or the effective date of the chapter of the laws

1 of two thousand twenty-three that enacted this compact. Thereafter, the  
2 compact shall become effective and binding as to any other compacting  
3 state upon enactment of the compact into law by that state. All party  
4 states to this compact, that also were parties to the prior nurse licen-  
5 sure compact, superseded by this compact, (herein referred to as "prior  
6 compact"), shall be deemed to have withdrawn from said prior compact  
7 within six months after the effective date of this compact.

8 b. Each party state to this compact shall continue to recognize a  
9 nurse's multistate licensure privilege to practice in that party state  
10 issued under the prior compact until such party state has withdrawn from  
11 the prior compact.

12 2. Withdrawal. a. Any party state may withdraw from this compact by  
13 enacting a statute repealing the same. A party state's withdrawal shall  
14 not take effect until six months after enactment of the repealing stat-  
15 ute.

16 b. A party state's withdrawal or termination shall not affect the  
17 continuing requirement of the withdrawing or terminated state's licens-  
18 ing board to report adverse actions and significant investigations  
19 occurring prior to the effective date of such withdrawal or termination.

20 c. Nothing contained in this compact shall be construed to invalidate  
21 or prevent any nurse licensure agreement or other cooperative arrange-  
22 ment between a party state and a non-party state that is made in accord-  
23 ance with the other provisions of this compact.

24 3. Amendment. a. This compact may be amended by the party states. No  
25 amendment to this compact shall become effective and binding upon the  
26 party states unless and until it is enacted into the laws of all party  
27 states.

1 b. Representatives of non-party states to this compact shall be  
2 invited to participate in the activities of the commission, on a nonvot-  
3 ing basis, prior to the adoption of this compact by all states.

4 § 8911. Construction and severability. 1. Construction and severabil-  
5 ity. This compact shall be liberally construed so as to effectuate the  
6 purposes thereof. The provisions of this compact shall be severable, and  
7 if any phrase, clause, sentence or provision of this compact is declared  
8 to be contrary to the constitution of any party state or of the United  
9 States, or if the applicability thereof to any government, agency,  
10 person or circumstance is held to be invalid, the validity of the  
11 remainder of this compact and the applicability thereof to any govern-  
12 ment, agency, person or circumstance shall not be affected thereby. If  
13 this compact shall be held to be contrary to the constitution of any  
14 party state, this compact shall remain in full force and effect as to  
15 the remaining party states and in full force and effect as to the party  
16 state affected as to all severable matters.

17 § 32. Section 6501 of the education law is amended by adding a new  
18 subdivision 3 to read as follows:

19 3. a. an applicant for licensure in a qualified high-need healthcare  
20 profession who provides documentation and attestation that he or she  
21 holds a license in good standing from another state, may request the  
22 issuance of a temporary practice permit, which, if granted will permit  
23 the applicant to work under the supervision of a New York state licensee  
24 in accordance with regulations of the commissioner. The department may  
25 grant such temporary practice permit when it appears based on the appli-  
26 cation and supporting documentation received that the applicant will  
27 meet the requirements for licensure in this state because he or she has  
28 provided documentation and attestation that they hold a license in good

1 standing from another state with significantly comparable licensure  
2 requirements to those of this state, except the department has not been  
3 able to secure direct source verification of the applicant's underlying  
4 credentials (e.g., license verification, receipt of original transcript,  
5 experience verification). Such permit shall be valid for six months or  
6 until ten days after notification that the applicant does not meet the  
7 qualifications for licensure. An additional six months may be granted  
8 upon a determination by the department that the applicant is expected to  
9 qualify for the full license upon receipt of the remaining direct source  
10 verification documents requested by the department in such time period  
11 and that the delay in providing the necessary documentation for full  
12 licensure was due to extenuating circumstances which the applicant could  
13 not avoid.

14 b. a temporary practice permit issued under paragraph a of this subdi-  
15 vision shall be subject to the full disciplinary and regulatory authori-  
16 ty of the board of regents and the department, pursuant to this title,  
17 as if such authorization were a professional license issued under this  
18 article.

19 c. for purposes of this subdivision "high-need healthcare profession"  
20 means a licensed healthcare profession of which there are an insuffi-  
21 cient number of licensees to serve in the state or a region of the  
22 state, as determined by the commissioner of health, in consultation with  
23 the commissioner of education. The commissioner of health shall main-  
24 tain a list of such licensed professions, which shall be posted online  
25 and updated from time to time as warranted.

26 § 33. This act shall take effect immediately; provided however, that:

27 a. section seven of this act shall take effect nine months after it  
28 shall have become a law;

1 b. sections seventeen, eighteen, nineteen, twenty, twenty-one, twen-  
2 ty-two and twenty-three of this act shall take effect one year after it  
3 shall have become a law;

4 c. sections twenty-seven, twenty-eight and twenty-nine of this act  
5 shall expire and be deemed repealed two years after they shall have  
6 become a law;

7 d. sections thirty and thirty-one of this act shall be deemed to  
8 have been in full force and effect on and after April 1, 2023;

9 e. section thirty-two of this act shall take effect on the ninetieth  
10 day after it shall have become a law;

11 f. the amendments to section 6801-a of the education law made by  
12 section nine of this act shall not affect the repeal of such section and  
13 shall be deemed to be repealed therewith; and

14 g. the amendments to subdivision 2 of section 6908 of the education  
15 law made by section twenty-four of this act shall not affect the repeal  
16 of such subdivision and shall be deemed to be repealed therewith.

17 h. the amendments to subdivision 8 of section 6909 of the education  
18 law made by section twenty-five of this act shall not affect the repeal  
19 of such subdivision and shall be deemed repealed therewith.

20 Effective immediately, the addition, amendment and/or repeal of any  
21 rule or regulation necessary for the implementation of this act on its  
22 effective date are authorized and directed to be made and completed on  
23 or before such effective date.

24 PART X

25 Section 1. The public health law is amended by adding a new article  
26 29-K to read as follows:



1 5. "Nurse" means a registered professional nurse, or a licensed prac-  
2 tical nurse as defined by article one hundred thirty-nine of the educa-  
3 tion law.

4 6. "Direct care worker" means an employee who is responsible for  
5 patient/resident handling or patient/resident assessment as a regular or  
6 incidental part of their employment, including any licensed or unli-  
7 censed health care worker.

8 7. "Person" means an individual, firm, corporation, partnership, or  
9 association.

10 8. "Temporary health care services agency" or "agency" means a person,  
11 firm, corporation, partnership, association or other entity in the busi-  
12 ness of providing or procuring temporary employment of health care  
13 personnel for health care entities. Temporary health care services agen-  
14 cy shall include a nurses' registry licensed under article eleven of the  
15 general business law and entities that utilize apps or other technolo-  
16 gy-based solutions to provide or procure temporary employment of health  
17 care personnel in health care entities. Temporary health care services  
18 agency shall not include: (a) an individual who only engages in provid-  
19 ing the individual's own services on a temporary basis to health care  
20 entities; or (b) a home care agency licensed under article thirty-six of  
21 this chapter.

22 § 2999-jj. Registration of temporary health care services agencies;  
23 requirements. 1. Any person who operates a temporary health care  
24 services agency shall register the agency with the department. Each  
25 separate location of the business of a temporary health care services  
26 agency shall have a separate registration.

1 2. The commissioner shall publish guidelines establishing the forms  
2 and procedures for applications for registration. Forms must include, at  
3 a minimum all of the following:

4 (a) The names and addresses of the temporary health care services  
5 agency controlling person or persons.

6 (b) The names and addresses of health care entities where the control-  
7 ling person or persons or their family members:

8 (i) have an ownership relationship; or

9 (ii) direct the management or policies of such health care entities.

10 (c) A demonstration that the applicant is of good moral character and  
11 able to comply with all applicable state laws and regulations relating  
12 to the activities in which it intends to engage under the registration.

13 (d) Registration and registration annual renewal fees of one thousand  
14 dollars and may only be used for the purpose of operating this registry.

15 (e) The state of incorporation of the agency.

16 (f) Any additional information that the commissioner determines is  
17 necessary to properly evaluate an application for registration.

18 3. As a condition of registration, a temporary health care services  
19 agency:

20 (a) Shall document that each temporary employee provided to health  
21 care entities currently meets the minimum licensing, training, and  
22 continuing education standards for the position in which the employee  
23 will be working.

24 (b) Shall comply with all pertinent requirements and qualifications  
25 for personnel employed in health care entities.

26 (c) Shall not restrict in any manner the employment opportunities of  
27 its employees.

1 (d) Shall maintain insurance coverage for workers' compensation and  
2 disability coverage for all health care personnel provided or procured  
3 by the agency.

4 (e) Shall not require the payment of liquidated damages, employment  
5 fees, or other compensation should the employee be hired as a permanent  
6 employee of a health care entity in any contract with any employee or  
7 health care entity or otherwise.

8 (f) Shall document that each temporary employee provided to health  
9 care entities is jointly employed by the agency and the entity and is  
10 not an independent contractor.

11 (g) Shall retain all records of employment for six calendar years and  
12 make them available to the department upon request.

13 (h) Shall comply with any requests made by the department to examine  
14 the books and records of the agency, subpoena witnesses and documents  
15 and make such other investigation as is necessary in the event that the  
16 department has reason to believe that the books or records do not accu-  
17 rately reflect the financial condition or financial transactions of the  
18 agency.

19 (i) Shall comply with any additional requirements the department may  
20 deem necessary.

21 4. A registration issued by the commissioner according to this section  
22 shall be effective for a period of one year, unless the registration is  
23 revoked or suspended, or unless ownership interest of ten percent or  
24 more, or management of the temporary health care services agency, is  
25 sold or transferred. When ownership interest of ten percent or more, or  
26 management of a temporary health care services agency is sold or trans-  
27 ferred, the registration of the agency may be transferred to the new  
28 owner or operator for thirty days, or until the new owner or operator

1 applies and is granted or denied a new registration, whichever is soon-  
2 er.

3 5. The commissioner may, after appropriate notice and hearing,  
4 suspend, revoke, or refuse to issue or renew any registration or issue  
5 any fines established pursuant to section twenty-nine hundred ninety-  
6 nine-11 of this article if the applicant fails to comply with this arti-  
7 cle or any guidelines, rules and regulations promulgated thereunder.

8 6. The commissioner shall make available a list of temporary health  
9 care services agencies registered with the department on the depart-  
10 ment's public website.

11 7. The department shall publish a quarterly report containing aggre-  
12 gated and de-identified data collected pursuant to this article on the  
13 website of the department.

14 8. The department, in consultation with the department of labor, shall  
15 provide a report to the governor and legislature on or before March  
16 thirty-first, two thousand twenty-four, summarizing the key findings of  
17 the data collected pursuant to this article. The department shall  
18 further have authority to utilize any data collected pursuant to this  
19 article for additional purposes consistent with this chapter, including  
20 but not limited to determinations of whether an acute labor shortage  
21 exists, or any other purpose the department deems necessary for health  
22 care related data purposes.

23 9. The attorney general shall, upon the request of the department,  
24 bring an action for an injunction against any person who violates any  
25 provision of this article; provided, the department shall furnish the  
26 attorney general with such material, evidentiary matter or proof as may  
27 be requested by the attorney general for the prosecution of such action.

1 § 2999-kk. Temporary health care services agencies; minimum standards.

2 1. A temporary health care services agency shall appoint an administra-  
3 tor qualified by training, experience or education to operate the agen-  
4 cy. Each separate agency location shall have its own administrator.

5 2. A temporary health care services agency shall develop and maintain  
6 written employment policies and procedures. The agency shall inform its  
7 employees of the terms and conditions of employment by that agency at  
8 the time of hire, as well as no less than annually thereafter.

9 3. A temporary health care services agency shall maintain hours of  
10 operation at each of its locations sufficient to meet the obligations  
11 under its written agreements with health care entities.

12 4. A temporary health care services agency shall maintain a written  
13 agreement or contract with each health care entity, which shall include,  
14 at a minimum:

15 (a) The required minimum licensing, training, and continuing education  
16 requirements for each assigned health care personnel.

17 (b) Any requirement for minimum advance notice in order to ensure  
18 prompt arrival of assigned health care personnel.

19 (c) The maximum rates that can be billed or charged by the temporary  
20 health care services agency pursuant to section twenty-nine hundred  
21 ninety-nine-mm of this article and any applicable regulations.

22 (d) The rates to be charged by the temporary health care services  
23 agency.

24 (e) Procedures for the investigation and resolution of complaints  
25 about the performance of temporary health care services agency person-  
26 nel.

1 (f) Procedures for notice from health care entities of failure of  
2 medical personnel to report to assignments and for back-up staff in such  
3 instances.

4 (g) Procedures for notice of actual or suspected abuse, theft, tamper-  
5 ing or other diversion of controlled substances by medical personnel.

6 (h) The types and qualifications of health care personnel available  
7 for assignment through the temporary health care services agency.

8 5. A temporary health care services agency shall submit to the depart-  
9 ment copies of all contracts between the agency and a health care entity  
10 to which it assigns or refers health care personnel, and copies of all  
11 invoices to health care entities personnel. Executed contracts must be  
12 sent to the department within five business days of their effective date  
13 and are not subject to disclosure under article six of the public offi-  
14 cers law.

15 6. The commissioner may promulgate regulations to implement the  
16 requirements of this section and to establish additional minimum stand-  
17 ards for the operation of temporary health care services agencies,  
18 including but not limited to pricing, fees, administrative costs, and  
19 business practices.

20 7. The commissioner may waive the requirements of this article during  
21 a declared state or federal public health emergency.

22 § 2999-11. Violations; penalties. In addition to other remedies avail-  
23 able by law, violations of the provisions of this article and any regu-  
24 lations promulgated thereunder shall be subject to penalties and fines  
25 pursuant to section twelve of this chapter; provided, however, that each  
26 violation committed by each individual employee of a temporary health  
27 care services agency shall be considered a separate violation.



1 effective date for each particular provision contained within such  
2 Subpart is set forth in the last section of such Subpart. Any provision  
3 in any section contained within a Subpart, including the effective date  
4 of the Subpart, which makes reference to a section "of this act", when  
5 used in connection with that particular component, shall be deemed to  
6 mean and refer to the corresponding section of the Subpart in which it  
7 is found. Section three of this Part sets forth the general effective  
8 date of this Part.

9 SUBPART A

10 Section 1. Subdivisions (f) and (j) of section 3215 of the civil prac-  
11 tice law and rules, subdivision (f) as amended and subdivision (j) as  
12 added by chapter 593 of the laws of 2021, subdivision (f) as separately  
13 amended by chapter 831 of the laws of 2021, are amended to read as  
14 follows:

15 (f) Proof. On any application for judgment by default, the applicant  
16 shall file proof of service of the summons and the complaint, or a  
17 summons and notice served pursuant to subdivision (b) of rule 305 or  
18 subdivision (a) of rule 316 of this chapter, and proof of the facts  
19 constituting the claim, the default and the amount due, including, if  
20 applicable, a statement that the interest rate for consumer debt pursu-  
21 ant to section five thousand four of this chapter applies, by affidavit  
22 made by the party, or where the state of New York is the plaintiff, by  
23 affidavit made by an attorney from the office of the attorney general  
24 who has or obtains knowledge of such facts through review of state  
25 records or otherwise. Where a verified complaint has been served, it may  
26 be used as the affidavit of the facts constituting the claim and the

1 amount due; in such case, an affidavit as to the default shall be made  
2 by the party or the party's attorney. In an action arising out of a  
3 consumer credit transaction, if the plaintiff is not the original credi-  
4 tor, the applicant shall include: (1) an affidavit by the original cred-  
5 itor of the facts constituting the debt, the default in payment, the  
6 sale or assignment of the debt, and the amount due at the time of sale  
7 or assignment; (2) for each subsequent assignment or sale of the debt to  
8 another entity, an affidavit of sale of the debt by the debt seller,  
9 completed by the seller or assignor; and (3) an affidavit of a witness  
10 of the plaintiff, which includes a chain of title of the debt, completed  
11 by the plaintiff or plaintiff's witness. In an action arising from  
12 medical debt, if the plaintiff is not a hospital licensed under article  
13 twenty-eight of the public health law or a health care professional  
14 authorized under title eight of the education law, the applicant shall  
15 include: (1) an affidavit by the hospital or health care professional of  
16 the facts constituting the medical debt, the default in payment, the  
17 sale or assignment of the medical debt, and the amount due at the time  
18 of sale or assignment; (2) for each subsequent assignment or sale of the  
19 medical debt to another entity, an affidavit of sale of the medical debt  
20 by the debt seller, completed by the seller or assignor; and (3) an  
21 affidavit of a witness of the plaintiff, which includes a chain of title  
22 of the medical debt, completed by the plaintiff or plaintiff's witness.  
23 The chief administrative judge shall issue form affidavits to satisfy  
24 the requirements of this subdivision for consumer credit transactions  
25 and actions arising from medical debt. When jurisdiction is based on an  
26 attachment of property, the affidavit must state that an order of  
27 attachment granted in the action has been levied on the property of the  
28 defendant, describe the property and state its value. Proof of mailing

1 the notice required by subdivision (g) of this section, where applica-  
2 ble, shall also be filed.

3 (j) Affidavit. A request for a default judgment entered by the clerk,  
4 must be accompanied by an affidavit by the plaintiff or plaintiff's  
5 attorney stating that after reasonable inquiry, he or she has reason to  
6 believe that the statute of limitations has not expired. The chief  
7 administrative judge shall issue form affidavits to satisfy the require-  
8 ments of this subdivision for consumer credit transactions and actions  
9 arising from medical debt.

10 § 2. Subdivision 2 of section 212 of the judiciary law is amended by  
11 adding a new paragraph (cc) to read as follows:

12 (cc) Make available form affidavits required for a motion for default  
13 judgment in an action arising from medical debt as required by subdivi-  
14 sion (f) of section thirty-two hundred fifteen of the civil practice law  
15 and rules.

16 § 3. This act shall take effect on the one hundred eightieth day after  
17 it shall have become a law.

18 SUBPART B

19 Section 1. This act shall be known and may be cited as the  
20 "Prescription Drug Price and Supply Chain Transparency Act of 2023".

21 § 2. Legislative intent. The state has a compelling interest in  
22 providing for transparency into the price of prescription drugs and the  
23 regulation of entities that play a role in the distribution of  
24 prescription drugs in this state. The impact of ever rising prescription  
25 drug costs impacts consumers in this state both at the pharmacy counter  
26 and in health plan premium costs. Prescription drug costs also have

1 direct costs to the state fiscal, health insurance companies, pharma-  
2 cies, pharmacy benefit managers, hospitals, employers, and unions.

3 § 3. The insurance law is amended by adding a new article 30 to read  
4 as follows:

5 ARTICLE 30

6 PRESCRIPTION DRUG PRICE AND SUPPLY CHAIN TRANSPARENCY

7 Section 3001. Definitions.

8 3002. Filing requirement.

9 3003. Special reports and other powers.

10 3004. Reporting of drug price increases.

11 3005. Reporting of pay for delay agreements.

12 3006. Registration of pharmacy services administrative organiza-  
13 tions.

14 3007. Required disclosures by pharmacy services administrative  
15 organizations.

16 3008. Registration of pharmacy switch companies.

17 3009. Required disclosures by pharmacy switch companies.

18 3010. Registration of rebate aggregators.

19 3011. Required disclosures by rebate aggregators.

20 3012. Deposit of penalties and fees.

21 § 3001. Definitions. (a) For the purposes of this article, the defi-  
22 initions contained in section two hundred eighty-a of the public health  
23 law shall apply to this article as if specifically set forth herein.

24 (b) The following words or phrases, as used in this article, shall  
25 have the following meanings, unless the context otherwise requires:

1 (1) "Manufacturer" means an entity engaged in the manufacture of  
2 prescription drugs sold in this state.

3 (2) "Pharmacy services administrative organization" or "PSAO" means a  
4 entity that is operating in this state and that contracts with a pharma-  
5 cy for the purpose of conducting business on the pharmacy's behalf with  
6 wholesalers, distributors, health plans or pharmacy benefit managers.

7 (3) "Rebate aggregator" means an entity that provides formulary rebate  
8 administrative services for pharmacy benefit managers or otherwise nego-  
9 tiates rebates with manufacturers on behalf of pharmacy benefit manag-  
10 ers.

11 (4) "Switch company" means an entity that acts as an intermediary  
12 between a pharmacy and a pharmacy benefit manager or health plan for the  
13 purpose of routing insurance claims data to or from a pharmacy.

14 (5) "Wholesaler" means an entity that bottles, packs or purchases  
15 drugs, devices or cosmetics for the purpose of selling or reselling to  
16 pharmacies or to other channels.

17 § 3002. Filing requirement. Notwithstanding any law to the contrary,  
18 any filing or submission required under this article shall be made elec-  
19 tronically unless the entity required to make that filing or submission  
20 demonstrates undue hardship, impracticability or good cause as required  
21 by section three hundred sixteen of this chapter.

22 § 3003. Special reports and other powers. (a) The superintendent may  
23 address to any entity required to register or report information under  
24 this article, or its officers, or any agent or employee thereof any  
25 inquiry in relation to its business or any matter connected therewith.  
26 Every individual or entity so addressed shall reply in writing to such  
27 inquiry promptly and truthfully, and such reply shall be, if required by  
28 the superintendent, subscribed by such individual, or by such officer or

1 officers of the entity, or by such agent or employee of the entity as  
2 the superintendent shall designate, and affirmed by them as true under  
3 the penalties of perjury.

4 (b) In the event any individual or entity does not submit a good faith  
5 response to an inquiry from the superintendent pursuant to subsection  
6 (a) of this section within a time period specified by the superintendent  
7 of not less than fifteen business days, the superintendent is authorized  
8 to levy a civil penalty, after notice and hearing, against such person  
9 not to exceed one thousand dollars per day for each day beyond the date  
10 specified by the superintendent for response to the inquiry.

11 (c) In addition to all other powers granted by law, the superintendent  
12 is hereby empowered to order any person or entity required to register  
13 or report information under this article to cease and desist from  
14 violations of this article and following issuance of such an order may  
15 bring and maintain an action in any court of competent jurisdiction for  
16 an injunction or other appropriate relief to enjoin threatened or exist-  
17 ing violations of this article or of the superintendent's orders or  
18 regulations, such action may specifically seek restitution on behalf of  
19 persons aggrieved by a violation of this article or orders or regu-  
20 lations of the superintendent.

21 (d) In addition to all other powers granted by law, whenever it shall  
22 appear to the superintendent, either upon complaint or otherwise, that  
23 in the course of its business within or from this state that any entity  
24 shall have employed, or employs, or is about to employ any business  
25 practice or shall have performed, or is performing, or is about to  
26 perform any act in violation of this article or orders or regulations of  
27 the superintendent, or the superintendent believes it to be in the  
28 public interest that an investigation be made, the superintendent may,

1 in the superintendent's discretion, either require or permit such entity  
2 or any agent or employee thereof, to file with the department a state-  
3 ment in writing under oath or otherwise as to all the facts and circum-  
4 stances concerning the subject matter that the superintendent believes  
5 is in the public interest to investigate, and for that purpose may  
6 prescribe forms upon which such statements shall be made. The super-  
7 intendent may also require such other data and information as the super-  
8 intendent may deem relevant and may make such special and independent  
9 investigations as the superintendent may deem necessary in connection  
10 with the matter. It shall be the duty of all public officers, their  
11 deputies, assistants, subordinates, clerks or employees and all other  
12 persons to render and furnish to the superintendent, when requested in  
13 connection with an investigation under this subsection, all information  
14 and assistance in their possession or within their power.

15 (e) Any entity who violates an order under subsection (c) or (d) of  
16 this section shall be subject to a civil penalty, after notice and a  
17 hearing, of not more than ten thousand dollars per act in violation, in  
18 addition to any other penalty provided by law.

19 (f) Any communications or documents sent or received in connection  
20 with an investigation under this article, and materials referring to  
21 such information in the possession of the superintendent shall be confi-  
22 dential and not subject to disclosure by the superintendent except where  
23 and as the superintendent determines that disclosure is in the public  
24 interest. This subsection shall not apply to information, documents and  
25 materials in the possession and under the control of an entity other  
26 than the superintendent.

27 § 3004. Reporting of drug price increases. (a)(1) No manufacturer or  
28 wholesaler may charge any price for a drug based on an increase in

1 wholesale acquisition cost, average wholesale price, or any other metric  
2 unless the manufacturer shall first report the price to the department.

3 (2) No entity may sell or distribute in this state any drug for which  
4 a report was required to be made under this subsection until such report  
5 is made.

6 (b) The report required by subsection (a) of this section shall be  
7 made in a form and manner prescribed by the superintendent, shall be  
8 made individually for each national drug code, and shall include the  
9 following:

10 (1) the name or names of the drug;

11 (2) the national drug code for the drug;

12 (3) the price of the drug prior to the increase;

13 (4) the price of the drug following the increase;

14 (5) the effective date of the increase;

15 (6) the date on which the decision was made to increase the price; and

16 (7) the reason and justification for the increase.

17 (c) Not later than May first, two thousand twenty-five, the department  
18 shall begin publishing reports received under this section on a publicly  
19 accessible online database, which is searchable at least by manufacturer  
20 name, drug name, and national drug code. Reports shall be posted not  
21 later than fifteen business days after they are received and shall  
22 remain on the database for not less than one hundred eighty days after  
23 the effective date of the increase or the first date the report is post-  
24 ed, whichever is later, provided, however, that the superintendent may  
25 delay the posting of a report if posting within fifteen business days of  
26 receipt is not feasible.

27 (d) Notwithstanding any law to the contrary, the information contained  
28 in paragraphs six and seven of subsection (b) of this section or any

1 statement required under subsection (g) of this section, together with  
2 any communications, documents, and materials referring to such informa-  
3 tion in the possession of the superintendent, shall be confidential and  
4 not subject to disclosure by the superintendent, except where the super-  
5 intendent determines that disclosure is in the public interest. This  
6 subsection shall not apply to information, documents and materials in  
7 the possession and under the control of an entity other than the super-  
8 intendent.

9 (e) No report shall be considered validly filed unless accompanied by  
10 a filing fee in an amount set forth in this subsection.

11 (1) For any report involving an increase that will not take effect for  
12 one hundred twenty days or more and for which the effective date of the  
13 change is between the first of January and the thirty-first of January  
14 and:

15 (A) for which the increase will result in a change of less than ten  
16 percent per unit over the price of the same drug three hundred sixty-  
17 five days before the effective date of the change, the fee shall be  
18 twenty-five dollars;

19 (B) for which the increase will result in a change of less than twen-  
20 ty-five percent per unit over the price of the same drug three hundred  
21 sixty-five days before the effective date of the change, the fee shall  
22 be twenty-five dollars;

23 (C) for which the increase will result in a change of less than fifty  
24 percent per unit over the price of the same drug three hundred sixty-  
25 five days before the effective date of the change, the fee shall be two  
26 hundred fifty dollars; or

27 (D) for which the increase will result in a change of fifty percent or  
28 greater per unit over the price of the same drug three hundred sixty-

1 five days before the effective date of the change, the fee shall be one  
2 thousand dollars.

3 (2) For any report involving an increase that will not take effect for  
4 one hundred twenty days or more and for which the effective date is  
5 outside of the month of January and:

6 (A) for which the increase will result in a change of less than ten  
7 percent per unit over the price of the same drug three hundred sixty-  
8 five days before the effective date of the change, the fee shall be two  
9 thousand five hundred dollars;

10 (B) for which the increase will result in a change of less than twen-  
11 ty-five percent per unit over the price of the same drug three hundred  
12 sixty-five days before the effective date of the change, the fee shall  
13 be five thousand dollars;

14 (C) for which the increase will result in a change of less than fifty  
15 percent per unit over the price of the same drug three hundred sixty-  
16 five days before the effective date of the change, the fee shall be  
17 seven thousand five hundred dollars; or

18 (D) for which the increase will result in a change of fifty percent or  
19 greater per unit over the price of the same drug three hundred sixty-  
20 five days before the effective date of the change, the fee shall be ten  
21 thousand dollars.

22 (3) For any report involving an increase that will take effect in less  
23 than one hundred twenty days and for which the effective date of the  
24 change is between the first of January and the thirty-first of January  
25 and:

26 (A) for which the increase will result in a change of less than ten  
27 percent per unit over the price of the same drug three hundred sixty-

1 five days before the effective date of the change, the fee shall be two  
2 thousand five hundred dollars;

3 (B) for which the increase will result in a change of less than twen-  
4 ty-five percent per unit over the price of the same drug three hundred  
5 sixty-five days before the effective date of the change, the fee shall  
6 be five thousand dollars;

7 (C) for which the increase will result in a change of less than fifty  
8 percent per unit over the price of the same drug three hundred sixty-  
9 five days before the effective date of the change, the fee shall be  
10 seven thousand five hundred dollars; or

11 (D) for which the increase will result in a change of fifty percent or  
12 greater per unit over the price of the same drug three hundred sixty-  
13 five days before the effective date of the change, the fee shall be ten  
14 thousand dollars.

15 (4) For any report involving an increase that will take effect in less  
16 than one hundred twenty days and for which the effective date of the  
17 change is outside of the month of January and:

18 (A) for which the increase will result in a change of less than ten  
19 percent per unit over the price of the same drug three hundred sixty-  
20 five days before the effective date of the change, the fee shall be  
21 twenty-five thousand dollars;

22 (B) for which the increase will result in a change of less than twen-  
23 ty-five percent per unit over the price of the same drug three hundred  
24 sixty-five days before the effective date of the change, the fee shall  
25 be fifty thousand dollars;

26 (C) for which the increase will result in a change of less than fifty  
27 percent per unit over the price of the same drug three hundred sixty-

1 five days before the effective date of the change, the fee shall be  
2 seventy-five thousand dollars; or

3 (D) for which the increase will result in a change of fifty percent or  
4 greater per unit over the price of the same drug three hundred sixty-  
5 five days before the effective date of the change, the fee shall be one  
6 hundred thousand dollars.

7 (5) For any report made after the effective date of the change, the  
8 fee shall be one hundred thousand dollars plus ten thousand dollars for  
9 each day after the effective date before the report is made.

10 (f) After notice and a hearing, the superintendent may impose a civil  
11 penalty on any entity that violates subsection (a) of this section in an  
12 amount not to exceed one million dollars per violation. In considering  
13 the amount of any such civil penalty, the superintendent shall consider:

14 (1) the timing of the increase;

15 (2) the cost of the drug;

16 (3) the impact on consumers;

17 (4) whether such violation is a first offense; and

18 (5) remedial measures the entity has put in place to prevent future  
19 violations.

20 (g) Whenever a report is made involving an increase that will take  
21 effect in less than one hundred twenty days, the manufacturer of the  
22 drug shall provide to the superintendent a statement of the reason that  
23 the increase must take effect in less than one hundred twenty days. When  
24 the superintendent believes it is in the public interest that an inves-  
25 tigation be made, the superintendent may make independent and special  
26 investigations into the matter as the superintendent deems appropriate.

27 § 3005. Reporting of pay for delay agreements. (a) Each manufacturer  
28 doing business in this state that manufactures a brand name prescription

1 drug and enters into an arrangement, through agreement or otherwise,  
2 with another pharmaceutical manufacturer that has the purpose or effect  
3 of delaying or preventing such other manufacturer from introducing a  
4 generic substitute for such drug into the marketplace shall, not later  
5 than thirty days after entering into such arrangement, send notice to  
6 the superintendent, in a form and manner prescribed by the superinten-  
7 dent, disclosing the name of such drug, the wholesale price, the disease  
8 or diseases such drug is commonly prescribed to treat, the manufacturer  
9 of such drug, the name of the generic manufacturer, the length of the  
10 delay, and such other information as the superintendent may require.

11 (b) The superintendent shall, no later than thirty days after receiv-  
12 ing a notice pursuant to subsection (a) of this section, provide notice  
13 of the filing to the drug accountability board, the drug utilization  
14 review board established under section three hundred sixty-nine-bb of  
15 the social services law and all Medicaid managed care plans, health  
16 plans and pharmacy benefits managers. It shall be sufficient notice for  
17 the superintendent to make available an email notification list to which  
18 any of the aforementioned entities may elect to receive notice.

19 (c) No later than June first, two thousand twenty-four, the department  
20 shall post on its website within thirty days of receipt thereof, all the  
21 notices required pursuant to subsection (a) of this section in a format  
22 and manner developed by the superintendent that is searchable by drug,  
23 cost, disease, and manufacturer both for the brand and generic drug for  
24 public review.

25 (d) Each notice required under subsection (a) of this section shall be  
26 accompanied by a filing fee of one hundred dollars.

27 (e) For a violation by a manufacturer of a brand name drug who know-  
28 ingly or negligently fails to notify the superintendent as required in

1 subsection (a) of this section, the superintendent shall fine such  
2 manufacturer no less than five thousand dollars for each day such  
3 manufacturer fails to properly notify the superintendent pursuant to the  
4 requirements of this section for the first violation and no less than  
5 ten thousand dollars for each day such manufacturer fails to properly  
6 notify the superintendent pursuant to the requirements of this section  
7 for each violation thereafter.

8 § 3006. Registration of pharmacy services administrative organiza-  
9 tions. (a) No PSAO shall operate in this state after March thirty-  
10 first, two thousand twenty-four without first registering with the  
11 department.

12 (b) A PSAO seeking registration shall file, in a form and manner  
13 determined by the superintendent, information that includes at a mini-  
14 mum:

15 (1) the legal name of the entity;

16 (2) any trade or other names used by the entity;

17 (3) the organizational structure of the entity;

18 (4) the pharmacies located within this state with which the entity  
19 provides services;

20 (5) the persons who exercise control of the entity;

21 (6) a primary point of contact for the entity;

22 (7) an agent for service of process;

23 (8) a set of audited financials for the prior fiscal year; and

24 (9) such other information as the superintendent shall require.

25 (c) The superintendent shall accept a registration only if the super-  
26 intendent determines that all the required information has been provided  
27 in a satisfactory form and has received payment of a nonrefundable  
28 registration fee of five thousand dollars.

1 (d) If any of the information contained in the registration shall  
2 change, the PSAO shall notify the department of the change in a form and  
3 manner prescribed by the superintendent for such purpose within twenty-  
4 one days of the change. The requirement to update shall include the  
5 filing of a new set of audited financials upon adoption. For any change  
6 other than new audited financials, the filing shall not be deemed  
7 complete unless accompanied by a payment of a fee of fifty dollars.

8 (e) Every PSAO registration issued pursuant to this section shall  
9 expire twelve months after the date of issue. A PSAO may renew its  
10 registration for another twelve months upon the filing of an application  
11 in conformity with this section.

12 (f) Before a PSAO registration shall be renewed, the PSAO shall file  
13 an application for renewal in such form as the superintendent  
14 prescribes, and pay a fee of five thousand dollars.

15 (g) If a PSAO files a renewal application with the superintendent at  
16 least one month before its expiration, then the registration sought to  
17 be renewed shall continue in full force and effect either until the  
18 issuance by the superintendent of the renewal registration applied for  
19 or until five days after the superintendent shall have refused to issue  
20 such renewal registration and given notice of such refusal to the appli-  
21 cant, otherwise the PSAO registration shall expire and the registrant  
22 shall have no expectation of renewal.

23 § 3007. Required disclosures by pharmacy services administrative  
24 organizations. (a) (1) Each PSAO shall at the time of registration  
25 pursuant to section three thousand six of this article disclose to the  
26 department the extent of any ownership or control of the PSAO or by the  
27 PSAO of any parent company, subsidiary, or affiliate that:

28 (A) provides pharmacy services;

1 (B) provides prescription drug or device services; or

2 (C) manufactures, sells, or distributes prescription drugs, biolog-  
3 icals, or medical devices.

4 (2) A PSAO shall furnish a copy of the disclosure made at the time of  
5 registration to all pharmacies located in this state with which it has  
6 contract in place at the time of the registration. A PSAO shall not  
7 collect any fee for any services provided to a pharmacy for any period  
8 beginning five days after the filing of a registration with the depart-  
9 ment until the disclosure is sent to the pharmacy.

10 (3) Not later than April first, two thousand twenty-five, the depart-  
11 ment shall publish all disclosures received under this subsection on a  
12 publicly accessible online database, which is searchable at least by  
13 PSAO name. All disclosures shall be posted not later than ten business  
14 days after a registration is accepted and shall remain on the database  
15 for the duration of the registration of the PSAO.

16 (b) (1) Prior to entering into any contract with any pharmacy located  
17 in this state, including a contract with a group of pharmacies at least  
18 one of which is in this state, a PSAO shall furnish to the pharmacy a  
19 written disclosure of the information required to be disclosed in  
20 subsection (a) of this section. No contract with a pharmacy shall be  
21 enforceable against the pharmacy by a PSAO unless that PSAO makes this  
22 disclosure prior to the agreement. In addition to any other power  
23 conferred by law, the superintendent may prescribe the form and manner  
24 of such disclosures.

25 (2) A PSAO that owns, is owned by, in whole or in part, or controls  
26 any entity that manufactures, sells, or distributes prescription drugs,  
27 biologicals, or medical devices shall not, as a condition of entering  
28 into a contract with a pharmacy, require that the pharmacy purchase any

1 drugs or medical devices from an entity with which the PSAO has a finan-  
2 cial interest, or an entity with an ownership interest in the PSAO.

3 (3) No PSAO shall enter into a contract with a pharmacy in this state  
4 unless that contract shall provide that all remittances for claims  
5 submitted by a pharmacy benefit manager or third-party payer on behalf  
6 of a pharmacy to the PSAO shall be passed through by the PSAO to the  
7 pharmacy within a reasonable amount of time, established in the  
8 contract, after receipt of the remittance by the PSAO from the pharmacy  
9 benefit manager or third-party payer.

10 (c) (1) A PSAO that provides, accepts, or processes a discount,  
11 concession, or product voucher, to reduce, directly or indirectly, a  
12 covered individual's out-of-pocket expense for the order, dispensing,  
13 substitution, sale, or purchase of a prescription drug shall make avail-  
14 able to each pharmacy in this state that it contracts with or which it  
15 contracted with in the prior calendar year, an annual report that  
16 includes:

17 (A) an aggregated total of all such transactions, by the pharmacy; and

18 (B) an aggregated total of any payments received by the PSAO itself  
19 for providing, processing, or accepting any discount, concession, or  
20 product voucher on behalf of a pharmacy.

21 (2) A pharmacy in this state that is a party to a contract with a PSAO  
22 shall have a right to an accounting of the funds received by the PSAO  
23 for goods or services provided by the pharmacy to patients and custom-  
24 ers.

25 § 3008. Registration of pharmacy switch companies. (a) No switch  
26 company may do business in this state after June thirtieth, two thousand  
27 twenty-four without first registering with the department.

1 (b) A switch company seeking registration shall file with the depart-  
2 ment, in a form and manner determined by the superintendent, information  
3 including but not limited to:

- 4 (1) the legal name of the entity;  
5 (2) any trade or other names used by the entity;  
6 (3) the organizational structure of the entity;  
7 (4) the pharmacies located within this state and the pharmacy benefit  
8 managers licensed in this state with which the entity provides services;  
9 (5) the persons who exercise control of the entity;  
10 (6) a primary point of contact for the entity;  
11 (7) an agent for service of process;  
12 (8) a set of audited financials for the prior fiscal year; and  
13 (9) such other information or documents as the superintendent shall  
14 require.

15 (c) The superintendent shall accept a registration only if he or she  
16 deems that all the required information has been provided in a satisfac-  
17 tory form and has received payment of a nonrefundable registration fee  
18 of one thousand dollars.

19 (d) If any of the information contained in the registration shall  
20 change, the switch company shall notify the department of the change in  
21 a form and manner prescribed by the superintendent for such purpose  
22 within twenty-one days of the change. The requirement to update shall  
23 include the filing of a new set of audited financials upon adoption. For  
24 any change other than new audited financials, the filing shall not be  
25 deemed complete unless accompanied by a payment of a fee of fifty  
26 dollars.

27 (e) Every pharmacy switch company's registration shall expire twelve  
28 months after the date of issue. Every registration issued pursuant to

1 this section may be renewed for the ensuing period of twelve months upon  
2 the filing of an application in conformity with this subsection.

3 (f) Before a pharmacy switch company's registration shall be renewed,  
4 the pharmacy switch company shall properly file in the office of the  
5 superintendent an application for renewal in such form as the super-  
6 intendent prescribes, and pay a fee of one thousand dollars.

7 (g) If an application for a renewal registration shall have been filed  
8 with the superintendent at least one month before its expiration, then  
9 the registration sought to be renewed shall continue in full force and  
10 effect either until the issuance by the superintendent of the renewal  
11 registration applied for or until five days after the superintendent  
12 shall have refused to issue such renewal registration and given notice  
13 of such refusal to the applicant, otherwise the registration shall  
14 expire and the registrant shall have no expectation of renewal.

15 § 3009. Required disclosures by pharmacy switch companies. (a) Each  
16 switch company shall annually disclose to the department, in a form and  
17 manner prescribed by the superintendent, such information as the super-  
18 intendent deems necessary for the proper supervision of the industry.  
19 Such information shall include:

20 (1) a list of services the switch company provides and the industries  
21 to which they are provided;

22 (2) information on electronic voucher services provided by the switch  
23 company, including:

24 (A) a list of manufacturers that the switch company has contracts with  
25 or for which it transmits electronic vouchers;

26 (B) a list of medications and the National Drug Codes (NDCs) for which  
27 the switch company may apply electronic vouchers; and

1 (C) the total amount of money collected from manufacturers related to  
2 transmission of electronic vouchers; and

3 (3) the number of transactions processed in this state and the total  
4 amount of revenue attributable to those transactions.

5 (b) A switch company shall disclose to each pharmacy benefit manager  
6 with which it does business any instance in which an electronic voucher  
7 was applied in the course of routing the claim.

8 § 3010. Registration of rebate aggregators. (a) No rebate aggregator  
9 may do business in this state after September thirtieth, two thousand  
10 twenty-four without first registering with the department.

11 (b) A rebate aggregator seeking registration shall file, in a form and  
12 manner determined by the superintendent, information including but not  
13 limited to:

14 (1) the legal name of the entity;

15 (2) any trade or other names used by the entity;

16 (3) the organizational structure of the entity;

17 (4) the health plans and the pharmacy benefit managers licensed in  
18 this state for which the entity provides services;

19 (5) the persons who exercise control of the entity;

20 (6) a primary point of contact for the entity;

21 (7) an agent for service of process;

22 (8) a set of audited financials for the prior fiscal year; and

23 (9) such other information or documents as the superintendent shall  
24 require.

25 (c) The superintendent shall accept a registration only if he or she  
26 deems that all the required information has been provided in a satisfac-  
27 tory form and has received payment of a nonrefundable registration fee  
28 of one thousand dollars.

1 (d) If any of the information contained in the registration shall  
2 change the rebate aggregator shall notify the department of the change  
3 in a form and manner prescribed by the superintendent for such purpose  
4 within twenty-one days of the change. The requirement to update shall  
5 include the filing of a new set of audited financials upon adoption. For  
6 any change other than new audited financials, the filing shall not be  
7 deemed complete unless accompanied by a payment of a fee of fifty  
8 dollars.

9 (e) Every rebate aggregator's registration shall expire twelve months  
10 after the date of issue. Every registration issued pursuant to this  
11 section may be renewed for the ensuing period of twelve months upon the  
12 filing of an application in conformity with this subsection.

13 (f) Before a rebate aggregator's registration shall be renewed, the  
14 rebate aggregator shall properly file in the office of the superinten-  
15 dent an application for renewal in such form as the superintendent  
16 prescribes, and pay a fee of one thousand dollars.

17 (g) If an application for a renewal registration shall have been filed  
18 with the superintendent at least one month before its expiration, then  
19 the registration sought to be renewed shall continue in full force and  
20 effect either until the issuance by the superintendent of the renewal  
21 registration applied for or until five days after the superintendent  
22 shall have refused to issue such renewal registration and given notice  
23 of such refusal to the applicant, otherwise the registration shall  
24 expire and the registrant shall have no expectation of renewal.

25 § 3011. Required disclosures by rebate aggregators. (a) Each rebate  
26 aggregator that has a contract or arrangement with a pharmacy benefit  
27 manager serving a health plan shall, on an annual basis, disclose in  
28 writing to the health plan the following:

1 (1) fee structure provisions of any contract or arrangement between  
2 the rebate aggregator and pharmacy benefit manager or drug manufacturer,  
3 including:

4 (A) fees collected for aggregating rebates due to the health plan; and

5 (B) such other information as the superintendent may require by regu-  
6 lation; and

7 (2) quantification of inflationary payments, credits, grants,  
8 reimbursements, other financial or other reimbursements, incentives,  
9 inducements, refunds or other benefits received by the rebate aggregator  
10 from the drug manufacturer and retained by the rebate aggregator, wheth-  
11 er referred to as a rebate, a discount, or otherwise.

12 (b) (1) Each rebate aggregator shall, at the time of registration,  
13 disclose to the department the extent of any ownership or control of the  
14 rebate aggregator or by the rebate aggregator of any parent company,  
15 subsidiary, or other affiliated organizations that provides pharmacy  
16 benefit management services.

17 (2) Each rebate aggregator shall on an annual basis disclose to the  
18 department the information requested by the superintendent, including:

19 (A) any payments made to a rebate aggregator by a drug manufacturer  
20 relating to a drug's utilization, including inflationary payments, cred-  
21 its, grants, reimbursements, other financial or other reimbursements,  
22 incentives, inducements, refunds or other benefits received by the  
23 rebate aggregator, whether referred to as a rebate, a discount, or  
24 otherwise;

25 (B) any payments made, including those described in subparagraph (A)  
26 of this paragraph and subsequently retained by a rebate aggregator;

27 (C) any fees charged by the rebate aggregator to the pharmacy benefit  
28 manager or drug manufacturer relating to a drug's utilization;

1 (D) any payments made to a rebate aggregator from a program adminis-  
2 tered by a drug manufacturer for the purpose of assisting patients with  
3 the cost of prescription drugs, including copayment assistance programs,  
4 discount cards, and coupons; and

5 (E) the terms and conditions of any contract or arrangement between  
6 the rebate aggregator and a pharmacy benefit manager or drug manufactur-  
7 er.

8 § 3012. Deposit of penalties and fees. Penalties and fees collected  
9 pursuant to this article shall be deposited into the pharmacy benefit  
10 manager regulatory fund established pursuant to section ninety-nine-oo  
11 of the state finance law.

12 § 4. Subdivision 3 of section 99-oo of the state finance law, as added  
13 by chapter 128 of the laws of 2022, is amended to read as follows:

14 3. Such fund shall consist of money received by the state as fees  
15 under [article] articles twenty-nine and thirty of the insurance law or  
16 penalties ordered under [article] articles twenty-nine and thirty of the  
17 insurance law and all other monies appropriated, credited, or trans-  
18 ferred thereto from any other fund or source pursuant to law. All monies  
19 shall remain in such fund unless and until directed by statute or appro-  
20 priation.

21 § 5. This act shall take effect on the one hundred fiftieth day after  
22 it shall have become a law.

23 SUBPART C

24 Section 1. Subdivision 9 of section 2807-k of the public health law,  
25 as amended by section 17 of part B of chapter 60 of the laws of 2014, is  
26 amended to read as follows:

1 9. In order for a general hospital to participate in the distribution  
2 of funds from the pool, the general hospital must implement minimum  
3 collection policies and procedures approved by the commissioner, utiliz-  
4 ing only a uniform financial assistance form developed and provided by  
5 the department.

6 § 2. This act shall take effect April 1, 2024.

7 SUBPART D

8 Section 1. Legislative findings. The legislature finds that it is in  
9 the best interest of the people of this state to expand article 77 of  
10 the insurance law to protect insureds and health care providers against  
11 the failure or inability of a health or property/casualty insurer writ-  
12 ing health insurance to perform its contractual obligations due to  
13 financial impairment or insolvency. The superintendent of financial  
14 services has the right and responsibility to enforce the insurance law  
15 and the authority to seek redress against any person responsible for the  
16 impairment or insolvency of the insurer, and nothing in this act is  
17 intended to restrict or limit such right, responsibility, or authority.

18 § 2. The article heading of article 77 of the insurance law, as added  
19 by chapter 802 of the laws of 1985, is amended to read as follows:

20 THE LIFE AND HEALTH INSURANCE COMPANY  
21 GUARANTY CORPORATION  
22 OF NEW YORK ACT

23 § 3. Section 7701 of the insurance law, as added by chapter 802 of the  
24 laws of 1985, is amended to read as follows:

1 § 7701. Short title. This article shall be known and may be cited as  
2 "The Life and Health Insurance Company Guaranty Corporation of New York  
3 Act".

4 § 4. Section 7702 of the insurance law, as amended by chapter 454 of  
5 the laws of 2014, is amended to read as follows:

6 § 7702. Purpose. The purpose of this article is to provide funds to  
7 protect policy owners, insureds, health care providers, beneficiaries,  
8 annuitants, payees and assignees of life insurance policies, health  
9 insurance policies, annuity contracts, funding agreements and supple-  
10 mental contracts issued by life insurance companies, health insurance  
11 companies, and property/casualty insurance companies, subject to certain  
12 limitations, against failure in the performance of contractual obli-  
13 gations due to the impairment or insolvency of the insurer issuing such  
14 policies, contracts, or funding agreements. In the judgment of the  
15 legislature, the foregoing objects and purposes not being capable of  
16 accomplishment by a corporation created under general laws, the creation  
17 of a not-for-profit corporation of insurers is provided for by this  
18 article to enable the guarantee of payment of benefits and of continua-  
19 tion of coverages, and members of the corporation are subject to assess-  
20 ment to carry out the purposes of this article.

21 § 5. Paragraphs 1 and 2 of subsection (a) of section 7703 of the  
22 insurance law, as added by chapter 454 of the laws of 2014, are amended  
23 to read as follows:

24 (1) This article shall apply to direct life insurance policies, health  
25 insurance policies, annuity contracts, funding agreements, and supple-  
26 mental contracts issued by a life insurance company, health insurance  
27 company, or property/casualty insurance company licensed to transact  
28 life or health insurance or annuities in this state at the time the

1 policy, contract, or funding agreement was issued or on the date of  
2 entry of a court order of liquidation or rehabilitation with respect to  
3 such a company that is an impaired or insolvent insurer, as the case may  
4 be.

5 (2) Except as otherwise provided in this section, this article shall  
6 apply to the policies, contracts, and funding agreements specified in  
7 paragraph one of this subsection with regard to a person who is:

8 (A) an owner or certificate holder under a policy, contract, or fund-  
9 ing agreement and in each case who:

10 (i) is a resident of this state; or

11 (ii) is not a resident of this state, but only under all of the  
12 following conditions:

13 (I) (aa) the insurer that issued the policy, contract, or agreement is  
14 domiciled in this state; or

15 (bb) the insurer that issued the policy, contract, or agreement is  
16 domiciled outside this state and the insurer delivered or issued for  
17 delivery the policy, contract, or agreement in this state; provided,  
18 however, that for the purpose of this subitem, any certificate issued to  
19 an individual under any group or blanket policy or contract delivered or  
20 issued for delivery in this state shall be considered to have been  
21 delivered or issued for delivery in this state;

22 (II) the state or states in which the person resides has or have a  
23 guaranty entity similar to the corporation created by this article; and

24 (III) the person is not eligible for coverage by a guaranty entity in  
25 any other state because the insurer was not licensed or authorized in  
26 that state at the time specified in that state's guaranty entity law;

27 [or]

1 (B) the beneficiary, assignee, or payee of the person specified in  
2 subparagraph (A) of this paragraph, regardless of where the person  
3 resides; or

4 (C) a health care provider that has rendered services to a person  
5 specified in subparagraph (A) of this paragraph.

6 § 6. Subsections (c), (d), (e), (h), and (i) of section 7705 of the  
7 insurance law, subsections (c), (e) and (i) as added by chapter 802 of  
8 the laws of 1985 and subsections (d) and (h) as amended by chapter 454  
9 of the laws of 2014, are amended and a new subsection (m) is added to  
10 read as follows:

11 (c) "Corporation" means The Life and Health Insurance Company Guaranty  
12 Corporation of New York created under section seven thousand seven  
13 hundred six of this article unless the context otherwise requires.

14 (d) "Covered policy" means any of the kinds of insurance specified in  
15 paragraph one, two or three of subsection (a) of section one thousand  
16 one hundred thirteen of this chapter, any supplemental contract, or any  
17 funding agreement referred to in section three thousand two hundred  
18 twenty-two of this chapter, or any portion or part thereof, within the  
19 scope of this article under section seven thousand seven hundred three  
20 of this article, except that any certificate issued to an individual  
21 under any group or blanket policy or contract shall be considered to be  
22 a separate covered policy for purposes of section seven thousand seven  
23 hundred eight of this article.

24 (e) "Health insurance" means the kinds of insurance specified under  
25 items (i) and (ii) of paragraph three and paragraph thirty-one of  
26 subsection (a) of section one thousand one hundred thirteen of this  
27 chapter, and section one thousand one hundred seventeen of this chapter;  
28 medical expense indemnity, dental expense indemnity, hospital service,

1 or health service under article forty-three of this chapter; and compre-  
2 hensive health services under article forty-four of the public health  
3 law. "Health insurance" shall not include hospital, medical, surgical,  
4 prescription drug, or other health care benefits pursuant to: (1) part  
5 C of title XVIII of the social security act (42 U.S.C. § 1395w-21 et  
6 seq.) or part D of title XVIII of the social security act (42 U.S.C. §  
7 1395w-101 et seq.), commonly known as Medicare parts C and D, or any  
8 regulations promulgated thereunder; (2) titles XIX and XXI of the social  
9 security act (42 U.S.C. § 1396 et seq.), commonly known as the Medicaid  
10 and child health insurance programs, or any regulations promulgated  
11 thereunder; or (3) the basic health program under section three hundred  
12 sixty-nine-gg of the social services law.

13 (h) (1) "Member insurer" means:

14 (A) any life insurance company licensed to transact in this state any  
15 kind of insurance to which this article applies under section seven  
16 thousand seven hundred three of this article; provided, however, that  
17 the term "member insurer" also means any life insurance company formerly  
18 licensed to transact in this state any kind of insurance to which this  
19 article applies under section seven thousand seven hundred three of this  
20 article; and

21 (B) an insurer licensed or formerly licensed to write accident and  
22 health insurance or salary protection insurance in this state, corpo-  
23 ration organized pursuant to article forty-three of this chapter, recip-  
24 rocal insurer organized pursuant to article sixty-one of this chapter,  
25 cooperative property/casualty insurance company operating under or  
26 subject to article sixty-six of this chapter, nonprofit  
27 property/casualty insurance company organized pursuant to article  
28 sixty-seven of this chapter, and health maintenance organization certi-

1 fied pursuant to article forty-four of the public health law, which is  
2 not a member of, or participant in, the fund or corporation created  
3 pursuant to article seventy-five or seventy-seven of this chapter.

4 (2) "Member insurer" shall not include a municipal cooperative health  
5 benefit plan established pursuant to article forty-seven of this chap-  
6 ter, an employee welfare fund registered under article forty-four of  
7 this chapter, a fraternal benefit society organized under article  
8 forty-five of this chapter, an institution of higher education with a  
9 certificate of authority under section one thousand one hundred twenty-  
10 four of this chapter, or a continuing care retirement community with a  
11 certificate of authority under article forty-six or forty-six-A of the  
12 public health law.

13 (i) "Premiums" means direct gross insurance premiums and annuity and  
14 funding agreement considerations received on covered policies, less  
15 return premiums and considerations thereon and dividends paid or credit-  
16 ed to policyholders or contract holders on such direct business, subject  
17 to such modifications as the superintendent may establish by regulation  
18 or order as necessary to facilitate the equitable administration of this  
19 article. Premiums do not include premiums and considerations on  
20 contracts between insurers and reinsurers. For the purposes of determin-  
21 ing the assessment for an insurer under this article, the term "premi-  
22 ums", with respect to a group annuity contract (or portion of any such  
23 contract) that does not guarantee annuity benefits to any specific indi-  
24 vidual identified in the contract and with respect to any funding agree-  
25 ment issued to fund benefits under any employee benefit plan, means the  
26 lesser of one million dollars or the premium attributable to that  
27 portion of such group contract that does not guarantee benefits to any

1 specific individuals or such agreements that fund benefits under any  
2 employee benefit plan.

3 (m) "Long-term care insurance" means an insurance policy, rider, or  
4 certificate advertised, marketed, offered, or designed to provide cover-  
5 age, subject to eligibility requirements, for not less than twenty-four  
6 consecutive months for each covered person on an expense incurred,  
7 indemnity, prepaid or other basis and provides at least the benefits set  
8 forth in part fifty-two of title eleven of the official compilation of  
9 codes, rules and regulations of this state.

10 § 7. Subsection (a) of section 7706 of the insurance law, as added by  
11 chapter 802 of the laws of 1985, is amended to read as follows:

12 (a) There is created a not-for-profit corporation to be known as "The  
13 Life and Health Insurance Company Guaranty Corporation of New York". To  
14 the extent that the provisions of the not-for-profit corporation law do  
15 not conflict with the provisions of this article or the plan of opera-  
16 tion of the corporation hereunder the not-for-profit corporation law  
17 shall apply to the corporation and the corporation shall be a type C  
18 corporation pursuant to the not-for-profit corporation law. If an appli-  
19 cable provision of this article or the plan of operation of the corpo-  
20 ration hereunder relates to a matter embraced in a provision of the  
21 not-for-profit corporation law but is not in conflict therewith, both  
22 provisions shall apply. All member insurers shall be and remain members  
23 of the corporation as a condition of their authority to transact insur-  
24 ance in this state. The corporation shall perform its functions under  
25 the plan of operation established and approved under section seven thou-  
26 sand seven hundred ten of this article and shall exercise its powers  
27 through a board of directors established under section seven thousand

1 seven hundred seven of this article. For purposes of administration and  
2 assessment the corporation shall maintain two accounts:

3 (1) the health insurance account; and

4 (2) the life insurance, annuity and funding agreement account.

5 § 8. Subsection (d) of section 7707 of the insurance law, as added by  
6 chapter 802 of the laws of 1985, is amended to read as follows:

7 (d) The superintendent shall be ex-officio [chairman] chair of the  
8 board of directors but shall not be entitled to vote.

9 § 9. Paragraph 7 of subsection (h) of section 7708 of the insurance  
10 law, as amended by chapter 454 of the laws of 2014, is amended to read  
11 as follows:

12 (7) exercise, for the purposes of this article and to the extent  
13 approved by the superintendent, the powers of a domestic life, health,  
14 or property/casualty insurance company, but in no case may the corpo-  
15 ration issue insurance policies or contracts or annuity contracts other  
16 than those issued to perform the contractual obligations of the impaired  
17 or insolvent insurer;

18 § 10. Paragraph 2 of subsection (c) of section 7709 of the insurance  
19 law, as added by chapter 802 of the laws of 1985, is amended to read as  
20 follows:

21 (2) The amount of any class B or class C assessment, except for  
22 assessments related to long-term care insurance, shall be allocated for  
23 assessment purposes among the accounts in the proportion that the premi-  
24 ums received by the impaired or insolvent insurer on the policies or  
25 contracts covered by each account for the last calendar year preceding  
26 the assessment in which the impaired or insolvent insurer received  
27 premiums bears to the premiums received by such insurer for such calen-  
28 dar year on all covered policies. The amount of any class B or class C

1 assessment for long-term care insurance written by the impaired or  
2 insolvent insurer shall be allocated according to a methodology included  
3 in the plan of operation and approved by the superintendent. The meth-  
4 odology shall provide for fifty percent of the assessment to be allo-  
5 cated to a health insurance company member insurer and fifty percent to  
6 be allocated to a life insurance company member insurer; provided,  
7 however, that a property/casualty insurer that writes health insurance  
8 shall be considered a health insurance company member for this purpose.  
9 Class B and class C assessments against member insurers for each account  
10 shall be in the proportion that the premiums received on business in  
11 this state by each assessed member insurer on policies covered by each  
12 account for the three calendar years preceding the assessment bears to  
13 such premiums received on business in this state for such calendar years  
14 by all assessed member insurers.

15 § 11. Subsection (a) of section 7712 of the insurance law, as added  
16 by chapter 802 of the laws of 1985, is amended to read as follows:

17 (a) The superintendent shall annually, within six months following the  
18 close of each calendar year, furnish to the commissioner of taxation and  
19 finance and the director of the division of the budget a statement of  
20 operations for the life insurance guaranty corporation and the life and  
21 health insurance company guaranty corporation of New York. Such state-  
22 ment shall show the assessments, less any refunds or reimbursements  
23 thereof, paid by each insurance company pursuant to the provisions of  
24 article seventy-five or section seven thousand seven hundred nine of  
25 this article, for the purposes of meeting the requirements of this chap-  
26 ter. Each statement, starting with the statement furnished in the year  
27 nineteen hundred eighty-six and ending with the statement furnished in  
28 the year two thousand, shall show the annual activity for every year

1 commencing from nineteen hundred eighty-five through the most recently  
2 completed year. Each statement furnished in each year after the year two  
3 thousand shall reflect such assessments paid during the preceding  
4 fifteen calendar years. The superintendent shall also furnish a copy of  
5 such statement to each such insurance company.

6 § 12. Subsections (a), (d), and (g) of section 7719 of the insurance  
7 law, as added by chapter 454 of the laws of 2014, are amended to read as  
8 follows:

9 (a) The corporation may incorporate one or more not-for-profit corpo-  
10 rations, known as a resolution facility, in connection with the liqui-  
11 dation of an insolvent domestic life insurance company, health insurance  
12 company, or property/casualty insurance company under article seventy-  
13 four of this chapter for the purpose of administering and disposing of  
14 the business of the insolvent [domestic life] insurance company.

15 (d) A resolution facility may:

16 (1) guarantee, assume, or reinsure, or cause to be guaranteed,  
17 assumed, or reinsured, the covered policies, or arrange for replacement  
18 by policies found by the superintendent to be substantially similar to  
19 the covered policies;

20 (2) exercise, for the purposes of this article and to the extent  
21 approved by the superintendent, the powers of a domestic life insurance  
22 company, health insurance company, or property/casualty insurance compa-  
23 ny but in no case may the resolution facility issue insurance policies,  
24 annuity contracts, funding agreements, or supplemental contracts other  
25 than those issued to perform the contractual obligations of the impaired  
26 or insolvent insurer;

27 (3) assure payment of the contractual obligations of the insolvent  
28 insurer; and

1 (4) provide such moneys, pledges, notes, guarantees, or other means as  
2 are reasonably necessary to discharge its duties.

3 (g) (1) If the superintendent determines that the resolution facility  
4 is not administering and disposing of the business of an insolvent  
5 domestic life insurance company, health insurance company, or  
6 property/casualty insurance company consistent with the resolution  
7 facility's certificate of incorporation, plan of operation, or this  
8 section, then the superintendent shall provide notice to the resolution  
9 facility and the resolution facility shall have thirty days to respond  
10 to the superintendent and cure the defect.

11 (2) If, after thirty days, the superintendent continues to believe  
12 that the resolution facility is not administering and disposing of the  
13 business of an insolvent domestic life insurance company, health insur-  
14 ance company, or property/casualty insurance company consistent with the  
15 resolution facility's certificate of incorporation, plan of operation,  
16 or this section, then the superintendent may apply to the court for an  
17 order directing the resolution facility to correct the defect or take  
18 other appropriate actions.

19 § 13. The insurance law is amended by adding a new section 7720 to  
20 read as follows:

21 § 7720. Penalties. (a) If any member insurer fails to make any payment  
22 required by this article, or if the superintendent has cause to believe  
23 that any other statement filed is false or inaccurate in any particular,  
24 or that any payment made is incorrect, the superintendent may examine  
25 all the books and records of the member insurer to ascertain the facts  
26 and determine the correct amount to be paid. Based on such finding, the  
27 corporation may proceed in any court of competent jurisdiction to

1 recover for the benefit of the fund any sums shown to be due upon such  
2 examination and determination.

3 (b) Any member insurer that fails to make any such required statement,  
4 or to make any payment to the fund when due, shall forfeit to the corpo-  
5 ration for deposit in the fund a penalty of five percent of the amount  
6 determined to be due plus one percent of such amount for each month of  
7 delay, or fraction thereof, after the expiration of the first month of  
8 such delay. If satisfied that the delay was excusable, the corporation  
9 may remit all or any part of the penalty.

10 (c) The superintendent, in the superintendent's discretion, may revoke  
11 the certificate of authority to do business in this state of any foreign  
12 member insurer that fails to comply with this article or to pay any  
13 penalty imposed hereunder.

14 § 14. The insurance law is amended by adding a new section 3245 to  
15 read as follows:

16 § 3245. Liability to providers in the event of an insolvency. In the  
17 event an insurance company authorized to do an accident and health  
18 insurance business in this state is deemed insolvent, as provided in  
19 section one thousand three hundred nine of this chapter, no insured  
20 covered under a policy delivered or issued for delivery in this state by  
21 the insurance company shall be liable to any provider of health care  
22 services for any covered services of the insolvent insurance company. No  
23 provider of health care services or any representative of such provider  
24 shall collect or attempt to collect from the insured sums owed by such  
25 insurance company, and no provider or representative of such provider  
26 may maintain any action at law against an insured to collect sums owed  
27 to such provider by such insurance company.

28 § 15. This act shall take effect immediately.

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

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

13 PART Z

14 Section 1. Subdivisions 7 and 8 of section 4656 of the public health  
15 law, as added by chapter 2 of the laws of 2004, are renumbered subdivi-  
16 sions 8 and 9 and a new subdivision 7 is added to read as follows:

17 7. Assisted living quality improvement standards. (a) All assisted  
18 living residences, as defined in subdivision one of section forty-six  
19 hundred fifty-one of this article, including those licensed and certi-  
20 fied as an assisted living residence, special needs assisted living  
21 residence, or enhanced assisted living residence, shall:

22 (i) report annually on quality measures to be established by the  
23 department, in the form and format prescribed by the department, with  
24 the first report due no later than January thirty-first, two thousand  
25 twenty-four; and

1 (ii) post the monthly service rate, staffing complement, approved  
2 admission or residency agreement, and a consumer-friendly summary of all  
3 service fees in a conspicuous place on the facility's website and in a  
4 public space within the facility. Such information shall be made avail-  
5 able to the public on forms developed by the department. Beginning on  
6 January first, two thousand twenty-four, this information shall also be  
7 reported to the department.

8 (b) The department shall score the results of the assisted living  
9 quality reporting obtained pursuant to paragraph (a) of this subdivi-  
10 sion. Top scoring facilities shall be granted the classification of  
11 advanced standing on their annual surveillance schedules.

12 (i) Notwithstanding subparagraph one of paragraph (a) of subdivision  
13 two of section four hundred sixty-one-a of the social services law,  
14 facilities achieving an advanced standing classification shall be  
15 surveyed every twelve to eighteen months. All other facilities shall be  
16 surveyed on an unannounced basis no less than annually; provided, howev-  
17 er, that this shall not apply to surveys, inspections or investigations  
18 based on complaints received by the department under any other provision  
19 of law.

20 (ii) Facilities may remain on advanced standing classification  
21 provided they meet the scoring requirements in assisted living quality  
22 reporting.

23 (c) (i) Effective January thirty-first, two thousand twenty-four, the  
24 department may post on its website the results of the assisted living  
25 quality reporting, collected pursuant to subparagraph (i) of paragraph  
26 (a) of this subdivision.

27 § 2. Subparagraph 1 of paragraph (a) of subdivision 2 of section 461-a  
28 of the social services law, as amended by chapter 735 of the laws of

1 1994, is amended and a new subparagraph (1-a) is added to read as  
2 follows:

3 (1) Such facilities receiving the department's highest rating shall be  
4 inspected at least once every eighteen months on an unannounced basis.  
5 Such rating determination shall be made pursuant to an evaluation of  
6 quality indicators as developed by the department and published on the  
7 department's website.

8 (1-a) (i) Adult care facilities dually licensed to provide assisted  
9 living pursuant to the requirements specified in section forty-six  
10 hundred fifty-three of the public health law may seek accreditation by  
11 one or more nationally recognized accrediting agencies determined by the  
12 commissioner.

13 (ii) Such accreditation agencies shall report data and information, in  
14 a manner and form as determined by the department, pertaining to those  
15 assisted living residences accredited by such agencies, those assisted  
16 living residences that seek but do not receive such accreditation, and  
17 those assisted living residences which obtain but lose such accredi-  
18 tation.

19 (iii) Notwithstanding the provisions of subparagraph one of this para-  
20 graph, or any other provision of law, assisted living residences which  
21 have obtained accreditation from a nationally recognized accreditation  
22 organization approved by the department and which meet eligibility  
23 criteria, as determined by the department, may, at the discretion of the  
24 commissioner, be exempt from department inspection required in this  
25 subdivision for the duration they maintain their accreditation in good  
26 standing. The operator of an adult care facility that obtains but subse-  
27 quently loses accreditation shall report such loss to the department  
28 within ten business days in a manner and form determined by the depart-

1 ment and will no longer be exempt from the department inspection  
2 required in this subdivision. The department shall post on its website a  
3 list of all accredited assisted living residences.

4 § 3. This act shall take effect on the one hundred twentieth day after  
5 it shall have become a law.

6 PART AA

7 Section 1. Section 3 of chapter 425 of the laws of 2013, amending the  
8 public health law relating to requiring hospitals to offer hepatitis C  
9 testing, as amended by chapter 284 of the laws of 2019, is amended to  
10 read as follows:

11 § 3. This act shall take effect on the first of January next succeed-  
12 ing the date on which it shall have become a law [and shall expire and  
13 be deemed repealed January 1, 2026; provided, however, that the commis-  
14 sioner of health is authorized to adopt rules and regulations necessary  
15 to implement this act prior to such effective date].

16 § 2. Subdivisions 1 and 2 of section 2171 of the public health law, as  
17 added by chapter 425 of the laws of 2013, are amended to read as  
18 follows:

19 1. Every individual [born between the years of nineteen hundred  
20 forty-five and nineteen hundred sixty-five] age eighteen and older (or  
21 younger than eighteen if there is evidence or indication of risk activ-  
22 ity) who receives health services as an inpatient or in the emergency  
23 department of a general hospital defined in subdivision ten of section  
24 twenty-eight hundred one of this chapter or who receives primary care  
25 services in an outpatient department of such hospital or in a diagnostic  
26 and treatment center licensed under article twenty-eight of this chapter

1 or from a physician, physician assistant [or], nurse practitioner or  
2 midwife providing primary care shall be offered a hepatitis C screening  
3 test [or hepatitis C diagnostic test] unless the health care practition-  
4 er providing such services reasonably believes that:

5 (a) the individual is being treated for a life threatening emergency;  
6 or

7 (b) the individual has previously been offered or has been the subject  
8 of a hepatitis C screening test (except that a test shall be offered if  
9 otherwise indicated); or

10 (c) the individual lacks capacity to consent to a hepatitis C screen-  
11 ing test.

12 2. If an individual accepts the offer of a hepatitis C screening test  
13 and the screening test is reactive, [the] an HCV RNA test must be  
14 performed, on the same specimen or a second specimen collected at the  
15 same time as the initial HCV screening test specimen, to confirm diagno-  
16 sis of current infection. The health care provider shall either offer  
17 [the individual] all persons with a detectable HCV RNA test follow-up  
18 HCV health care and treatment or refer the individual to a health care  
19 provider who can provide follow-up HCV health care and treatment. [The  
20 follow-up health care shall include a hepatitis C diagnostic test.]

21 § 3. The public health law is amended by adding a new section 2500-1  
22 to read as follows:

23 § 2500-1. Pregnant people, blood test for hepatitis C virus (HCV);  
24 follow-up care. 1. Every physician or other authorized practitioner  
25 attending a pregnant person in the state shall order a hepatitis C virus  
26 (HCV) screening test and if the test is reactive, an HCV RNA test must  
27 be performed on the same specimen, or a second specimen collected at the  
28 same time as the initial HCV screening test specimen, to confirm diagno-

1 sis of current infection. The health care provider shall either offer  
2 all persons with a detectable HCV RNA test follow-up HCV health care and  
3 treatment or refer the individual to a health care provider who can  
4 provide follow-up HCV health care and treatment.

5 2. The physician or other authorized practitioner attending a pregnant  
6 person shall record the HCV test results prominently in the pregnant  
7 person's medical record at or before the time of hospital admission for  
8 delivery.

9 3. The commissioner may promulgate such rules and regulations as are  
10 necessary to carry out the requirements of this section.

11 § 4. The section heading of section 2308 of the public health law, as  
12 amended by section 37 of part E of chapter 56 of the laws of 2013, is  
13 amended to read as follows:

14 Sexually transmitted disease; pregnant [women] persons; blood test for  
15 syphilis.

16 § 5. Subdivision 1 of section 2308 of the public health law is amended  
17 to read as follows:

18 1. Every physician or other authorized practitioner attending pregnant  
19 [women] persons in the state shall in the case of every [woman] person  
20 so attended take or cause to be taken a sample of blood of such [woman]  
21 person at the time of first examination, and submit such sample to an  
22 approved laboratory for a standard serological test for syphilis. In  
23 addition to testing at the time of first examination, every such physi-  
24 cian or other authorized practitioner shall order a syphilis test during  
25 the third trimester of pregnancy consistent with any guidance and regu-  
26 lations issued by the commissioner.

27 § 6. This act shall take effect immediately; provided, however that  
28 sections two, three, four and five shall take effect one year after it

1 shall have become a law. Effective immediately, the addition, amendment  
2 and/or repeal of any rule or regulation necessary for the implementation  
3 of this act on its effective date are authorized to be made and  
4 completed on or before such effective date.

5 PART BB

6 Section 1. Paragraphs 59 and 61 of subdivision (b) of schedule I of  
7 section 3306 of the public health law, as added by section 2 of part CC  
8 of chapter 56 of the laws of 2020, are amended and 30 new paragraphs 71,  
9 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89,  
10 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 are added to read as  
11 follows:

12 (59) [N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-phenylp-  
13 ropionamide] N-{1-{2-hydroxy-2-(thiophen-2-yl)ethyl}piperidin-4-yl}-N-  
14 phenyl propionamide. Other name: Beta-Hydroxythiofentanyl.

15 (61) [3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide]  
16 3,4-Dichloro-N-{2-(dimethylamino)cyclohexyl}-N-methylbenzamide. Other  
17 name: U-47700.

18 (71) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide. Other name:  
19 Valeryl fentanyl.

20 (72) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide.  
21 Other name: para-methoxybutyryl fentanyl.

22 (73) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.  
23 Other name: para-chloroisobutyryl fentanyl.

24 (74) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide. Other name:  
25 isobutyryl fentanyl.

- 1 (75) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide.  
2 Other name: cyclopentyl fentanyl.
- 3 (76) (E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide. Other  
4 name: crotonyl fentanyl.
- 5 (77) N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)  
6 propionamide. Other names: 2'-fluoro ortho-fluorofentanyl; 2'-fluoro  
7 2-fluorofentanyl.
- 8 (78) N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide. Other  
9 names: ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl.
- 10 (79) N-(1-phenethylpiperidin-4-yl)-N, 3-diphenylpropanamide. Other  
11 names: beta'-phenyl fentanyl; beta'-phenyl fentanyl; 3-phenylpropanoyl  
12 fentanyl.
- 13 (80) N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide.  
14 Other names: thiofuranyl fentanyl; 2-thiofuranyl fentanyl; thiophene  
15 fentanyl.
- 16 (81) N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide. Other  
17 names: beta-Methyl fentanyl; beta-methyl fentanyl.
- 18 (82) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide.  
19 Other names: ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl.
- 20 (83) N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide. Other  
21 name: 4'-methyl acetyl fentanyl.
- 22 (84) 2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide.  
23 Other names: ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl  
24 fentanyl.
- 25 (85) N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide.  
26 Other names: para-methylfentanyl; 4-methylfentanyl.
- 27 (86) N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide. Other names:  
28 phenyl fentanyl; benzoyl fentanyl.

- 1 (87) ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate. Other name:  
2 Fentanyl carbamate.
- 3 (88) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide.  
4 Other name: ortho-fluoroacryl fentanyl.
- 5 (89) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide.  
6 Other name: ortho-fluoroisobutyryl fentanyl.
- 7 (90) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide.  
8 Other name: para-fluoro furanyl fentanyl.
- 9 (91) N,N-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)  
10 ethan-1-amine. Other name: Isotonitazene.
- 11 (92) 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-  
12 benzo[d]imidazol-2-one. Other names: Brorphine; 1-[1-[1-(4-bromophenyl)  
13 ethyl]-4-piperidinyl]-1,3-dihydro-2H-benzimidazol-2-one.
- 14 (93) 2-(2-(4-butoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)-N,N-diethylethan  
15 -1-amine. Other name: Butonitazene.
- 16 (94) 2-(2-(4-ethoxybenzyl)-1H-benzimidazol-1-yl)-N,N-diethylethan-1-amine.  
17 Other names: Etodesnitazene; Etazene.
- 18 (95) N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-  
19 1-amine. Other name: Flunitazene.
- 20 (96) N,N-diethyl-2-(2-(4-methoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-  
21 amine. Other name: Metodesnitazene.
- 22 (97) N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)  
23 ethan-1-amine. Other name: Metonitazene.
- 24 (98) 2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1H-  
25 benzimidazole. Other names: N-pyrrolidino etonitazene; Etonitazepyne.
- 26 (99) N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)  
27 ethan-1-amine. Other name: Protonitazene.

1 (100) Fentanyl-related substances, their isomers, esters, ethers,  
2 salts and salts of isomers, esters and ethers.

3 (i) Fentanyl-related substance means any substance not otherwise list-  
4 ed under another Administration Controlled Substance Code Number, and  
5 for which no exemption or approval is in effect under section 505 of the  
6 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), that is struc-  
7 turally related to fentanyl by one or more of the following modifica-  
8 tions:

9 (A) Replacement of the phenyl portion of the phenethyl group by any  
10 monocycle, whether or not further substituted in or on the monocycle;

11 (B) Substitution in or on the phenethyl group with alkyl, alkenyl,  
12 alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

13 (C) Substitution in or on the piperidine ring with alkyl, alkenyl,  
14 alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

15 (D) Replacement of the aniline ring with any aromatic monocycle wheth-  
16 er or not further substituted in or on the aromatic monocycle; and/or

17 (E) Replacement of the N-propionyl group by another acyl group.

18 (ii) This definition includes, but is not limited to, the following  
19 substances:

20 (A) - (B) [Reserved]

21 § 2. Paragraph 3 of subdivision (g) of schedule II of section 3306 of  
22 the public health law, as added by section 7 of part C of chapter 447 of  
23 the laws of 2012, is amended to read as follows:

24 (3) Immediate precursor to fentanyl:

25 (i) [4-anilino-N-phenethyl-4-piperidine (ANPP)] 4-anilino-N-phenen-  
26 ethylpiperidine (ANPP).

27 (ii) N-phenyl-N-(piperidin-4-yl)propionamide (Norfentanyl).

1 § 3. Paragraph c of subdivision 1 of section 3383 of the public health  
2 law, as added by chapter 494 of the laws of 1982, is amended to read as  
3 follows:

4 c. "Imitation controlled substance" means: (1) a substance, other than  
5 a drug for which a prescription is required pursuant to article one  
6 hundred thirty-seven of the education law, that is not a controlled  
7 substance, which by dosage unit appearance, including color, shape and  
8 size and by a representation is represented to be a controlled  
9 substance, as defined in the penal law; or (2) a controlled substance,  
10 which by dosage unit appearance, including color, shape and size and by  
11 a representation is represented to be a different controlled substance,  
12 as defined in the penal law. Evidence of representations that the  
13 substance is a controlled substance may include but is not limited to  
14 oral or written representations by the manufacturer or seller, as the  
15 case may be, about the substance with regard to:

- 16 (i) its price, nature, use or effect as a controlled substance; or  
17 (ii) its packaging in a manner normally used for illicit controlled  
18 substances; or  
19 (iii) markings on the substance; or  
20 (iv) having been prescribed or provided by a pharmacist or health care  
21 practitioner.

22 § 4. Subdivision 7 of section 3383 of the public health law is  
23 REPEALED and subdivision 8 is renumbered subdivision 7.

24 § 5. Subdivision 21 of section 10.00 of the penal law, as added by  
25 chapter 1 of the laws of 2013, is amended to read as follows:

26 21. "Drug trafficking felony" means any of the following offenses  
27 defined in article two hundred twenty of this chapter: violation of use  
28 of a child to commit a controlled substance offense as defined in

1 section 220.28; criminal sale of a controlled substance in the fourth  
2 degree as defined in section 220.34; criminal sale of a controlled  
3 substance in the third degree as defined in section 220.39; criminal  
4 sale of a controlled substance in the second degree as defined in  
5 section 220.41; criminal sale of a controlled substance in the first  
6 degree as defined in section 220.43; criminal sale of a controlled  
7 substance in or near school grounds as defined in section 220.44; unlaw-  
8 ful manufacture of methamphetamine in the second degree as defined in  
9 section 220.74; unlawful manufacture of methamphetamine in the first  
10 degree as defined in section 220.75; or operating as a major trafficker  
11 as defined in section 220.77; criminal sale of an imitation controlled  
12 substance in the fifth degree as defined in section 220.83; criminal  
13 sale of an imitation controlled substance in the third degree as defined  
14 in section 220.84; and criminal sale of an imitation controlled  
15 substance in the first degree as defined in section 220.85.

16 § 6. Paragraphs (a) and (b) of subdivision 1 of section 460.10 of the  
17 penal law, paragraph (a) as amended by chapter 134 of the laws of 2019  
18 and paragraph (b) as amended by chapter 442 of the laws of 2006, are  
19 amended to read as follows:

20 (a) Any of the felonies set forth in this chapter: sections 120.05,  
21 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-  
22 ing to strangulation; sections 125.10 to 125.27 relating to homicide;  
23 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and  
24 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to  
25 labor trafficking; section 135.65 relating to coercion; sections 140.20,  
26 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and  
27 145.12 relating to criminal mischief; article one hundred fifty relating  
28 to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand

1 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health  
2 care fraud; article one hundred sixty relating to robbery; sections  
3 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of  
4 stolen property; sections 165.72 and 165.73 relating to trademark coun-  
5 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and  
6 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and  
7 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and  
8 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating  
9 to criminal diversion of prescription medications and prescriptions;  
10 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03,  
11 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56,  
12 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15,  
13 187.20 and 187.25 relating to residential mortgage fraud, sections  
14 190.40 and 190.42 relating to criminal usury; section 190.65 relating to  
15 schemes to defraud; any felony defined in article four hundred ninety-  
16 six; sections 205.60 and 205.65 relating to hindering prosecution;  
17 sections 210.10, 210.15, and 215.51 relating to perjury and contempt;  
18 section 215.40 relating to tampering with physical evidence; sections  
19 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,  
20 220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to controlled  
21 substances; sections 225.10 and 225.20 relating to gambling; sections  
22 230.25, 230.30, and 230.32 relating to promoting prostitution; section  
23 230.34 relating to sex trafficking; section 230.34-a relating to sex  
24 trafficking of a child; sections 235.06, 235.07, 235.21 and 235.22  
25 relating to obscenity; sections 263.10 and 263.15 relating to promoting  
26 a sexual performance by a child; sections 265.02, 265.03, 265.04,  
27 265.11, 265.12, 265.13 and the provisions of section 265.10 which  
28 constitute a felony relating to firearms and other dangerous weapons;

1 sections 265.14 and 265.16 relating to criminal sale of a firearm;  
2 section 265.50 relating to the criminal manufacture, sale or transport  
3 of an undetectable firearm, rifle or shotgun; section 275.10, 275.20,  
4 275.30, or 275.40 relating to unauthorized recordings; sections 220.82,  
5 220.83, 220.84 and 220.85 relating to imitation controlled substances;  
6 and sections 470.05, 470.10, 470.15 and 470.20 relating to money laun-  
7 dering; or

8 (b) Any felony set forth elsewhere in the laws of this state and  
9 defined by the tax law relating to alcoholic beverage, cigarette, gaso-  
10 line and similar motor fuel taxes; article seventy-one of the environ-  
11 mental conservation law relating to water pollution, hazardous waste or  
12 substances hazardous or acutely hazardous to public health or safety of  
13 the environment; article twenty-three-A of the general business law  
14 relating to prohibited acts concerning stocks, bonds and other securi-  
15 ties, article twenty-two of the general business law concerning monopo-  
16 lies; article thirty-three of the public health law relating to  
17 controlled substances or imitation controlled substances.

18 § 7. Paragraph (c) of subdivision 8 of section 700.05 of the criminal  
19 procedure law, as amended by chapter 92 of the laws of 2021, is amended  
20 and a new paragraph (w) is added to read as follows:

21 (c) Criminal possession of a controlled substance in the seventh  
22 degree as defined in section 220.03 of the penal law, criminal  
23 possession of a controlled substance in the fifth degree as defined in  
24 section 220.06 of the penal law, criminal possession of a controlled  
25 substance in the fourth degree as defined in section 220.09 of the penal  
26 law, criminal possession of a controlled substance in the third degree  
27 as defined in section 220.16 of the penal law, criminal possession of a  
28 controlled substance in the second degree as defined in section 220.18

1 of the penal law, criminal possession of a controlled substance in the  
2 first degree as defined in section 220.21 of the penal law, criminal  
3 sale of a controlled substance in the fifth degree as defined in section  
4 220.31 of the penal law, criminal sale of a controlled substance in the  
5 fourth degree as defined in section 220.34 of the penal law, criminal  
6 sale of a controlled substance in the third degree as defined in section  
7 220.39 of the penal law, criminal sale of a controlled substance in the  
8 second degree as defined in section 220.41 of the penal law, criminal  
9 sale of a controlled substance in the first degree as defined in section  
10 220.43 of the penal law, criminally possessing a hypodermic instrument  
11 as defined in section 220.45 of the penal law, criminal sale of a  
12 prescription for a controlled substance or a controlled substance by a  
13 practitioner or pharmacist as defined in section 220.65 of the penal  
14 law, criminal possession of methamphetamine manufacturing material in  
15 the second degree as defined in section 220.70 of the penal law, crimi-  
16 nal possession of methamphetamine manufacturing material in the first  
17 degree as defined in section 220.71 of the penal law, criminal  
18 possession of precursors of methamphetamine as defined in section 220.72  
19 of the penal law, unlawful manufacture of methamphetamine in the third  
20 degree as defined in section 220.73 of the penal law, unlawful manufac-  
21 ture of methamphetamine in the second degree as defined in section  
22 220.74 of the penal law, unlawful manufacture of methamphetamine in the  
23 first degree as defined in section 220.75 of the penal law, unlawful  
24 disposal of methamphetamine laboratory material as defined in section  
25 220.76 of the penal law, operating as a major trafficker as defined in  
26 section 220.77 of the penal law, criminal possession of an imitation  
27 controlled substance in the third degree as defined in section 220.82 of  
28 the penal law, criminal sale of an imitation controlled substance in the

1 fifth degree as defined in section 220.83 of the penal law, criminal  
2 sale of an imitation controlled substance in the third degree as defined  
3 in section 220.84 of the penal law, criminal sale of an imitation  
4 controlled substance in the first degree as defined in section 220.85 of  
5 the penal law, promoting gambling in the second degree as defined in  
6 section 225.05 of the penal law, promoting gambling in the first degree  
7 as defined in section 225.10 of the penal law, possession of gambling  
8 records in the second degree as defined in section 225.15 of the penal  
9 law, possession of gambling records in the first degree as defined in  
10 section 225.20 of the penal law, and possession of a gambling device as  
11 defined in section 225.30 of the penal law;

12 (w) Any of the acts designated as felonies in article thirty-three of  
13 the public health law.

14 § 8. Section 220.00 of the penal law is amended by adding a new subdivi-  
15 sion 6 to read as follows:

16 6. "Imitation controlled substance" shall have the same meaning as  
17 provided for in paragraph c of subdivision one of section thirty-three  
18 hundred eighty-three of the public health law.

19 § 9. The penal law is amended by adding five new sections 220.81,  
20 220.82, 220.83, 220.84 and 220.85 to read as follows:

21 § 220.81 Criminal possession of an imitation controlled substance in the  
22 fifth degree.

23 A person is guilty of criminal possession of an imitation controlled  
24 substance in the fifth degree when he or she knowingly and unlawfully  
25 possesses an imitation controlled substance, as defined in subparagraph  
26 one of paragraph c of subdivision one of section thirty-three hundred  
27 eighty-three of the public health law, with the intent to sell it.

1 Criminal possession of an imitation controlled substance in the fifth  
2 degree is a class A misdemeanor.

3 § 220.82 Criminal possession of an imitation controlled substance in the  
4 third degree.

5 A person is guilty of criminal possession of an imitation controlled  
6 substance in the third degree when he or she knowingly and unlawfully  
7 possesses an imitation controlled substance, as defined in subparagraph  
8 two of paragraph c of subdivision one of section thirty-three hundred  
9 eighty-three of the public health law, with the intent to sell it.

10 Criminal possession of an imitation controlled substance in the third  
11 degree is a class D felony.

12 § 220.83 Criminal sale of an imitation controlled substance in the fifth  
13 degree.

14 A person is guilty of criminal sale of an imitation controlled  
15 substance in the fifth degree when he or she knowingly and unlawfully  
16 sells an imitation controlled substance, as defined in subparagraph one  
17 of paragraph c of subdivision one of section thirty-three hundred eight-  
18 y-three of the public health law.

19 Criminal sale of an imitation controlled substance in the fifth degree  
20 is a class E felony.

21 § 220.84 Criminal sale of an imitation controlled substance in the third  
22 degree.

23 A person is guilty of criminal sale of an imitation controlled  
24 substance in the third degree when he or she knowingly and unlawfully  
25 sells an imitation controlled substance, as defined in subparagraph two  
26 of paragraph c of subdivision one of section thirty-three hundred eight-  
27 y-three of the public health law.

1 Criminal sale of an imitation controlled substance in the third degree  
2 is a class C felony.

3 § 220.85 Criminal sale of an imitation controlled substance in the first  
4 degree.

5 A person is guilty of criminal sale of an imitation controlled  
6 substance in the first degree when he or she knowingly and unlawfully  
7 sells an imitation controlled substance and he or she knows or reason-  
8 ably should know that the imitation controlled substance could cause the  
9 serious physical injury of another person, as defined by subdivision  
10 ten of section 10.00 of this chapter, or he or she knows or reasonably  
11 should know that the imitation controlled substance could cause the  
12 death of another person, and the imitation controlled substance causes  
13 the serious physical injury or death of another person.

14 Criminal sale of an imitation controlled substance in the first degree  
15 is a class A-1 felony.

16 § 10. Section 220.25 of the penal law, as amended by chapter 276 of  
17 the laws of 1973, subdivision 1 as amended by chapter 278 of the laws of  
18 1973 and subdivision 2 as amended by chapter 341 of the laws of 1985, is  
19 amended to read as follows:

20 § 220.25 Criminal possession of a controlled substance or an imitation  
21 controlled substance; presumption.

22 1. The presence of a controlled substance or an imitation controlled  
23 substance in an automobile, other than a public omnibus, is presumptive  
24 evidence of knowing possession thereof by each and every person in the  
25 automobile at the time such controlled substance or imitation controlled  
26 substance was found; except that such presumption does not apply (a) to  
27 a duly licensed operator of an automobile who is at the time operating  
28 it for hire in the lawful and proper pursuit of his trade, or (b) to any

1 person in the automobile if one of them, having obtained the controlled  
2 substance or imitation controlled substance and not being under duress,  
3 is authorized to possess it and such controlled substance or imitation  
4 controlled substance is in the same container as when he received  
5 possession thereof, or (c) when the controlled substance or imitation  
6 controlled substance is concealed upon the person of one of the occu-  
7 pants.

8 2. The presence of a narcotic drug, narcotic preparation, marihuana or  
9 phencyclidine in open view in a room, other than a public place, under  
10 circumstances evincing an intent to unlawfully mix, compound, package or  
11 otherwise prepare for sale such controlled substance or imitation  
12 controlled substance is presumptive evidence of knowing possession ther-  
13 eof by each and every person in close proximity to such controlled  
14 substance or imitation controlled substance at the time such controlled  
15 substance or imitation controlled substance was found; except that such  
16 presumption does not apply to any such persons if (a) one of them,  
17 having obtained such controlled substance or imitation controlled  
18 substance and not being under duress, is authorized to possess it and  
19 such controlled substance or imitation controlled substance is in the  
20 same container as when he received possession thereof, or (b) one of  
21 them has such controlled substance or imitation controlled substance  
22 upon his person.

23 § 11. This act shall take effect immediately.

1 Section 1. Articles 131, 131-A, 131-B, 131-C, 132, 133, 134, 136, 137,  
2 137-A, 139, 140, 141, 143, 144, 153, 154, 155, 156, 157, 159, 160, 162,  
3 163, 164, 165, 166, 167 and 168 of the education law are REPEALED.

4 § 2. The public health law is amended by adding a new article 51 to  
5 read as follows:

6 ARTICLE 51

7 LICENSED HEALTHCARE PROFESSIONS

8 TITLE 1

9 LICENSED HEALTHCARE PROFESSIONS GENERAL PROVISIONS

10 SUBTITLE 1

11 INTRODUCTORY SUMMARY

12 Section 6500. Introduction.

13 6501. Admission to a profession (licensing).

14 6501-a. Affirmation of applications.

15 6502. Duration and registration of a license.

16 6502-a. Renewal of professional license, certification, or  
17 registration.

18 6503. Practice of a profession.

19 6503-a. Waiver for entities providing certain professional  
20 services.

21 6503-b. Waiver for certain special education schools and early  
22 intervention agencies.

23 6504. Regulation of the professions.

24 6505. Construction.

25 6505-a. Professional referrals.

26 6505-b. Course work or training in infection control practices.

27 6505-c. Articulation between military and civilian professional  
28 careers.

1    § 6500. Introduction. This article provides for the regulation of the  
2 admission to and the practice of certain professions. This first title  
3 applies to all the professions included in this article, except that  
4 prehearing procedures and hearing procedures in connection with the  
5 regulation of professional conduct of the profession of medicine and  
6 physician's assistants and specialist's assistants shall be conducted  
7 pursuant to the provisions of title two-A of article two of this chap-  
8 ter. Each of the remaining titles applies to a particular profession.

9    § 6501. Admission to a profession (licensing). 1. Admission to prac-  
10 tice of a profession in this state is accomplished by a license being  
11 issued to a qualified applicant by the health department. To qualify for  
12 a license an applicant shall meet the requirements prescribed in the  
13 title for the particular profession and shall meet the requirements  
14 prescribed in section 3-503 of the general obligations law.

15    2. a. Notwithstanding any provision of law to the contrary, any appli-  
16 cant seeking to qualify for a license pursuant to this article who is  
17 the spouse of an active duty member of the armed forces of the United  
18 States, national guard or reserves as defined in 10 U.S.C. sections 1209  
19 and 1211, and such spouse is transferred by the military to this state  
20 shall be afforded an expedited review of his or her application for  
21 licensure. Such application shall be on a form prescribed by the depart-  
22 ment and shall include an attestation by the applicant of the military  
23 status of his or her spouse and any other such supporting documentation  
24 that the department may require. Upon review of such application, the  
25 department shall issue a license to the applicant if the applicant holds  
26 a license in good standing in another state and in the opinion of the  
27 department, the requirements for licensure of such other state are

1 substantially equivalent to the requirements for licensure in this  
2 state.

3 b. In addition to the expedited review granted in paragraph a of this  
4 subdivision, an applicant who provides satisfactory documentation that  
5 he or she holds a license in good standing from another state, may  
6 request the issuance of a temporary practice permit, which, if granted  
7 will permit the applicant to work under the supervision of a New York  
8 state licensee in accordance with regulations of the commissioner. The  
9 department may grant such temporary practice permit when it appears  
10 based on the application and supporting documentation received that the  
11 applicant will meet the requirements for licensure in this state because  
12 he or she holds a license in good standing from another state with  
13 significantly comparable licensure requirements to those of this state,  
14 except the department has not been able to secure direct source verifi-  
15 cation of the applicant's underlying credentials (e.g., receipt of  
16 original transcript, experience verification). Such permit shall be  
17 valid for six months or until ten days after notification that the  
18 applicant does not meet the qualifications for licensure. An additional  
19 six months may be granted upon a determination by the department that  
20 the applicant is expected to qualify for the full license upon receipt  
21 of the remaining direct source verification documents requested by the  
22 department in such time period and that the delay in providing the  
23 necessary documentation for full licensure was due to extenuating  
24 circumstances which the military spouse could not avoid.

25 c. A temporary practice permit issued under paragraph b of this subdivi-  
26 vision shall be subject to the full disciplinary and regulatory authori-  
27 ty of the department, pursuant to this article, as if such authorization  
28 were a professional license issued under this article.

1 d. The department shall reduce the initial licensure application fee  
2 by one-half for any application submitted by a military spouse under  
3 this subdivision.

4 § 6501-a. Affirmation of applications. Notwithstanding any other  
5 provision of law to the contrary, any application required by this arti-  
6 cle to be filed with the department may, in lieu of being certified or  
7 sworn under oath, be subscribed by the applicant and affirmed by the  
8 applicant as true under penalties of perjury.

9 § 6502. Duration and registration of a license. 1. A license shall be  
10 valid during the life of the holder unless revoked, annulled or  
11 suspended by commissioner or in the case of physicians, physicians prac-  
12 ticing under a limited permit, physician's assistants, specialist's  
13 assistants and medical residents, the licensee is stricken from the  
14 roster of such licensees by the commissioner on the order of the state  
15 board for professional medical conduct. A licensee must register with  
16 the department and meet the requirements prescribed in section 3-503 of  
17 the general obligations law to practice in this state.

18 2. The department shall establish the beginning dates of the registra-  
19 tion periods for each profession and mail an application for registra-  
20 tion conforming to the requirements of section 3-503 of the general  
21 obligations law to every licensee currently registered at least four  
22 months prior to the beginning of the registration period for the respec-  
23 tive profession.

24 3. An application for registration and the required registration fee  
25 shall be submitted together with or as a part of the application for a  
26 license. A person initially licensed or a licensee resuming practice  
27 after a lapse of registration during the last two years of a triennial  
28 registration period shall receive a prorated refund of one-third of the

1 total registration fee for each full year of the triennial period that  
2 has elapsed prior to the date of registration. Except as provided in  
3 subdivision three-a of this section, the department shall renew the  
4 registration of each licensee upon receipt of a proper application, on a  
5 form prescribed by the department and conforming to the requirements of  
6 section 3-503 of the general obligations law, and the registration fee.  
7 Any licensee who fails to register by the beginning of the appropriate  
8 registration period shall be required to pay an additional fee for late  
9 filing of ten dollars for each month that registration has been delayed.  
10 No licensee resuming practice after a lapse of registration shall be  
11 permitted to practice without actual possession of the registration  
12 certificate.

13 3-a. Prior to issuing any registration pursuant to this section and  
14 section sixty-five hundred twenty-four of this article, the department  
15 shall request and review any information relating to an applicant which  
16 reasonably appears to relate to professional misconduct in his or her  
17 professional practice in this and any other jurisdiction. The department  
18 shall advise the director of the office of professional medical conduct  
19 in the department of any information about an applicant which reasonably  
20 appears to be professional misconduct as defined in sections sixty-five  
21 hundred thirty and sixty-five hundred thirty-one of this article, within  
22 seven days of its discovery. The registration or re-registration of such  
23 applicant shall not be delayed for a period exceeding thirty days unless  
24 the director finds a basis for recommending summary action pursuant to  
25 subdivision twelve of section two hundred thirty of this chapter after  
26 consultation with a committee on professional conduct of the state board  
27 for professional medical conduct, if warranted. Re-registration shall be  
28 issued if the commissioner of health fails to issue a summary order

1 pursuant to subdivision twelve of section two hundred thirty of this  
2 chapter within ninety days of notice by the department pursuant to this  
3 subdivision. Re-registration shall be denied if the commissioner issues  
4 a summary order pursuant to subdivision twelve of section two hundred  
5 thirty of this chapter.

6 4. Any licensee who is not engaging in the practice of his profession  
7 in this state and does not desire to register shall so advise the  
8 department. Such licensee shall not be required to pay an additional fee  
9 for failure to register at the beginning of the registration period.

10 5. Licensees shall notify the department of any change of name or  
11 mailing address within thirty days of such change. Failure to register  
12 or provide such notice within one hundred eighty days of such change  
13 shall be willful failure under section sixty-five hundred thirty of this  
14 article.

15 6. The fee for replacement of a lost registration certificate or  
16 license or for registration of an additional office shall be ten  
17 dollars.

18 7. An additional fee of twenty-five dollars shall be charged for the  
19 licensure or registration of any applicant who submits a bad check to  
20 the department.

21 § 6502-a. Renewal of professional license, certification, or registra-  
22 tion. 1. This section shall apply to healthcare professionals licensed,  
23 certified, registered or authorized pursuant to this article other than  
24 those licensed or registered pursuant to title two of this article.

25 2. In conjunction with and as a condition of each registration  
26 renewal, the professionals described in subdivision one of this section  
27 shall provide to the department, and the department shall collect, such  
28 information and documentation required by the department as is necessary

1 to enable the department to evaluate access to needed services in this  
2 state, including, but not limited to, the location and type of setting  
3 in which the professional practices and other relevant information. The  
4 department shall make such data available in aggregate, de-identified  
5 form on a publicly accessible website.

6 3. The dates by which the professionals described in subdivision one  
7 of this section must comply with the requirements of subdivision two of  
8 this section shall be determined by the department and may vary by  
9 profession, to allow the development and refinement of necessary program  
10 features and to allow sufficient advanced notice to be provided to  
11 affected professionals. The provisions of this section shall be effec-  
12 tive only if and for so long as an appropriation is made for the  
13 purposes of its implementation.

14 § 6503. Practice of a profession. Admission to the practice of a  
15 profession entitles the licensee to: 1. practice the profession as  
16 defined in the title for the particular profession;

17 2. entitles the individual licensee to use the professional title as  
18 provided in the title for the particular profession; and

19 3. subjects the licensee to the procedures and penalties for profes-  
20 sional misconduct as prescribed in this article.

21 § 6503-a. Waiver for entities providing certain professional services.

22 1. a. Notwithstanding any laws to the contrary, except as provided in  
23 subdivision two of this section, a not-for-profit corporation formed for  
24 charitable, educational, or religious purposes or other similar purposes  
25 deemed acceptable by the department; or an education corporation as  
26 defined in subdivision one of section two hundred sixteen-a of the  
27 education law may provide the following services, provided that, except  
28 as otherwise provided in paragraph b of this subdivision, the entity was

1 in existence prior to the effective date of this section and has applied  
2 to the department for a waiver pursuant to this section by no later than  
3 February first, two thousand twenty-four:

4 (i) services provided under title eighteen, twenty-five or twenty-nine  
5 of this article for which licensure would be required, or

6 (ii) services constituting the provision of psychotherapy as defined  
7 in subdivision two of section eighty-four hundred one of this article  
8 and authorized and provided under title two, twelve, or seventeen of  
9 this article.

10 Such services may be provided either directly through the entity's  
11 employees or indirectly by contract with individuals or professional  
12 entities duly licensed, registered, or authorized to provide such  
13 services.

14 b. The department may issue a waiver on or after July first, two thou-  
15 sand twenty-four to an entity which was created before, on, or after the  
16 effective date of this section if there is a demonstration of need of  
17 the entity's services satisfactory to the department.

18 c. After the commissioner prescribes the application form and posts  
19 notice of its availability on the department's website, any entity  
20 described in paragraph a of this subdivision providing services on the  
21 effective date of this section, must apply for a waiver no later than  
22 February first, two thousand twenty-four. Upon submission of an applica-  
23 tion, an entity may continue to operate and provide services until the  
24 department shall either deny or approve the entity's application. After  
25 the department renders a timely initial determination that the applicant  
26 has submitted the information necessary to verify that the requirements  
27 of paragraphs d, e, and f of this subdivision are satisfied, applica-  
28 tions for waivers shall be approved or denied within ninety days;

1 provided however, that if the waiver application is denied the entity  
2 shall cease providing professional services, pursuant to paragraph a of  
3 this subdivision, in the state of New York.

4 d. Such waiver shall provide that services rendered pursuant to this  
5 section, directly or indirectly, shall be provided only by a person  
6 appropriately licensed to provide such services pursuant to title two,  
7 twelve, seventeen, eighteen or twenty-five of this article, or by a  
8 person otherwise authorized to provide such services under such titles,  
9 or by a professional entity authorized by law to provide such services.

10 e. An application for a waiver to provide professional services pursu-  
11 ant to this section shall be on a form prescribed by the commissioner.  
12 Such application shall include:

13 (i) the name of the entity,

14 (ii) the names of the directors and officers of such entity,

15 (iii) a listing of any other jurisdictions where the entity may  
16 provide services, and

17 (iv) an attestation made by an officer authorized by the entity to  
18 make such attestation that identifies the scope of services to be  
19 provided; includes a list of professions under this article in which  
20 professional services will be provided by such entity; includes a state-  
21 ment that, unless otherwise authorized by law, the entity shall only  
22 provide professional services authorized under this section; includes a  
23 statement that only a licensed professional, a person otherwise author-  
24 ized to provide such services, or a professional entity authorized by  
25 law to provide such services shall provide such professional services as  
26 authorized under this section; and attests to the adequacy of the enti-  
27 ty's fiscal and financial resources to provide such services. Such

1 application shall also include any other information related to the  
2 application as may be required by the department.

3 f. Each officer and director of such entity shall provide an attesta-  
4 tion regarding his or her good moral character as required pursuant to  
5 paragraph h of this subdivision. The commissioner shall be further  
6 authorized to promulgate rules or regulations relating to the standards  
7 of the waiver for entities pursuant to this section. Such regulations  
8 shall include standards relating to the entity's ability to provide  
9 services, the entity's maintenance of patient and business records, the  
10 entity's fiscal policies, and such other standards as may be prescribed  
11 by the commissioner.

12 g. The entity operating pursuant to a waiver shall display, at each  
13 site where professional services are provided to the public, a certif-  
14 icate of such waiver issued by the department pursuant to this section,  
15 which shall contain the name of the entity and the address of the site.  
16 Such entities shall obtain from the department additional certificates  
17 for each site at which professional services are provided to the public.  
18 Each entity shall be required to re-apply for a waiver every three  
19 years. If any information supplied to the department regarding the enti-  
20 ty shall change, the entity shall be required to provide such updated  
21 information to the department within sixty days.

22 h. Entities operating under a waiver pursuant to this section shall be  
23 under the supervision of the department and shall be subject to disci-  
24 plinary proceedings and penalties. The waivers for such entities shall  
25 be subject to suspension, revocation or annulment for cause in the same  
26 manner and to the same extent as individuals and professional services  
27 corporations with respect to their licenses, certificates, and registra-  
28 tions, as applicable, as provided in this article relating to the appli-

1 cable profession. All officers and directors of such entities shall be  
2 of good moral character. Entities operating pursuant to a waiver and  
3 their officers and directors shall be entitled to the same due process  
4 procedures as are provided to such individuals and professional services  
5 corporations. No waiver issued under this section shall be transferable  
6 or assignable, as such terms are defined in the regulations of the  
7 commissioner.

8 i. An entity operating pursuant to a waiver shall not practice any  
9 profession licensed pursuant to this article or hold itself out to the  
10 public as authorized to provide professional services pursuant to this  
11 article except as specifically authorized by this section or as other-  
12 wise authorized by law.

13 2. No waiver pursuant to this section shall be required of:

14 a. any entity operated under an operating certificate appropriately  
15 issued in accordance with article sixteen, thirty-one or thirty-two of  
16 the mental hygiene law, article twenty-eight of this chapter, or compa-  
17 rable procedures by a New York state or federal agency, political subdi-  
18 vision, municipal corporation, or local government agency or unit, in  
19 accordance with the scope of the authority of such operating certif-  
20 icate; or

21 b. a university faculty practice corporation duly incorporated pursu-  
22 ant to the not-for-profit corporation law; or

23 c. an institution of higher education authorized to provide a program  
24 leading to licensure in a profession defined under title two, twelve,  
25 seventeen, eighteen, or twenty-five of this article, to the extent that  
26 the scope of such services is limited to the services authorized to be  
27 provided within such registered program; or

1 d. an institution of higher education providing counseling only to the  
2 students, staff, or family members of students and staff of such insti-  
3 tution; or

4 e. any other entity as may be defined in the regulations of the  
5 commissioner, provided that such entity is otherwise authorized to  
6 provide such services pursuant to law and only to the extent such  
7 services are authorized under any certificates of incorporation or such  
8 other organizing documents as may be applicable.

9 3. Nothing in this section shall be construed to limit the authority  
10 of another state agency to certify, license, contract or otherwise  
11 authorize an entity applying for a waiver pursuant to this section, if  
12 such state agency is otherwise authorized under another provision of law  
13 to certify, license, contract or authorize such an entity, nor shall a  
14 waiver pursuant to this section be construed to provide an exemption of  
15 such entity from any certification, licensure, need to contract or any  
16 other such requirement established by such state agency or under any  
17 other provision of law. If a state agency determines that such certif-  
18 ication, licensure, contract or other authorization is required, a waiv-  
19 er pursuant to this section shall not have the effect of authorizing the  
20 provision of professional services under the jurisdiction of such agency  
21 in the absence of certification, licensure, a contract or other authori-  
22 zation from such state agency, and the department shall consult with  
23 such agency regarding the need for licensure, contracting, certification  
24 or authorization. In determining an application for a waiver pursuant to  
25 this section, the department shall consider as a factor in such determi-  
26 nation any denial of an operating certificate or other authority to  
27 provide the services authorized pursuant to this section by a New York  
28 state or federal agency, political subdivision, municipal corporation,

1 or local government agency or unit, and shall not approve a waiver  
2 application authorizing an entity to provide a program or services where  
3 the entity operated such a program or provided such services for which  
4 an operating certificate or license is pending, was disapproved or was  
5 revoked, or a written authorization or contract was terminated for  
6 cause, by one of such agencies, except upon approval of such action by  
7 the appropriate state agency. Such state agencies shall notify the  
8 department, upon request and within a fifteen day period, whether a  
9 waiver applicant has been subject to such disapproval, revocation or  
10 termination for cause or has a pending application for a license or  
11 operating certificate.

12 4. Nothing in this section shall be construed to limit the authority  
13 of the following entities to provide professional services they are  
14 authorized by law to provide:

15 a. any appropriately organized professional entity, including, but not  
16 limited to, those established under the business corporation law, the  
17 limited liability company law or the partnership law; or

18 b. any entity operated by a New York state or federal agency, poli-  
19 tical subdivision, municipal corporation, or local government agency or  
20 unit pursuant to authority granted by law, including but not limited to  
21 any entity operated by the office of mental health, the office for  
22 people with developmental disabilities, or the office of alcoholism and  
23 substance abuse services under articles seven, thirteen, and nineteen of  
24 the mental hygiene law, respectively.

25 5. For the purposes of this section, "professional entity" shall mean  
26 and include sole proprietorships and any professional services organiza-  
27 tion established pursuant to article fifteen of the business corporation

1 law, article twelve of the limited liability company law and section two  
2 and article eight-B of the partnership law.

3 § 6503-b. Waiver for certain special education schools and early  
4 intervention agencies. 1. Definitions. As used in this section the  
5 following terms shall have the following meanings:

6 a. "Special education school" means an approved program as defined in  
7 paragraph b of subdivision one of section forty-four hundred ten of the  
8 education law that meets the requirements of paragraph b of subdivision  
9 six of such section; an approved private non-residential or residential  
10 school for the education of students with disabilities that is located  
11 within the state; a child care institution as defined in section four  
12 thousand one of the education law that operates a private school for the  
13 education of students with disabilities or an institution for the deaf  
14 or blind operating pursuant to article eighty-five of the education law  
15 that either: (i) conducts a multi-disciplinary evaluation for purposes  
16 of articles eighty-one or eighty-nine of the education law that involves  
17 the practice of one or more professions for which a license is required  
18 pursuant to this article and no exception from corporate practice  
19 restrictions applies, or

20 (ii) provides related services to students enrolled in the school or  
21 approved program that involves the practice of one or more professions  
22 for which a license is required pursuant to this article and no excep-  
23 tion from practice restrictions applies. Such term shall not include a  
24 school district, board of cooperative educational services, munici-  
25 pality, state agency or other public entity. Nothing in this section  
26 shall be construed to require a child care institution that conducts  
27 multi-disciplinary evaluations or provides related services through an  
28 approved private nonresidential school operated by such child care

1 institution to obtain a waiver, provided that such school obtains a  
2 waiver pursuant to this section.

3 b. "Early intervention agency" means an agency which is approved or is  
4 seeking approval in accordance with title two-A of article twenty-five  
5 of this chapter to deliver early intervention program multi-disciplinary  
6 evaluations, service coordination services and early intervention  
7 program services, and is lawfully operated as a sole proprietorship or  
8 by a partnership, not-for-profit corporation, education corporation,  
9 business corporation, a limited liability company or professional  
10 services organization established pursuant to article fifteen of the  
11 business corporation law, article twelve or thirteen of the limited  
12 liability company law or article eight-B of the partnership law.

13 c. "Early intervention program services" means early intervention  
14 services as defined in subdivision seven of section twenty-five hundred  
15 forty-one of this chapter that are provided under the early intervention  
16 program and authorized in an eligible child's individualized family  
17 services plan.

18 d. "Multi-disciplinary evaluation" for purposes of a special education  
19 school means a multi-disciplinary evaluation of a preschool child  
20 suspected of having a disability or a preschool child with a disability  
21 that is conducted pursuant to section forty-four hundred ten of the  
22 education law or an evaluation of a school-age child suspected of having  
23 a disability or with a disability which is conducted by a child care  
24 institution that operates a special education school or the special  
25 education school operated by such institution pursuant to subdivision  
26 three of section four thousand two of the education law or by an insti-  
27 tution for the deaf or blind operating pursuant to article eighty-five  
28 of the education law or an evaluation of a school-age child suspected of

1 having a disability or with a disability that is authorized to be  
2 conducted by a special education school pursuant to any other provision  
3 of the education law and the regulations of the commissioner of educa-  
4 tion for purposes of identification of the child as a child with a disa-  
5 bility or the development of an individualized education program for the  
6 child.

7 e. "Multi-disciplinary evaluation" for purposes of the early inter-  
8 vention program means a professional, objective assessment conducted by  
9 appropriately qualified personnel in accordance with section twenty-five  
10 hundred forty-four of this chapter and its implementing regulations to  
11 determine a child's eligibility for early intervention program services.

12 f. "Related services" means related services as defined in paragraph g  
13 of subdivision two of section four thousand two, paragraph k of subdivi-  
14 sion two of section forty-four hundred one, or paragraph j of subdivi-  
15 sion one of section forty-four hundred ten of the education law provided  
16 to a child with a disability pursuant to such child's individualized  
17 education program.

18 2. Waiver. a. No special education school may employ individuals  
19 licensed pursuant to this title to conduct components of a multi-disci-  
20 plinary evaluation of a child with a disability or a child suspected of  
21 having a disability or to provide related services to children with  
22 disabilities enrolled in the school, and no special education school may  
23 provide such an evaluation component or related services by contract  
24 with an individual licensed or otherwise authorized to practice pursuant  
25 to this title or with an entity authorized by law to provide such  
26 professional services, unless such school obtains a waiver pursuant to  
27 this section. All special education schools approved by the commissioner  
28 as of the effective date of this section shall be deemed operating under

1 a waiver pursuant to this section for a period commencing on such effec-  
2 tive date and ending on July first, two thousand thirteen.

3 b. No early intervention agency may employ or contract with individ-  
4 uals licensed pursuant to this title or with a not-for-profit corpo-  
5 ration, education corporation, business corporation, limited liability  
6 company, or a professional services organization established pursuant to  
7 article fifteen of the business corporation law, article twelve or thir-  
8 teen of the limited liability company law or article eight-B of the  
9 partnership law, to conduct an early intervention program multi-disci-  
10 plinary evaluation, provide service coordination services or early  
11 intervention program services unless such agency has obtained a waiver  
12 pursuant to this section and has been approved in accordance with title  
13 two-A of article twenty-five of this chapter as an early intervention  
14 program provider. All early intervention agencies approved as of the  
15 effective date of this section shall be deemed to be operating under a  
16 waiver pursuant to this section for a period commencing on such effec-  
17 tive date and ending on July first, two thousand thirteen. Nothing in  
18 this section shall be construed to require an early intervention agency  
19 to operate under a waiver in accordance with this section provided that  
20 it is otherwise authorized by law to provide the applicable professional  
21 services.

22 3. Obtaining a waiver. a. A special education school and early inter-  
23 vention agency shall obtain an application for a waiver on a form  
24 prescribed by the department. The department may issue a waiver on or  
25 after July first, two thousand thirteen to an entity which was created  
26 before, on or after the effective date of this section if there is  
27 demonstration of need of the entity's services satisfactory to the  
28 department. The application for an initial waiver shall be accompanied

1 by a fee of three hundred forty-five dollars. Where the applicant simul-  
2 taneously applies for a waiver as a special education school and early  
3 intervention agency the total waiver fee shall be three hundred forty-  
4 five dollars.

5 b. Within one hundred twenty days after the commissioner prescribes  
6 the application form and posts notice of its availability on the depart-  
7 ment's website, a special education school or early intervention agency  
8 must apply for a waiver. Upon submission of such application, the school  
9 or agency may continue to operate and provide services until the depart-  
10 ment shall either deny or approve the application. After the department  
11 renders a timely initial determination that the applicant has submitted  
12 the information necessary to verify that the requirements of paragraphs  
13 c, d and e of this subdivision are satisfied, applications for waivers  
14 shall be approved or denied within ninety days, provided however that if  
15 the waiver application is denied the school or agency shall cease  
16 providing services pursuant to this subdivision in the state of New  
17 York.

18 c. Such waiver shall provide that services rendered pursuant to this  
19 section, directly or indirectly, shall be provided only by a person  
20 appropriately licensed to provide such services, except as otherwise  
21 provided in law, to provide such services or by a professional services  
22 entity authorized by law to provide such services.

23 d. An application for a waiver to provide professional services pursu-  
24 ant to this section shall be on a form prescribed by the commissioner.  
25 Such application shall include: (i) the name of the special education  
26 school or early intervention agency; (ii) the names of the directors or  
27 trustees and officers of such school or agency; (iii) a listing of any  
28 other jurisdictions where such school or agency may provide services;

1 and (iv) an attestation made by an officer authorized by such school or  
2 agency to make such attestation that identifies the scope of services to  
3 be provided; includes a list of professions under this article in which  
4 professional services will be provided by such school or agency;  
5 includes a statement that, unless otherwise authorized by law, the  
6 school or agency shall only provide services authorized under this  
7 section; includes a statement that only a licensed professional, a  
8 person otherwise authorized to provide such services, or a professional  
9 services entity authorized by law to provide such services shall provide  
10 such services as authorized under this section; and attests to the  
11 adequacy of the school's or agency's fiscal and financial resources to  
12 provide such services. Such application shall also include any other  
13 information related to the application as may be required by the depart-  
14 ment. A school or agency with an approved waiver may apply, on a form  
15 prescribed by the commissioner, to amend the waiver to add additional  
16 professional services.

17 e. Each officer, trustee and director of such school or agency shall  
18 provide an attestation regarding his or her good moral character as  
19 required pursuant to paragraph g of this subdivision. The commissioner  
20 shall be further authorized to promulgate rules or regulations relating  
21 to the standards of the waiver for special education schools and early  
22 intervention agencies pursuant to this section. Such regulations shall  
23 include standards relating to the school's or agency's ability to  
24 provide services, the school's or agency's maintenance of student or  
25 client and business records, the school's or agency's fiscal policies,  
26 and such other standards as may be prescribed by the commissioner.

27 f. The special education school or early intervention agency operating  
28 pursuant to a waiver shall display, at each site where services are

1 provided to the public, a certificate of such waiver issued by the  
2 department pursuant to this section, which shall contain the name of the  
3 school or agency and the address of the site. Such schools or agencies  
4 shall obtain from the department additional certificates for each site  
5 at which professional services are provided to the public. Each school  
6 or agency shall be required to re-apply for a waiver every three years.  
7 An early intervention agency's waiver shall not be renewed unless the  
8 agency is approved to provide early intervention program multi-discipli-  
9 nary evaluations, service coordination or early intervention program  
10 services in accordance with title two-A of article twenty-five of this  
11 chapter. Except as otherwise provided in subdivision four of this  
12 section, if any information supplied to the department regarding the  
13 school or agency shall change, the school or agency shall be required to  
14 provide such updated information to the department within sixty days.

15 g. All officers, trustees and directors of such schools or agencies  
16 shall be of good moral character. Schools or agencies operating pursuant  
17 to a waiver and their officers and directors shall be entitled to the  
18 same due process procedures as are provided to such individuals and  
19 professional services corporations. No waiver issued under this section  
20 shall be transferable or assignable; as such terms are defined in the  
21 regulations of the commissioner.

22 4. Renewal of waiver. All special education school and early inter-  
23 vention agency waivers shall be renewed on dates set by the department.  
24 The triennial waiver fee shall be two hundred sixty dollars or a pro-  
25 rated portion thereof as determined by the department. An early inter-  
26 vention agency's waiver shall not be renewed unless the agency is  
27 approved to provide early intervention program multi-disciplinary evalu-

1 ations, service coordination nor early intervention program services in  
2 accordance with title two-A of article twenty-five of this chapter.

3 5. Change of location. In the event that a change in the location of  
4 the chief administrative offices of a special education school or early  
5 intervention agency is contemplated, the owner shall notify the office  
6 of professions of the department of the change of location at least  
7 thirty days prior to relocation.

8 6. Professional practice. a. Notwithstanding any other provision of  
9 law to the contrary, a special education school operating under a waiver  
10 may employ individuals licensed or otherwise authorized to practice any  
11 profession pursuant to this title to conduct components of a multi-dis-  
12 ciplinary evaluation of a child with a disability or a child suspected  
13 of having a disability or to provide related services to children with  
14 disabilities enrolled in the school or may provide components of such an  
15 evaluation or such related services by contract with an individual  
16 licensed or otherwise authorized to practice pursuant to this title or a  
17 not-for-profit corporation, education corporation, business corporation,  
18 limited liability company or professional services organization estab-  
19 lished pursuant to article fifteen of the business corporation law,  
20 article twelve or thirteen of the limited liability company law or arti-  
21 cle eight-B of the partnership law authorized by law to provide the  
22 applicable professional services.

23 b. Notwithstanding any other provision of law to the contrary, an  
24 early intervention agency operating under a waiver that is approved in  
25 accordance with title two-A of article twenty-five of this chapter may  
26 employ or contract with individuals licensed or otherwise authorized to  
27 practice any profession pursuant to this title or with a not-for-profit  
28 corporation, education corporation, business corporation, limited

1 liability company or professional services organization established  
2 pursuant to article fifteen of the business corporation law, article  
3 twelve or thirteen of the limited liability company law or article  
4 eight-B of the partnership law authorized to conduct early intervention  
5 program multi-disciplinary evaluations, provide service coordination  
6 services and early intervention program services.

7 c. A special education school or early intervention agency operating  
8 under a waiver shall not practice any profession licensed pursuant to  
9 this article or hold itself out to the public as authorized to provide  
10 professional services pursuant to this article except as authorized by  
11 this section or otherwise authorized by law.

12 7. Supervision of professional practice. A special education school or  
13 early intervention agency shall be under the supervision of the depart-  
14 ment and be subject to disciplinary proceedings and penalties. A special  
15 education school or early intervention agency operating under a waiver  
16 shall be subject to suspension, revocation or annulment of the waiver  
17 for cause, in the same manner and to the same extent as is provided with  
18 respect to individuals and their licenses, certificates, and registra-  
19 tions in the provisions of this article relating to the applicable  
20 profession. Notwithstanding the provisions of this subdivision, a  
21 special education school or early intervention agency that conducts or  
22 contracts for a component of a multi-disciplinary evaluation that  
23 involves the practice of medicine shall be subject to the pre-hearing  
24 procedures and hearing procedures as is provided with respect to indi-  
25 vidual physicians and their licenses in title two-A of article two of  
26 this chapter. Notwithstanding any other provision of law to the contra-  
27 ry, upon revocation or other termination by the commissioner of approval  
28 of the special education school pursuant to article eighty-nine of the

1 education law and the regulations of the commissioner implementing such  
2 article or termination of the early intervention agency pursuant to  
3 title two-A of article twenty-five of this chapter and implementing  
4 regulations by the commissioner pursuant to subdivision eighteen of  
5 section forty-four hundred three of the education law, the school's or  
6 early intervention agency's waiver pursuant to this section shall be  
7 deemed revoked and annulled.

8 § 6504. Regulation of the professions. Admission to the practice of  
9 the professions, licensing and regulation of such practice shall be  
10 supervised and administered by the department, assisted by a state board  
11 for each profession.

12 § 6505. Construction. No definition of the practice of a profession  
13 shall be construed to restrain or restrict the performance of similar  
14 acts authorized in the definition of other professions.

15 § 6505-a. Professional referrals. There shall be no monetary liability  
16 on the part of, and no cause of action for damages shall arise against,  
17 any association or society of professionals authorized to practice under  
18 this article, or any employee, agent, or member thereof, for referring  
19 any person to a member of the profession represented by such association  
20 or society provided that such referral was made without charge as a  
21 service to the public, and without malice, and in the reasonable belief  
22 that such referral was warranted, based upon the facts disclosed.

23 § 6505-b. Course work or training in infection control practices. 1.  
24 Every dentist, registered nurse, licensed practical nurse, podiatrist,  
25 optometrist and dental hygienist practicing in the state shall, on or  
26 before July first, nineteen hundred ninety-four and every four years  
27 thereafter, complete course work or training appropriate to the profes-  
28 sional's practice approved by the department regarding infection

1 control, which shall include sepsis, and barrier precautions, including  
2 engineering and work practice controls, in accordance with regulatory  
3 standards promulgated by the department, in consultation with the  
4 department of education, which shall be consistent, as far as appropri-  
5 ate, with such standards adopted by the department pursuant to section  
6 two hundred thirty-nine of this chapter to prevent the transmission of  
7 HIV, HBV, HCV and infections that could lead to sepsis in the course of  
8 professional practice. Each such professional shall document to the  
9 department at the time of registration commencing with the first regis-  
10 tration after July first, nineteen hundred ninety-four that the profes-  
11 sional has completed course work or training in accordance with this  
12 section, provided, however that a professional subject to the provisions  
13 of paragraph (f) of subdivision one of section twenty-eight hundred  
14 five-k of this chapter shall not be required to so document. The  
15 department shall provide an exemption from this requirement to anyone  
16 who requests such an exemption and who:

17 a. clearly demonstrates to the department's satisfaction that there  
18 would be no need for him or her to complete such course work or training  
19 because of the nature of his or her practice; or

20 b. that he or she has completed course work or training deemed by the  
21 department to be equivalent to the course work or training approved by  
22 the department pursuant to this section.

23 2. The department shall consult with organizations representative of  
24 professions, institutions and those with expertise in infection control  
25 and HIV, HBV, HCV and infections that could lead to sepsis with respect  
26 to the regulatory standards promulgated pursuant to this section.

27 § 6505-c. Articulation between military and civilian professional  
28 careers. 1. The commissioner shall develop, jointly with the director of

1 the division of veterans' services, a program to facilitate articulation  
2 between participation in the military service of the United States or  
3 the military service of the state and admission to practice of a profes-  
4 sion. The commissioner and the director of the division of veterans'  
5 services shall identify, review and evaluate professional training  
6 programs offered through either the military service of the United  
7 States or the military service of the state which may, where applicable,  
8 be accepted by the department as equivalent education and training in  
9 lieu of all or part of an approved program. Particular emphasis shall  
10 be placed on the identification of military programs which have previ-  
11 ously been deemed acceptable by the department as equivalent education  
12 and training, programs which may provide, where applicable, equivalent  
13 education and training for those professions which are critical to  
14 public health and safety and programs which may provide, where applica-  
15 ble, equivalent education and training for those professions for which  
16 shortages exist in the state of New York.

17 2. The commissioner and the director of the division of veterans'  
18 services shall prepare a list of those military programs which have  
19 previously been deemed acceptable by the department as equivalent educa-  
20 tion and training in lieu of all or part of an approved program no later  
21 than the thirtieth of August, two thousand three. On and after such  
22 date, such list shall be made available to the public and applicants for  
23 admission to practice of a profession.

24 3. The commissioner and the director of the division of veterans'  
25 services shall prepare a list of those military programs which may  
26 provide, where applicable, equivalent education and training for those  
27 professions which are critical to public health and safety, programs  
28 which may provide, where applicable, equivalent education and training

1 for those professions for which shortages exist in the state of New York  
2 and any other military programs which may, where applicable, be accepted  
3 by the department as equivalent education and training in lieu of all or  
4 part of an approved program no later than the thirty-first of October,  
5 two thousand three. On and after such date, such list shall be made  
6 available to the public and applicants for admission to practice of a  
7 profession.

8 4. Such lists shall be prepared annually no later than the thirtieth  
9 of June thereafter with additions and deletions made jointly by the  
10 commissioner and the director of the division of veterans' services and  
11 made available to the public and applicants for admission to practice of  
12 a profession on such date.

13 SUBTITLE 2

14 STATE MANAGEMENT

15 Section 6506. Supervision by the department.

16 6507. Administration.

17 6507-a. Registration fee surcharge.

18 6508. Assistance by state boards for the professions.

19 § 6506. Supervision by the department. The department shall supervise  
20 the admission to and the practice of the professions. In supervising,  
21 the department may:

22 1. Promulgate rules, except that no rule shall be promulgated concern-  
23 ing title three of this article;

24 2. Establish by rule, high school, preprofessional, professional and  
25 other educational qualifications required for licensing in the  
26 professions regulated by this article;

1 3. Appoint such committees as it deems necessary and compensate  
2 members of such committees who are not members of the department up to  
3 one hundred dollars per day for each day devoted to committee functions,  
4 together with their necessary expenses;

5 4. Waive education, experience and examination requirements for a  
6 professional license prescribed in the title relating to the profession,  
7 provided the department shall be satisfied that the requirements of such  
8 title have been substantially met;

9 5. Indorse a license issued by a licensing board of another state or  
10 country upon the applicant fulfilling the following requirements:

11 a. Application: file an application with the department;

12 b. Education: meet educational requirements in accordance with the  
13 commissioner's regulations;

14 c. Experience: have experience satisfactory to the state boards for  
15 the professions as prescribed in the title relating to the profession  
16 and in accordance with the commissioner's regulations;

17 d. Examination: pass an examination satisfactory to the state boards  
18 for the professions as prescribed in the title relating to the profes-  
19 sion and in accordance with the commissioner's regulations;

20 e. Age: be at least twenty-one years of age;

21 f. Citizenship or immigration status: be a United States citizen or an  
22 alien lawfully admitted for permanent residence in the United States;

23 g. Character: be of good moral character as determined by the depart-  
24 ment; and

25 h. Prior professional conduct: where an application is submitted for  
26 licensure endorsement in any profession regulated by this article and  
27 the department determines that while engaged in practice in another  
28 jurisdiction the applicant: (i) has been subject to disciplinary action

1 by a duly authorized professional disciplinary agency of such other  
2 jurisdiction, where the conduct upon which the disciplinary action was  
3 based would, if committed in New York state, constitute practicing the  
4 profession beyond its authorized scope, with gross incompetence, with  
5 gross negligence on a particular occasion, or with negligence or incom-  
6 petence on more than one occasion under the laws of New York state, or  
7 (ii) has voluntarily or otherwise surrendered his or her professional  
8 license in another jurisdiction after a disciplinary action was insti-  
9 tuted by a duly authorized professional disciplinary agency of such  
10 other jurisdiction, based on conduct that would, if committed in New  
11 York state, constitute practicing the profession beyond its authorized  
12 scope, with gross incompetence, with gross negligence on a particular  
13 occasion, or with negligence or incompetence on more than one occasion  
14 under the laws of New York state, the department shall evaluate the  
15 conduct and may deny licensure endorsement to the applicant based on  
16 such conduct;

17 6. Direct the department to remedy any error, omission, delay or other  
18 circumstance in the issuance or registration of a license;

19 7. Designate a professional conduct officer, who shall be the chief  
20 administrative officer of the office of the professions, or his or her  
21 designee, in connection with professional licensing and misconduct  
22 proceedings and criminal matters, such officer to be empowered to issue  
23 subpoenas and administer oaths in connection with such proceedings;

24 8. Establish by rule, standards of conduct with respect to advertis-  
25 ing, fee splitting, practicing under a name other than that of the indi-  
26 vidual licensee (when not specifically authorized), proper use of  
27 academic or professional degrees or titles tending to imply professional  
28 status, and such other ethical practices as such board shall deem neces-

1 sary, except that no rule shall be established concerning title two of  
2 this article; and

3 9. Delegate to department officers the disposition of any licensing  
4 matters pursuant to rules.

5 § 6507. Administration. 1. The commissioner and department shall  
6 administer the admission to and the practice of the professions.

7 2. In administering, the commissioner may:

8 a. Promulgate regulations, except that no regulations shall be promul-  
9 gated concerning title three of this chapter;

10 b. Conduct investigations;

11 c. Issue subpoenas;

12 d. Grant immunity from prosecution in accordance with section 50.20 of  
13 the criminal procedure law to anyone subpoenaed in any investigation or  
14 hearing conducted pursuant to this article; and

15 e. Excuse, for cause acceptable to the commissioner, the failure to  
16 register with the department. Such excuse shall validate and authorize  
17 such practitioner's right to practice pending registration.

18 3. The department assisted by the board for each profession, shall:

19 a. Establish standards for pre-professional and professional educa-  
20 tion, experience and licensing examinations as required to implement the  
21 title for each profession. Notwithstanding any other provision of law,  
22 the commissioner shall establish standards requiring that all persons  
23 applying, on or after January first, nineteen hundred ninety-one,  
24 initially, or for the renewal of, a license, registration or limited  
25 permit to be a physician, chiropractor, dentist, registered nurse,  
26 podiatrist, optometrist, psychiatrist, psychologist, licensed master  
27 social worker, licensed clinical social worker, licensed creative arts  
28 therapist, licensed marriage and family therapist, licensed mental

1 health counselor, licensed psychoanalyst, dental hygienist, licensed  
2 behavior analyst, or certified behavior analyst assistant shall, in  
3 addition to all the other licensure, certification or permit require-  
4 ments, have completed two hours of coursework or training regarding the  
5 identification and reporting of child abuse and maltreatment. The  
6 coursework or training shall be obtained from an institution or provider  
7 which has been approved by the department to provide such coursework or  
8 training. The coursework or training shall include information regarding  
9 the physical and behavioral indicators of child abuse and maltreatment  
10 and the statutory reporting requirements set out in sections four  
11 hundred thirteen through four hundred twenty of the social services law,  
12 including but not limited to, when and how a report must be made, what  
13 other actions the reporter is mandated or authorized to take, the legal  
14 protections afforded reporters, and the consequences for failing to  
15 report. Such coursework or training may also include information regard-  
16 ing the physical and behavioral indicators of the abuse of individuals  
17 with mental retardation and other developmental disabilities and volun-  
18 tary reporting of abused or neglected adults to the office for people  
19 with developmental disabilities or the local adult protective services  
20 unit. Each applicant shall provide the department with documentation  
21 showing that he or she has completed the required training. The depart-  
22 ment shall provide an exemption from the child abuse and maltreatment  
23 training requirements to any applicant who requests such an exemption  
24 and who shows, to the department's satisfaction, that there would be no  
25 need because of the nature of his or her practice for him or her to  
26 complete such training;

27 b. Review qualifications in connection with licensing requirements;  
28 and

1 c. Provide for licensing examinations and reexaminations.

2 4. The department shall:

3 a. Register or approve educational programs designed for the purpose  
4 of providing professional preparation which meet standards established  
5 by the department.

6 b. Issue licenses, registrations, and limited permits to qualified  
7 applicants;

8 c. (i) Issue a certificate of authority to a qualified professional  
9 service corporation being organized under section fifteen hundred three  
10 of the business corporation law or to a university faculty practice  
11 corporation being organized under section fourteen hundred twelve of the  
12 not-for-profit corporation law on payment of a fee of ninety dollars,  
13 (ii) require such corporations to file a certified copy of each certif-  
14 icate of incorporation and amendment thereto within thirty days after  
15 the filing of such certificate or amendment on payment of a fee of twen-  
16 ty dollars, (iii) require such corporations to file a triennial state-  
17 ment required by section fifteen hundred fourteen of the business corpo-  
18 ration law on payment of a fee of one hundred five dollars.

19 d. Revoke limited permits on the recommendation of the committee on  
20 professional conduct for the profession concerned, except for limited  
21 permits issued to physicians, physician's assistants and specialist's  
22 assistants which shall be subject to sections two hundred thirty, two  
23 hundred thirty-a, two hundred thirty-b and two hundred thirty-c of this  
24 chapter;

25 e. Maintain public records of licenses issued and retain in its files  
26 identifying data concerning each person to whom a license has been  
27 issued;

1 f. Collect the fees prescribed by this article or otherwise provided  
2 by law;

3 g. Prepare an annual report for the legislature, the governor and  
4 other executive offices, the state boards for the professions, profes-  
5 sional societies, consumer agencies and other interested persons. Such  
6 report shall include but not be limited to a description and analysis of  
7 the administrative procedures and operations of the department based  
8 upon a statistical summary relating to (i) new licensure, (ii) disci-  
9 pline, (iii) complaint, investigation, and hearing backlog, (iv) budget,  
10 and (v) the state boards for the professions. Information provided shall  
11 be enumerated by profession; and

12 h. Establish an administrative unit which shall be responsible for the  
13 investigation, prosecution and determination of alleged violations of  
14 professional conduct.

15 5. Where an application is submitted for licensure or a limited permit  
16 in any profession regulated by this article and the commissioner deter-  
17 mines that while engaged in practice in another jurisdiction: (i) the  
18 applicant has been subject to disciplinary action by a duly authorized  
19 professional disciplinary agency of such other jurisdiction, where the  
20 conduct upon which the disciplinary action was based would, if committed  
21 in New York state, constitute practicing the profession beyond its  
22 authorized scope, with gross incompetence, with gross negligence on a  
23 particular occasion, or with negligence or incompetence on more than one  
24 occasion under the laws of New York state, or (ii) the applicant has  
25 voluntarily or otherwise surrendered his or her professional license in  
26 another jurisdiction after a disciplinary action was instituted by a  
27 duly authorized professional disciplinary agency of such other jurisdic-  
28 tion based on conduct that would, if committed in New York state,

1 constitute practicing the profession beyond its authorized scope, with  
2 gross incompetence, with gross negligence on a particular occasion, or  
3 with negligence or incompetence on more than one occasion under the laws  
4 of New York state, the department shall evaluate the conduct and the  
5 commissioner may deny licensure or issuance of a limited permit to the  
6 applicant based on such conduct.

7 6. The commissioner and the department shall perform any other func-  
8 tions necessary to implement this article.

9 § 6507-a. Registration fee surcharge. The commissioner is hereby  
10 authorized to impose and collect a fifteen percent surcharge, rounded  
11 upward to the nearest dollar, on any professional registration fee  
12 imposed under this article that is subject to deposit in the office of  
13 the professions account established pursuant to section ninety-seven-~~nnn~~  
14 of the state finance law. Such surcharge shall not be imposed on any  
15 such fee dedicated for deposit in the professional medical conduct  
16 account.

17 § 6508. Assistance by state boards for the professions. 1. A board for  
18 each profession shall be appointed by the department on the recommenda-  
19 tion of the commissioner for the purpose of assisting the department on  
20 matters of professional licensing, practice, and conduct. The composi-  
21 tion of each board shall be as prescribed in the title relating to each  
22 profession. Within each board a committee on licensing may be appointed  
23 by the board chairman. Except as provided in paragraph a of this subdi-  
24 vision, the membership of each professional licensing board shall be  
25 increased by one member, and each such board shall have at least one  
26 public representative who shall be selected by the department from the  
27 general public.

1 a. The membership of the professional licensing boards created under  
2 sections sixty-five hundred twenty-three, sixty-eight hundred four and  
3 sixty-nine hundred three of this article, and section seventy-four  
4 hundred three of the education law shall be increased by two members,  
5 and each such board shall have at least two public representatives, who  
6 shall be selected by the department from the general public.

7 b. For the purposes of this article, a "public representative" shall  
8 be a person who is a consumer of services provided by those licensed or  
9 otherwise supervised or regulated by the boards created hereunder, and  
10 shall not be, nor within five years immediately preceding appointment  
11 have been:

12 (i) a licensee or person otherwise subject to the supervision or regu-  
13 lation of the board to which appointed; or

14 (ii) a person maintaining a contractual relationship with a licensee  
15 of such board, which would constitute more than two percentum of the  
16 practice or business of any such licensee, or an officer, director, or  
17 representative of such person or group of persons.

18 2. Each state board for the professions as prescribed in the title  
19 relating to each profession board, or its committee on licensing, shall  
20 select or prepare examinations, may conduct oral and practical examina-  
21 tions and reexaminations, shall fix passing grades, and assist the  
22 department in other licensing matters as prescribed by the department.

23 3. Each board shall conduct disciplinary proceedings as prescribed in  
24 this article and shall assist in other professional conduct matters as  
25 prescribed by the department.

26 4. Members of each board shall be appointed by the department for  
27 five-year terms except that the terms of those first appointed shall be  
28 arranged so that as nearly as possible an equal number shall terminate

1 annually. A vacancy occurring during a term shall be filled by an  
2 appointment by the department for the unexpired term. Each state profes-  
3 sional association or society may nominate one or more candidates for  
4 each appointment to be made to the board for its profession, but the  
5 department shall not be required to appoint candidates so nominated.  
6 Former members of a board may be re-appointed by the department, on the  
7 recommendation of the commissioner, to serve as members of the board  
8 solely for the purposes of disciplinary proceedings, proceedings relat-  
9 ing to the moral character of an applicant for licensure, and  
10 proceedings relating to applications for the restoration of a profes-  
11 sional license. In addition, each board shall establish a roster of  
12 auxiliary members from candidates nominated by professional associations  
13 or societies for appointment by the department, on the recommendation of  
14 the commissioner, to serve as members of the board solely for the  
15 purposes of disciplinary proceedings, proceedings relating to the moral  
16 character of an applicant for licensure, and proceedings relating to  
17 applications for the restoration of a professional license.

18 5. Each member of a board shall receive a certificate of appointment,  
19 shall before beginning his or her term of office file a constitutional  
20 oath of office with the secretary of state, shall receive up to one  
21 hundred dollars as prescribed by the department for each day devoted to  
22 board work, and shall be reimbursed for his necessary expenses. Any  
23 member may be removed from a board by the department for misconduct,  
24 incapacity or neglect of duty.

25 6. Each board shall elect from its members a chairman and vice-chair-  
26 man annually, shall meet upon call of the chairman or the department,  
27 and may adopt bylaws consistent with this article and approved by the

1 department. A quorum for the transaction of business by the board shall  
2 be a majority of members but not less than five members.

3 7. An executive secretary to each board shall be appointed by the  
4 department on recommendation of the commissioner. Such executive secre-  
5 tary shall not be a member of the board, shall hold office at the pleas-  
6 ure of, and shall have the powers, duties and annual salary prescribed  
7 by the department.

8 SUBTITLE 3

9 PROFESSIONAL MISCONDUCT

10 Section 6509. Definitions of professional misconduct.

11 6509-a. Additional definition of professional misconduct; limit-  
12 ed application.

13 6509-b. Additional definition of professional misconduct;  
14 arrears in payment of support; limited application.

15 6509-c. Additional definition of professional misconduct; fail-  
16 ure to comply in paternity or child support  
17 proceedings; limited application.

18 6509-d. Limited exemption from professional misconduct.

19 6509-e. Additional definition of professional misconduct; mental  
20 health professionals.

21 6510. Proceedings in cases of professional misconduct.

22 6510-a. Temporary surrender of licenses during treatment for  
23 drug or alcohol abuse.

24 6510-b. Nurse peer assistance programs.

25 6510-c. Voluntary non-disciplinary surrender of a license.

26 6510-d. Nurses' refusal of overtime work.

27 6511. Penalties for professional misconduct.

1 § 6509. Definitions of professional misconduct. Each of the following  
2 is professional misconduct, and any licensee found guilty of such  
3 misconduct under the procedures prescribed in section sixty-five hundred  
4 ten of this subtitle shall be subject to the penalties prescribed in  
5 section sixty-five hundred eleven of this subtitle:

6 1. Obtaining the license fraudulently,

7 2. Practicing the profession fraudulently, beyond its authorized  
8 scope, with gross incompetence, with gross negligence on a particular  
9 occasion or negligence or incompetence on more than one occasion,

10 3. Practicing the profession while the ability to practice is impaired  
11 by alcohol, drugs, physical disability, or mental disability,

12 4. Being habitually drunk or being dependent on, or a habitual user of  
13 narcotics, barbiturates, amphetamines, hallucinogens, or other drugs  
14 having similar effects,

15 5. a. Being convicted of committing an act constituting a crime under:

16 (i) New York state law or,

17 (ii) Federal law or,

18 (iii) The law of another jurisdiction and which, if committed within  
19 this state, would have constituted a crime under New York state law;

20 b. Having been found guilty of improper professional practice or  
21 professional misconduct by a duly authorized professional disciplinary  
22 agency of another state where the conduct upon which the finding was  
23 based would, if committed in New York state, constitute professional  
24 misconduct under the laws of New York state;

25 c. Having been found by the commissioner to be in violation of article  
26 thirty-three this chapter.

27 d. Having his or her license to practice medicine revoked, suspended  
28 or having other disciplinary action taken, or having his or her applica-

1 tion for a license refused, revoked or suspended or having voluntarily  
2 or otherwise surrendered his or her license after a disciplinary action  
3 was instituted by a duly authorized professional disciplinary agency of  
4 another state, where the conduct resulting in the revocation, suspension  
5 or other disciplinary action involving the license or refusal, revoca-  
6 tion or suspension of an application for a license or the surrender of  
7 the license would, if committed in New York state, constitute profes-  
8 sional misconduct under the laws of New York state.

9 6. Refusing to provide professional service to a person because of  
10 such person's race, creed, color, or national origin,

11 7. Permitting, aiding or abetting an unlicensed person to perform  
12 activities requiring a license,

13 8. Practicing the profession while the license is suspended, or will-  
14 fully failing to register or notify the department of any change of name  
15 or mailing address, or, if a professional service corporation willfully  
16 failing to comply with sections fifteen hundred three and fifteen  
17 hundred fourteen of the business corporation law or, if a university  
18 faculty practice corporation willfully failing to comply with paragraphs  
19 (b), (c) and (d) of section fifteen hundred three and section fifteen  
20 hundred fourteen of the business corporation law,

21 9. Committing unprofessional conduct, as defined by the department in  
22 its rules or by the commissioner in regulations approved by the depart-  
23 ment,

24 10. A violation of section twenty-eight hundred three-d or twenty-  
25 eight hundred five-k of this chapter,

26 11. A violation of section sixty-five hundred five-b of the education  
27 law by a professional other than a professional subject to the

1 provisions of paragraph (f) of subdivision one of section twenty-eight  
2 hundred five-k of this chapter,

3 12. In the event that the department of environmental conservation has  
4 reported to the department alleged misconduct by an architect or profes-  
5 sional engineer in making a certification under section nineteen of the  
6 tax law, relating to the green building tax credit, the department, upon  
7 a hearing and a finding of willful misconduct, may revoke the license of  
8 such professional or prescribe such other penalty as it determines to be  
9 appropriate, or

10 13. In the event that any agency designated pursuant to title four-B  
11 of article four of the real property tax law, relating to the green roof  
12 tax abatement, has reported to the department alleged misconduct by an  
13 architect or engineer in making a certification under such title, the  
14 department, upon a hearing and a finding of willful misconduct, may  
15 revoke the license of such professional or prescribe such other penalty  
16 as it determines to be appropriate,

17 14. In the event that any agency designated pursuant to title four-C  
18 of article four of the real property tax law, relating to the solar  
19 electric generating system tax abatement, has reported to the department  
20 alleged misconduct by an architect or engineer in making a certification  
21 under such title, the department, upon a hearing and a finding of will-  
22 ful misconduct, may revoke the license of such professional or prescribe  
23 such other penalty as it determines to be appropriate.

24 § 6509-a. Additional definition of professional misconduct; limited  
25 application. Notwithstanding any inconsistent provision of this article  
26 or of any other provision of law to the contrary, the license or regis-  
27 tration of a person subject to the provisions of titles six, seven,  
28 nine, ten, twelve, fourteen, fifteen, and twenty-six of this article may

1 be revoked, suspended or annulled or such person may be subject to any  
2 other penalty provided in section sixty-five hundred eleven of this  
3 subtitle in accordance with the provisions and procedure of this subti-  
4 tle for the following: That any person subject to the above enumerated  
5 titles, has directly or indirectly requested, received or participated  
6 in the division, transference, assignment, rebate, splitting or refund-  
7 ing of a fee for, or has directly requested, received or profited by  
8 means of a credit or other valuable consideration as a commission,  
9 discount or gratuity in connection with the furnishing of professional  
10 care, or service, including x-ray examination and treatment, or for or  
11 in connection with the sale, rental, supplying or furnishing of clinical  
12 laboratory services or supplies, x-ray laboratory services or supplies,  
13 inhalation therapy service or equipment, ambulance service, hospital or  
14 medical supplies, physiotherapy or other therapeutic service or equip-  
15 ment, artificial limbs, teeth or eyes, orthopedic or surgical appliances  
16 or supplies, optical appliances, supplies or equipment, devices for aid  
17 of hearing, drugs, medication or medical supplies or any other goods,  
18 services or supplies prescribed for medical diagnosis, care or treatment  
19 under this chapter, except payment, not to exceed thirty-three and one-  
20 third per centum of any fee received for x-ray examination, diagnosis or  
21 treatment, to any hospital furnishing facilities for such examination,  
22 diagnosis or treatment. Nothing contained in this section shall prohibit  
23 such persons from practicing as partners, in groups or as a professional  
24 corporation or as a university faculty practice corporation nor from  
25 pooling fees and moneys received, either by the partnerships, profes-  
26 sional corporations, university faculty practice corporations or groups  
27 by the individual members thereof, for professional services furnished  
28 by any individual professional member, or employee of such partnership,

1 corporation or group, nor shall the professionals constituting the part-  
2 nerships, corporations or groups be prohibited from sharing, dividing or  
3 apportioning the fees and moneys received by them or by the partnership,  
4 corporation or group in accordance with a partnership or other agree-  
5 ment; provided that no such practice as partners, corporations or in  
6 groups or pooling of fees or moneys received or shared, division or  
7 apportionment of fees shall be permitted with respect to care and treat-  
8 ment under the workers' compensation law except as expressly authorized  
9 by the workers' compensation law. Nothing contained in this chapter  
10 shall prohibit a medical or dental expense indemnity corporation pursu-  
11 ant to its contract with the subscriber from prorationing a medical or  
12 dental expense indemnity allowance among two or more professionals in  
13 proportion to the services rendered by each such professional at the  
14 request of the subscriber, provided that prior to payment thereof such  
15 professionals shall submit both to the medical or dental expense indem-  
16 nity corporation and to the subscriber statements itemizing the services  
17 rendered by each such professional and the charges therefor.

18 § 6509-b. Additional definition of professional misconduct; arrears in  
19 payment of support; limited application. 1. The provisions of this  
20 section shall apply in all cases of licensee or registrant arrears in  
21 payment of child support or combined child and spousal support referred  
22 to the department by a court pursuant to the requirements of section two  
23 hundred forty-four-c of the domestic relations law or pursuant to  
24 section four hundred fifty-eight-b of the family court act.

25 2. Upon receipt of an order from the court pursuant to one of the  
26 foregoing provisions of law, the department, if it finds such person to  
27 be so licensed or registered, shall within thirty days of receipt of  
28 such order from the court, provide notice to the licensee or registrant

1 of, and cause the regents review committee to initiate, a hearing which  
2 shall be held at least twenty days and no more than thirty days after  
3 the sending of such notice to the licensee or registrant. The hearing  
4 shall be held solely for the purpose of determining whether there exists  
5 as of the date of the hearing proof that full payment of all arrears of  
6 support established by the order of the court to be due from the licen-  
7 see or registrant have been paid. Proof of such payment shall be a  
8 certified check showing full payment of established arrears or a notice  
9 issued by the court or by the support collection unit where the order is  
10 payable to the support collection unit designated by the appropriate  
11 social services district. Such notice shall state that full payment of  
12 all arrears of support established by the order of the court to be due  
13 have been paid. The licensee or registrant shall be given full opportu-  
14 nity to present such proof of payment at the hearing in person or by  
15 counsel. The only issue to be determined by the regents review committee  
16 as a result of the hearing is whether the arrears have been paid. No  
17 evidence with respect to the appropriateness of the court order or abil-  
18 ity of the respondent party in arrears to comply with such order shall  
19 be received or considered by the committee.

20 3. Notwithstanding any inconsistent provision of this article or of  
21 any other provision of law to the contrary, the license or registration  
22 of a person subject to the provisions of this article and/or subject to  
23 the provisions of title two-A of article two of this chapter shall be  
24 suspended if, at the hearing provided for by subdivision two of this  
25 section, the licensee or registrant fails to present proof of payment as  
26 required by such subdivision. Such suspension shall not be lifted unless  
27 the court or the support collection unit, where the court order is paya-  
28 ble to the support collection unit designated by the appropriate social

1 services district, issues notice to the regents review committee that  
2 full payment of all arrears of support established by the order of the  
3 court to be due have been paid.

4 4. The department shall inform the court of all actions taken here-  
5 under as required by law.

6 5. This section shall apply to support obligations paid pursuant to  
7 any order of child support or child and spousal support issued under  
8 provisions of section two hundred thirty-six or two hundred forty of the  
9 domestic relations law, or article four, five or five-A of the family  
10 court act.

11 6. Notwithstanding any inconsistent provision of this article or of  
12 any other provision of law to the contrary, the provisions of this  
13 section shall apply to the exclusion of any other requirements of this  
14 article and to the exclusion of any other requirement of law to the  
15 contrary.

16 § 6509-c. Additional definition of professional misconduct; failure to  
17 comply in paternity or child support proceedings; limited application.

18 1. The provisions of this section shall apply in all cases of licensee  
19 or registrant failure after receiving appropriate notice, to comply with  
20 a summons, subpoena or warrant relating to a paternity or child support  
21 proceeding referred to the department by a court pursuant to the  
22 requirements of section two hundred forty-four-c of the domestic  
23 relations law or pursuant to section four hundred fifty-eight-b or five  
24 hundred forty-eight-b of the family court act.

25 2. Upon receipt of an order from the court pursuant to one of the  
26 foregoing provisions of law, the department, if it finds such person to  
27 be so licensed or registered, shall within thirty days of receipt of  
28 such order from the court, provide notice to the licensee or registrant

1 that his or her license or registration shall be suspended in sixty days  
2 unless the conditions as set forth in subdivision three of this section  
3 are met.

4 3. Notwithstanding any inconsistent provision of this article or of  
5 any other provision of law to the contrary, the license or registration  
6 of a person subject to the provisions of this article and/or subject to  
7 the provisions of title two-A of article two of this chapter shall be  
8 suspended unless the court terminates its order to commence suspension  
9 proceedings. Such suspension shall not be lifted unless the court issues  
10 an order to the department terminating its order to commence suspension  
11 proceedings.

12 4. The department shall inform the court of all actions taken here-  
13 under as required by law.

14 5. This section applies to paternity or child support proceedings  
15 commenced under, and support obligations paid pursuant to any order of  
16 child support or child and spousal support issued under provisions of  
17 section two hundred thirty-six or two hundred forty of the domestic  
18 relations law, or article four, five, five-A or five-B of the family  
19 court act.

20 6. Notwithstanding any inconsistent provision of this article or of  
21 any other provision of law to the contrary, the provisions of this  
22 section shall apply to the exclusion of any other requirements of this  
23 article and to the exclusion of any other requirement of law to the  
24 contrary.

25 § 6509-d. Limited exemption from professional misconduct. Notwith-  
26 standing any other provision of law to the contrary, it shall not be  
27 considered professional misconduct pursuant to this subtitle for any  
28 person who is licensed under this chapter and who would otherwise be

1 prohibited from prescribing or administering drugs pursuant to the title  
2 that licenses such individual, to administer an opioid antagonist in the  
3 event of an emergency.

4 § 6509-e. Additional definition of professional misconduct; mental  
5 health professionals.

6 1. For the purposes of this section:

7 a. "Mental health professional" means a person subject to the  
8 provisions of title seventeen, eighteen, or twenty-five of this article;  
9 or any other person designated as a mental health professional pursuant  
10 to law, rule or regulation.

11 b. "Sexual orientation change efforts" (i) means any practice by a  
12 mental health professional that seeks to change an individual's sexual  
13 orientation, including, but not limited to, efforts to change behaviors,  
14 gender identity, or gender expressions, or to eliminate or reduce sexual  
15 or romantic attractions or feelings towards individuals of the same sex  
16 and (ii) shall not include counseling for a person seeking to transition  
17 from one gender to another, or psychotherapies that: (A) provide accept-  
18 ance, support and understanding of patients or the facilitation of  
19 patients' coping, social support and identity exploration and develop-  
20 ment, including sexual orientation-neutral interventions to prevent or  
21 address unlawful conduct or unsafe sexual practices; and (B) do not seek  
22 to change sexual orientation.

23 2. It shall be professional misconduct for a mental health profes-  
24 sional to engage in sexual orientation change efforts upon any patient  
25 under the age of eighteen years, and any mental health professional  
26 found guilty of such misconduct under the procedures prescribed in  
27 section sixty-five hundred ten of this subtitle shall be subject to the

1 penalties prescribed in section sixty-five hundred eleven of this subti-  
2 tle.

3 § 6510. Proceedings in cases of professional misconduct. In cases of  
4 professional misconduct the proceedings shall be as follows:

5 1. Preliminary procedures.

6 a. Complaint. A complaint of a licensee's professional misconduct may  
7 be made by any person to the education department.

8 b. Investigation. The department shall investigate each complaint  
9 which alleges conduct constituting professional misconduct. The results  
10 of the investigation shall be referred to the professional conduct offi-  
11 cer designated by the department pursuant to section sixty-five hundred  
12 six of this subtitle. If such officer decides that there is not substan-  
13 tial evidence of professional misconduct or that further proceedings are  
14 not warranted, no further action shall be taken. If such officer, after  
15 consultation with a professional member of the applicable state board  
16 for the profession, determines that there is substantial evidence of  
17 professional misconduct, and that further proceedings are warranted,  
18 such proceedings shall be conducted pursuant to this section. If the  
19 complaint involves a question of professional expertise, then such offi-  
20 cer may seek, and if so shall obtain, the concurrence of at least two  
21 members of a panel of three members of the applicable board. The depart-  
22 ment shall cause a preliminary review of every report made to the  
23 department pursuant to section twenty-eight hundred three-e of this  
24 chapter, as added by chapter eight hundred sixty-six of the laws of  
25 nineteen hundred eighty, section forty-four hundred five-b of this chap-  
26 ter and section three hundred fifteen of the insurance law, to determine  
27 if such report reasonably appears to reflect conduct warranting further  
28 investigation pursuant to this subdivision.

1 c. Charges. In all disciplinary proceedings other than those termi-  
2 nated by an administrative warning pursuant to paragraph a of subdivi-  
3 sion two of this section, the department shall prepare the charges. The  
4 charges shall state the alleged professional misconduct and shall state  
5 concisely the material facts but not the evidence by which the charges  
6 are to be proved.

7 d. Records and reports as public information. In all disciplinary  
8 proceedings brought pursuant to this section or in any voluntary settle-  
9 ment of a complaint between the licensee and the department, the depart-  
10 ment shall notify the licensee in writing that the record and reports of  
11 such disciplinary proceeding or of such voluntary settlement shall be  
12 considered matters of public information unless specifically excepted in  
13 this title, or in any other law or applicable rule or regulation.

14 e. Service of charges and notice of hearing. In order to commence  
15 disciplinary proceedings under this article, service of a copy of the  
16 charges and notice of hearing must be completed twenty days before the  
17 date of the hearing if by personal delivery, and must be completed twen-  
18 ty-five days before the date of the hearing if by any other method.

19 f. Service of charges and of notice of hearing upon a natural person.  
20 Personal service of the charges and notice of any hearing pursuant to  
21 subdivision two or three of this section upon a natural person shall be  
22 made by any of the following methods:

23 (i) by delivery within the state to the person to be served;

24 (ii) by delivery within the state to a person of suitable age and  
25 discretion at the actual place of business, dwelling place or usual  
26 place of abode of the person to be served and either: (A) by mailing by  
27 certified mail, return receipt requested, to the person to be served at  
28 his or her last known residence, or (B) by mailing by certified mail,

1 return receipt requested, to the person to be served at his or her last  
2 address on file with the division of licensing services of the depart-  
3 ment in an envelope bearing the legend "personal and confidential,"  
4 provided that, in either case: such delivery and mailing shall be  
5 effected within twenty days of each other; service pursuant to this  
6 subparagraph shall be complete ten days after either the delivery, or  
7 the mailing, whichever is later; and proof of service shall, among other  
8 things, identify such person of suitable age and discretion and state  
9 the date, time and place of such service; or

10 (iii) where service under subparagraphs (i) and (ii) of this paragraph  
11 cannot be made with due diligence, a copy of the charges and the notice  
12 of hearing shall be served by certified mail, return receipt requested,  
13 to the person's last known address on file with the division of licens-  
14 ing services of the department or by affixing the charges and the notice  
15 of hearing to the door of either the actual place of business, dwelling  
16 place or usual place of abode of the person to be served; provided that:  
17 service pursuant to this subparagraph shall be complete ten days after  
18 such mailing, and proof of service shall set forth the department's  
19 efforts of due diligence.

20 g. Service of charges and notice of hearing outside of the state. A  
21 natural person subject to the jurisdiction of the department may be  
22 served with a copy of the charges and the notice of hearing outside of  
23 the state in the same manner as service is made within the state, by any  
24 person authorized to make service within the state of New York or by any  
25 person authorized to make service by the laws of the state, territory,  
26 possession or country in which service is made or by any duly qualified  
27 attorney or equivalent in such jurisdiction.

28 2. Expedited procedures.

1 a. Violations. Violations involving professional misconduct of a minor  
2 or technical nature may be resolved by expedited procedures as provided  
3 in paragraph b or c of this subdivision. For purposes of this subdivi-  
4 sion, violations of a minor or technical nature shall include, but shall  
5 not be limited to, isolated instances of violations concerning profes-  
6 sional advertising or record keeping, and other isolated violations  
7 which do not directly affect or impair the public health, welfare or  
8 safety. The department shall make recommendations to the legislature on  
9 or before June first, nineteen hundred eighty-one, for the further defi-  
10 inition of violations of a minor or technical nature. The initial  
11 instance of any violation of a minor or technical nature may be resolved  
12 by the issuance of an administrative warning pursuant to paragraph b of  
13 this subdivision. Subsequent instances of similar violations of a minor  
14 or technical nature within a period of three years may be resolved by  
15 the procedure set forth in paragraph c of this subdivision.

16 b. Administrative warning. If a professional conduct officer, after  
17 consultation with a professional member of the state board, determines  
18 that there is substantial evidence of professional misconduct but that  
19 it is an initial violation of a minor or technical nature which would  
20 not justify the imposition of a more severe disciplinary penalty, the  
21 matter may be terminated by the issuance of an administrative warning.  
22 Such warnings shall be confidential and shall not constitute an adjudi-  
23 cation of guilt or be used as evidence that the licensee is guilty of  
24 the alleged misconduct. However, in the event of a further allegation of  
25 similar misconduct by the same licensee, the matter may be reopened and  
26 further proceedings instituted as provided in this section.

27 c. Determination of penalty on uncontested minor violations. If a  
28 professional conduct officer, after consultation with a professional

1 member of the state board, determines that there is substantial evidence  
2 of a violation of a minor or technical nature, and of a nature justify-  
3 ing a penalty as specified in this paragraph, the department may prepare  
4 and serve charges either by personal service or by certified mail,  
5 return receipt requested. Such charges shall include a statement that  
6 unless an answer is received within twenty days denying the charges, the  
7 matter shall be referred to a violations committee consisting of at  
8 least three members of the state board for the profession, at least one  
9 of whom shall be a public representative, for determination. The  
10 violations panel shall be appointed by the executive secretary of the  
11 state board. The licensee shall be given at least fifteen days notice of  
12 the time and place of the meeting of the violations committee and shall  
13 have the right to appear in person and by an attorney and to make a  
14 statement to the committee in mitigation or explanation of the miscon-  
15 duct. The department may appear and make a statement in support of its  
16 position. The violations committee may issue a censure and reprimand,  
17 and in addition, or in the alternative, may impose a fine not to exceed  
18 five hundred dollars for each specification of minor, or technical  
19 misconduct. If the fine is not paid within three months the matter may  
20 be reopened and shall be subject to the hearing and regents decision  
21 procedures of this section. The determination of the panel shall be  
22 final and shall not be subject to the regents decision procedures of  
23 this section. If an answer is filed denying the charges, the matter  
24 shall be processed as provided in subdivision three of this section.

25 d. Convictions of crimes or administrative violations. In cases of  
26 professional misconduct based solely upon a violation of subdivision  
27 five of section sixty-five hundred nine of this subtitle, the profes-  
28 sional conduct officer may prepare and serve the charges and may refer

1 the matter directly to a regents review committee for its review and  
2 report of its findings, determination as to guilt, and recommendation as  
3 to the measure of discipline to be imposed. In such cases the notice of  
4 hearing shall state that the licensee may file a written answer, brief  
5 and affidavits; that the licensee may appear personally before the  
6 regents review committee, may be represented by counsel and may present  
7 evidence or sworn testimony on behalf of the licensee, and the notice  
8 may contain such other information as may be considered appropriate by  
9 the department. The department may also present evidence or sworn testi-  
10 mony at the hearing. A stenographic record of the hearing shall be made.  
11 Such evidence or sworn testimony offered at the meeting of the regents  
12 review committee shall be limited to evidence and testimony relating to  
13 the nature and severity of the penalty to be imposed upon the licensee.  
14 The presiding officer at the meeting of the regents review committee  
15 may, in his or her discretion, reasonably limit the number of witnesses  
16 whose testimony will be received and the length of time any witness will  
17 be permitted to testify. In lieu of referring the matter to the depart-  
18 ment, the regents review committee may refer any such matter for further  
19 proceedings pursuant to paragraph b or c of this subdivision or subdivi-  
20 sion three of this section.

21 3. Adversary proceedings. Contested disciplinary proceedings and other  
22 disciplinary proceedings not resolved pursuant to subdivision two of  
23 this section shall be tried before a hearing panel of the appropriate  
24 state board as provided in this subdivision.

25 a. Notice of hearing. The department shall set the time and place of  
26 the hearing and shall prepare the notice of hearing. The notice of hear-  
27 ing shall state (i) the time and place of the hearing, (ii) that the  
28 licensee may file a written answer to the charges prior to the hearing,

1 (iii) that the licensee may appear personally at the hearing and may be  
2 represented by counsel, (iv) that the licensee shall have the right to  
3 produce witnesses and evidence in his behalf, to cross-examine witnesses  
4 and examine evidence produced against him, and to issue subpoenas in  
5 accordance with the provisions of the civil practice law and rules, (v)  
6 that a stenographic record of the hearing will be made, and (vi) such  
7 other information as may be considered appropriate by the department.

8 b. Hearing panel. The hearing shall be conducted by a panel of three  
9 or more members, at least two of whom shall be members of the applicable  
10 state board for the profession, and at least one of whom shall be a  
11 public representative who is a member of the applicable state board or  
12 of the state board for another profession licensed pursuant to this  
13 article. The executive secretary for the applicable state board shall  
14 appoint the panel and shall designate its chairperson. After the  
15 commencement of a hearing, no panel member shall be replaced. A determi-  
16 nation by the administrative officer of a need to disqualify or remove  
17 any panel member will result in the disqualification or removal of the  
18 panel and cause a new panel to be appointed. In addition to said panel  
19 members, the department shall designate an administrative officer,  
20 admitted to practice as an attorney in the state of New York, who shall  
21 have the authority to rule on all motions, procedures and other legal  
22 objections and shall draft a report for the hearing panel which shall be  
23 subject to the approval of and signature by the panel chairperson on  
24 behalf of the panel. The administrative officer shall not be entitled to  
25 a vote.

26 c. Conduct of hearing. The evidence in support of the charges shall be  
27 presented by an attorney for the department. The licensee shall have the  
28 rights required to be stated in the notice of hearing. The panel shall

1 not be bound by the rules of evidence, but its determination of guilt  
2 shall be based on a preponderance of the evidence. A hearing which has  
3 been initiated shall not be discontinued because of the death or inca-  
4 capacity to serve of one member of the hearing panel.

5 d. Results of hearing. The hearing panel shall render a written report  
6 which shall include (i) findings of fact, (ii) a determination of guilty  
7 or not guilty on each charge, and (iii) in the event of a determination  
8 of guilty, a recommendation of the penalty to be imposed. For the panel  
9 to make a determination of guilty, a minimum of two of the voting  
10 members of the panel must vote for such a determination. A copy of the  
11 report of the hearing panel shall be transmitted to the licensee.

12 4. Regents decision procedures.

13 a. Regents review committee. The transcript and report of the hearing  
14 panel shall be reviewed at a meeting by a regents review committee  
15 appointed by the department. The regents review committee shall consist  
16 of three members, at least one of whom shall be a regent pursuant to  
17 section two hundred two of the education law.

18 b. Regents review committee meetings. The review shall be based on the  
19 transcript and the report of the hearing panel. The licensee may appear  
20 at the meeting, and the regents review committee may require the licen-  
21 see to appear. The licensee may be represented by counsel. The depart-  
22 ment shall notify the licensee at least seven days before the meeting  
23 (i) of the time and place of the meeting, (ii) of his right to appear,  
24 (iii) of his or her right to be represented by counsel, (iv) whether or  
25 not he or she is required to appear, and (v) of such other information  
26 as may be considered appropriate. After the meeting, the regents review  
27 committee shall transmit a written report of its review to the depart-  
28 ment. In cases referred directly to the regents review committee pursu-

1 ant to paragraph d of subdivision two of this section, the review shall  
2 be based upon the charges, the documentary evidence submitted by the  
3 department, any answer, affidavits or brief the licensee may wish to  
4 submit, and any evidence or sworn testimony presented by the licensee or  
5 the department at the hearing, pursuant to the procedures described by  
6 paragraph d of subdivision two of this section.

7 c. Regents decision and order. The department (i) shall consider the  
8 transcript, the report of the hearing panel, and the report of the  
9 regents review committee, (ii) shall decide whether the licensee is  
10 guilty or not guilty on each charge, (iii) shall decide what penalties,  
11 if any, to impose as prescribed in section sixty-five hundred eleven of  
12 this subtitle, and (iv) shall issue an order to carry out its decisions.  
13 Such decisions shall require the affirmative vote of a majority of the  
14 members of the department. If the department disagrees with the hearing  
15 panel's determination of not guilty, it shall remand the matter to the  
16 original panel for reconsideration or to a new panel for a new hearing.  
17 The panel's determination of not guilty on reconsideration or a new  
18 hearing shall be final. The order shall be served upon the licensee  
19 personally or by certified mail to the licensee's last known address and  
20 such service shall be effective as of the date of the personal service  
21 or five days after mailing by certified mail. The licensee shall deliver  
22 to the department the license and registration certificate which has  
23 been revoked, annulled, suspended, or surrendered within five days after  
24 the effective date of the service of the order. If the license or regis-  
25 tration certificate is lost, misplaced or its whereabouts is otherwise  
26 unknown, the licensee shall submit an affidavit to that effect, and  
27 shall deliver such license or certificate to the department when  
28 located.

1 5. Court review procedures. The decisions of the department may be  
2 reviewed pursuant to the proceedings under article seventy-eight of the  
3 civil practice law and rules. Such proceedings shall be returnable  
4 before the appellate division of the third judicial department, and such  
5 decisions shall not be stayed or enjoined except upon application to  
6 such appellate division after notice to the department and to the attor-  
7 ney general and upon a showing that the petitioner has a substantial  
8 likelihood of success.

9 5-a. At any time, if the professional conduct officer or his or her  
10 designee designated to investigate a complaint of professional miscon-  
11 duct of a licensed health care provider or licensed mental health care  
12 provider determines that there is a reasonable belief that an act that  
13 constitutes a sex offense identified in paragraph (h) of subdivision  
14 three of section 130.05 of the penal law has been committed by the  
15 licensee against a client or patient during a treatment session, consul-  
16 tation, interview, or examination, the professional conduct officer or  
17 the office of professional discipline shall notify the appropriate law  
18 enforcement official or authority.

19 6. The provisions of subdivisions one, two, three and four of this  
20 section shall not be applicable to proceedings in cases of professional  
21 misconduct involving the medical profession, except as provided in para-  
22 graph (m) of subdivision ten of section two hundred thirty of this chap-  
23 ter.

24 7. Notwithstanding any other provision of law, persons who assist the  
25 department as consultants or expert witnesses in the investigation or  
26 prosecution of alleged professional misconduct, licensure matters,  
27 restoration proceedings, or criminal prosecutions for unauthorized prac-  
28 tice, shall not be liable for damages in any civil action or proceeding

1 as a result of such assistance, except upon proof of actual malice. The  
2 attorney general shall defend such persons in any such action or  
3 proceeding, in accordance with section seventeen of the public officers  
4 law.

5 8. The files of the department relating to the investigation of possi-  
6 ble instances of professional misconduct, or the unlawful practice of  
7 any profession licensed by the department, or the unlawful use of a  
8 professional title or the moral fitness of an applicant for a profes-  
9 sional license or permit, shall be confidential and not subject to  
10 disclosure at the request of any person, except upon the order of a  
11 court in a pending action or proceeding. The provisions of this subdi-  
12 vision shall not apply to documents introduced in evidence at a hearing  
13 held pursuant to this chapter and shall not prevent the department from  
14 sharing information concerning investigations with other duly authorized  
15 public agencies responsible for professional regulation or criminal  
16 prosecution.

17 9. A disciplinary proceeding under subdivision three or four of this  
18 section shall be treated in the same manner as an action or proceeding  
19 in supreme court for the purpose of any claim by counsel of actual  
20 engagement.

21 § 6510-a. Temporary surrender of licenses during treatment for drug or  
22 alcohol abuse. 1. The license and registration of a licensee who may be  
23 temporarily incapacitated for the active practice of a profession  
24 licensed pursuant to this article, except professionals licensed pursu-  
25 ant to title two or four of this article, and whose alleged incapacity  
26 is the result of a problem of drug or alcohol abuse which has not  
27 resulted in harm to a patient or client, may be voluntarily surrendered  
28 to the department, which may accept and hold such license during the

1 period of such alleged incapacity or the department may accept the  
2 surrender of such license after agreement to conditions to be met prior  
3 to the restoration of the license. The department shall give written  
4 notification of such surrender to the licensing authorities of any other  
5 state or country in which the licensee is authorized to practice. In  
6 addition to the foregoing, the department shall also give written  
7 notification of such surrender, for professionals licensed pursuant to  
8 titles six, seven, ten, or twelve of this article to the commissioner or  
9 his or her designee, and where appropriate to each hospital at which the  
10 professional has privileges, is affiliated, or is employed. The licensee  
11 whose license is so surrendered shall notify all persons who request  
12 professional services that he or she has temporarily withdrawn from the  
13 practice of the profession. The department may provide for similar  
14 notification of patients or clients and of other interested parties, as  
15 appropriate under the circumstances of the professional practice and  
16 responsibilities of the licensee. The licensure status of such licensee  
17 shall be "inactive" and he or she shall not be authorized to practice  
18 the profession and shall refrain from practice in this state or in any  
19 other state or country. The voluntary surrender shall not be deemed to  
20 be an admission of disability or of professional misconduct and shall  
21 not be used as evidence of a violation of subdivision three or four of  
22 section sixty-five hundred nine of this subtitle, unless the licensee  
23 practices while the license is "inactive"; and any such practice shall  
24 constitute a violation of subdivision eight of such section. The surren-  
25 der of a license under this subdivision shall not bar any disciplinary  
26 action except action based solely upon the provisions of subdivision  
27 three or four of section sixty-five hundred nine of this subtitle, and  
28 only if no harm to a patient has resulted; and shall not bar any civil

1 or criminal action or proceeding which might be brought without regard  
2 to such surrender. A surrendered license shall be restored upon a show-  
3 ing to the satisfaction of the department that the licensee is not inca-  
4 pacitated for the active practice of the profession, provided that the  
5 department may, by order of the commissioner, impose reasonable condi-  
6 tions on the licensee, if it determines that because of the nature and  
7 extent of the licensee's former incapacity, such conditions are neces-  
8 sary to protect the health, safety and welfare of the public. Prompt  
9 written notification of such restoration shall be given to all licensing  
10 bodies which were notified of the temporary surrender of the license.

11 2. There shall be appointed within the department, by the department,  
12 a committee on drug and alcohol abuse, which shall advise the department  
13 on matters relating to practice by professional licensees with drug or  
14 alcohol abuse problems, and which shall administer the provisions of  
15 this section. The department shall determine the size, composition, and  
16 terms of office of such committee, a majority of the members of which  
17 shall be persons with expertise in problems of drug or alcohol abuse.  
18 The committee shall recommend to the department such rules as are neces-  
19 sary to carry out the purposes of this section, including but not limit-  
20 ed to procedures for the submission of applications for the surrender of  
21 a license and for the referral of cases for investigation or prosecution  
22 pursuant to section sixty-five hundred ten of this subtitle if a licen-  
23 see fails to comply with the conditions of an approved program of treat-  
24 ment. There shall be an executive secretary appointed by the department  
25 to assist the committee. The executive secretary shall employ, or other-  
26 wise retain, the services of a registered professional nurse with appro-  
27 priate qualifications in substance abuse and addiction to assist in the  
28 implementation of the program authorized by section six thousand five

1 hundred ten-c of this subtitle. Determinations by the committee relating  
2 to licensees shall be made by panels of at least three members of the  
3 committee designated by the executive secretary, who shall also desig-  
4 nate a member of the state board for the licensee's profession as the  
5 ex-officio non-voting member of each panel. In the case of a determi-  
6 nation relating to a licensed nurse, at least one panel member must be a  
7 registered professional nurse licensed by the state.

8 3. Application for the surrender of a license pursuant to this section  
9 shall be submitted to the committee, and shall identify a proposed  
10 treatment or rehabilitation program, and shall include a consent to the  
11 release of all information concerning the licensee's treatment to the  
12 committee. All information concerning an application, other than the  
13 fact of the surrender of the license and the participation in the  
14 program and the successful completion or failure of or withdrawal from  
15 the program, shall be strictly confidential, and may not be released by  
16 the committee to any person or body without the consent of the licensee.  
17 The immunity from disciplinary action conferred by this section shall be  
18 conditioned upon the approval of the treatment or rehabilitation program  
19 by the committee and its successful completion by the applicant and the  
20 elimination of the incapacity to practice. Approval of a treatment or  
21 rehabilitation program by the committee shall not constitute a represen-  
22 tation as to the probability of success of the program or any assumption  
23 of financial responsibility for its costs.

24 4. The immunity from disciplinary action conferred by this section may  
25 be revoked by the committee upon a finding that the licensee has failed  
26 to successfully complete the program or that the incapacity to practice  
27 has not been eliminated. Such revocation shall be made only after notice  
28 and an opportunity to be heard, but no adjudicatory hearing shall be

1 required. The matter shall be referred for appropriate proceedings  
2 pursuant to section sixty-five hundred ten of this subtitle. The license  
3 shall be returned unless charges are served pursuant to section sixty-  
4 five hundred ten of this subtitle within thirty days after the revoca-  
5 tion of the approval of the special treatment afforded by this section.

6 5. The commissioner is authorized to adopt regulations to carry out  
7 the purposes of this section, including but not limited to the notice of  
8 temporary inactive status to be required in different professions and  
9 practice situations and the measures required upon temporary withdrawal  
10 from practice.

11 6. No individual who serves as a member of a committee whose purpose  
12 is to confront and refer either to treatment or to the department licen-  
13 ses who are thought to be suffering from alcoholism or drug abuse shall  
14 be liable for damages to any person for any action taken by such indi-  
15 vidual provided such action was taken without malice and within the  
16 scope of such individual's function as a member of such committee, and  
17 provided further that such committee has been established by and func-  
18 tions under the auspices of an association or society of professionals  
19 authorized to practice under this article.

20 7. In addition to the provisions of section two thousand eight hundred  
21 three-e of this chapter, any entity licensed pursuant to articles thir-  
22 ty-six, forty and forty-four of this chapter, and any mental hygiene  
23 facilities, and correctional, occupational, school and college health  
24 services shall provide a report to the office of professional discipline  
25 when there is a suspension, restriction, termination, curtailment or  
26 resignation of employment or privileges in any way related to a licensed  
27 nurse that is impaired when the impairment is alleged to have been  
28 caused by a drug-related problem. Any person, facility, or corporation

1 which makes a report pursuant to this section in good faith shall have  
2 immunity from any liability, civil or criminal, for having made such a  
3 report except where the conduct constitutes negligence, gross negligence  
4 or intentional misconduct. For the purpose of any proceeding, civil or  
5 criminal, the good faith of any person, facility or corporation required  
6 to make a report shall be presumed. Such presumption may be rebutted by  
7 any competent evidence.

8 8. Notwithstanding any other provision of law, the license and regis-  
9 tration of a licensed dentist or pharmacist who may be temporarily inca-  
10 pacitated for the active practice of their profession licensed pursuant  
11 to titles seven and ten of this article and whose alleged incapacity is  
12 the result of a problem of drug or alcohol abuse which has not resulted  
13 in harm to a patient or client, may be voluntarily surrendered to, or  
14 voluntarily offered for any alternative disposition with the department,  
15 which may accept and hold such license or make any other disposition  
16 regarding such license deemed appropriate under the circumstances, if  
17 the department determines the health and safety of the public will be  
18 adequately protected thereby, during the period of such alleged incapac-  
19 ity. The department may accept the surrender of such license after  
20 agreement to conditions to be met prior to the restoration of the  
21 license or the department may treat the license as not surrendered and  
22 may impose conditions to allow the licensee to retain the license. All  
23 other provisions of this section shall be applied to the professions of  
24 dentistry and pharmacy in conformity with this subdivision.

25 § 6510-b. Nurse peer assistance programs. 1. As used in this section:

26 a. "Drug-related problem" means a problem or problems that are related  
27 to the use, misuse or addiction to drugs or alcohol.

1 b. "Participant" means an individual licensed pursuant to title twelve  
2 of this article who has or may have a drug-related problem.

3 c. "Approved nurse peer assistance program" means a program operated  
4 by the New York state nurses association or a statewide professional  
5 association of nurses which has experience in providing peer assistance  
6 services to nurses who have drug-related problems which are designed to  
7 help a participant or a licensee's employer and has been approved by the  
8 department in accordance with criteria established in regulations of the  
9 commissioner.

10 d. "Peer assistance services" includes assessing the needs of a  
11 participant, including early identification of drug-related problems,  
12 and providing information, support, and advice as requested by a partic-  
13 ipant.

14 2. a. The department shall provide funds, including but not limited to  
15 a portion of the funds made available pursuant to the provisions of this  
16 section, for services provided by an approved nurse peer assistance  
17 program. Funds used to provide services shall not be used for the treat-  
18 ment of participants. Funded services shall include, but not be limited  
19 to:

20 (i) providing peer assistance services for nurses with drug-related  
21 problems;

22 (ii) maintaining a toll-free telephone information line for anonymous  
23 nurses, their employers, and others to provide assistance in the iden-  
24 tification of services and information for nurses dealing with drug-re-  
25 lated problems;

26 (iii) training monitors for the professional assistance program;

27 (iv) arranging for mental health consultants to assess nurses for the  
28 professional assistance program, as needed; and

1 (v) preparing written assessments of nurses who have been referred  
2 from the professional assistance program.

3 b. An additional fee of fifteen dollars shall be paid at the time of  
4 application for licensure and first registration and every registration  
5 by those licensed pursuant to title twelve of this article for the  
6 purpose of implementing this program. The funds made available under  
7 this provision shall be deposited in the office of professions special  
8 revenue account for its purposes in implementing this section. The  
9 department may use a portion of this amount for its administrative  
10 expenses incurred in implementing this program including, but not limit-  
11 ed to, employment of personnel, the costs of approving and contracting  
12 with a peer assistance program as required by this section and outreach  
13 activities to promote this program.

14 3. No approved nurse peer assistance program or individual who serves  
15 in an approved nurse peer assistance program shall be liable in damages  
16 to any person for any action taken or not taken or recommendations made  
17 unless, based on the facts disclosed by a participant, the conduct of  
18 the program or person with respect to the person asserting liability  
19 constituted negligence, gross negligence, or intentional misconduct.

20 4. All information concerning a participant gathered by the approved  
21 nurse peer assistance program shall be strictly confidential and may not  
22 be released to any person or body without the consent of the partic-  
23 ipant, except upon the order of a court in a pending action or proceed-  
24 ing. Aggregate data may be released to the committee on drug and alcohol  
25 abuse.

26 § 6510-c. Voluntary non-disciplinary surrender of a license. A profes-  
27 sional who is licensed pursuant to title twelve of this article may  
28 voluntarily surrender a license to the committee on drug and alcohol

1 abuse when such licensee requests to be monitored and/or receive peer  
2 support services in relation to the use, misuse or addiction to drugs.  
3 The committee shall accept such voluntary non-disciplinary surrender of  
4 a license and provide for expedited reinstatement of the license if the  
5 licensee meets criteria set by the committee. Such criteria will  
6 include, but not be limited to, confidence that the licensee's use of  
7 drugs and/or alcohol has not resulted in harm to a patient or client and  
8 the licensee is not incapacitated, unfit for practice or a threat to the  
9 health, safety and welfare of the public. Such voluntary surrender, if  
10 accepted by the committee, shall result in an immediate reinstatement of  
11 the license and shall provide immunity from a violation of subdivision  
12 three or four of section sixty-five hundred nine of this subtitle and  
13 cannot be deemed an admission or used as evidence in professional  
14 misconduct. Acceptance by the committee shall not require a report to  
15 the department of health or to any employer or licensing authority of  
16 another jurisdiction, nor require any disclosure to patients or to the  
17 public that such license has been temporarily surrendered, except if it  
18 is subsequently determined by the department that a participant being  
19 monitored by the department is found to have used drugs and/or alcohol  
20 which has resulted in harm to a patient or client.

21 § 6510-d. Nurses' refusal of overtime work. The refusal of a licensed  
22 practical nurse or a registered professional nurse to work beyond said  
23 nurse's regularly scheduled hours of work shall not solely constitute  
24 patient abandonment or neglect except under the circumstances provided  
25 for under subdivision three of section one hundred sixty-seven of the  
26 labor law.

27 § 6511. Penalties for professional misconduct. The penalties which may  
28 be imposed by the department on a present or former licensee found guil-

1 ty of professional misconduct, pursuant to the definitions and  
2 proceedings prescribed in sections sixty-five hundred nine and sixty-  
3 five hundred ten of this subtitle, are:

4 1. censure and reprimand;

5 2. suspension of license: (a) wholly, for a fixed period of time; (b)  
6 partially, until the licensee successfully completes a course of  
7 retraining in the area to which the suspension applies; or (c) wholly,  
8 until the licensee successfully completes a course of therapy or treat-  
9 ment prescribed by the regents;

10 3. revocation of license;

11 4. annulment of license or registration;

12 5. limitation on registration or issuance of any further license;

13 6. a fine not to exceed ten thousand dollars, upon each specification  
14 of charges of which the respondent is determined to be guilty;

15 7. a requirement that a licensee pursue a course of health or train-  
16 ing; and

17 8. a requirement that a licensee perform up to one hundred hours of  
18 public service, in a manner and at a time and place as directed by the  
19 state board for the professions as prescribed in the title relating to  
20 each profession.

21 The department may stay such penalties in whole or in part, may place  
22 the licensee on probation and may restore a license which has been  
23 revoked, provided, in the case of licensees subject to section two  
24 hundred thirty of this chapter, notice that such state board for the  
25 profession as prescribed in the title relating to such profession is  
26 considering such restoration is given to the office of professional  
27 medical conduct at least thirty days before the date on which such  
28 restoration shall be considered. Upon the recommendation of the office

1 of professional medical conduct, the department may deny such restora-  
2 tion. Any fine imposed pursuant to this section or pursuant to subdivi-  
3 sion two of section sixty-five hundred ten of this subtitle may be sued  
4 for and recovered in the name of the people of the state of New York in  
5 an action brought by the attorney general. In such action the findings  
6 and determination of the department or of the violations committee shall  
7 be admissible evidence and shall be conclusive proof of the violation  
8 and the penalty assessed.

9 SUBTITLE 4

10 UNAUTHORIZED ACTS

11 Section 6512. Unauthorized practice a crime.

12 6513. Unauthorized use of a professional title a crime.

13 6514. Criminal proceedings.

14 6515. Restraint of unlawful acts.

15 6516. Civil enforcement proceedings and civil penalties.

16 § 6512. Unauthorized practice a crime. 1. Anyone not authorized to  
17 practice under this article who practices or offers to practice or holds  
18 himself or herself out as being able to practice in any profession in  
19 which a license is a prerequisite to the practice of the acts, or who  
20 practices any profession as an exempt person during the time when his or  
21 her professional license is suspended, revoked or annulled, or who aids  
22 or abets an unlicensed person to practice a profession, or who fraudu-  
23 lently sells, files, furnishes, obtains, or who attempts fraudulently to  
24 sell, file, furnish or obtain any diploma, license, record or permit  
25 purporting to authorize the practice of a profession, shall be guilty of  
26 a class E felony.

1 2. Anyone who knowingly aids or abets three or more unlicensed persons  
2 to practice a profession or employs or holds such unlicensed persons out  
3 as being able to practice in any profession in which a license is a  
4 prerequisite to the practice of the acts, or who knowingly aids or abets  
5 three or more persons to practice any profession as exempt persons  
6 during the time when the professional licenses of such persons are  
7 suspended, revoked or annulled, shall be guilty of a class E felony.

8 § 6513. Unauthorized use of a professional title a crime. 1. Anyone  
9 not authorized to use a professional title regulated by this article,  
10 and who uses such professional title, shall be guilty of a class A  
11 misdemeanor.

12 2. Anyone who knowingly aids or abets three or more persons not  
13 authorized to use a professional title regulated by this article, to use  
14 such professional title, or knowingly employs three or more persons not  
15 authorized to use a professional title regulated by this article, who  
16 use such professional title in the course of such employment, shall be  
17 guilty of a class E felony.

18 § 6514. Criminal proceedings. 1. All alleged violations of sections  
19 sixty-five hundred twelve or sixty-five hundred thirteen of this subti-  
20 tle shall be reported to the department which shall cause an investi-  
21 gation to be instituted. All alleged violations of section sixty-five  
22 hundred thirty-one of this article shall be reported to the department  
23 which shall cause an investigation to be instituted. If the investi-  
24 gation substantiates that violations exist, such violations shall be  
25 reported to the attorney general with a request for prosecution.

26 2. The attorney general shall prosecute such alleged offenses in the  
27 name of the state.

1 3. All criminal courts having jurisdiction over misdemeanors are here-  
2 by empowered to hear, try and determine alleged violations under this  
3 article, which constitute misdemeanors, without indictment and to impose  
4 applicable punishment of fines or imprisonments or both. It shall be  
5 necessary to prove in any prosecution under this title only a single  
6 prohibited act or a single holding out without proving a general course  
7 of conduct.

8 4. A proceeding before a committee on professional conduct shall not  
9 be deemed to be a criminal proceeding within the meaning of this  
10 section.

11 § 6515. Restraint of unlawful acts. Where a violation of this article  
12 is alleged to have occurred, the attorney general, the department or, in  
13 the event of alleged violations of title nineteen of this article occur-  
14 ring in cities having a population of one million or more, the corpo-  
15 ration counsel may apply to the supreme court within the judicial  
16 district in which such violation is alleged to have occurred for an  
17 order enjoining or restraining commission or continuance of the unlawful  
18 acts complained of. The remedy provided in this section shall be in  
19 addition to any other remedy provided by law or to the proceedings  
20 commenced against a licensee under this article.

21 § 6516. Civil enforcement proceedings and civil penalties. 1. Issu-  
22 ance of cease and desist order. Whenever the department has reasonable  
23 cause to believe that any person has violated any provision of section  
24 sixty-five hundred twelve or sixty-five hundred thirteen of this subti-  
25 tle, the department may issue and serve upon such person a notice to  
26 cease and desist from such violation. Such cease and desist order shall  
27 be served personally by the department. If personal service cannot be  
28 made after due diligence and such fact is certified under oath, a copy

1 of the order shall be made by certified mail, return receipt requested,  
2 to the person's last known address by the department.

3 2. Contents of cease and desist order. The cease and desist order  
4 shall be in writing and shall describe with particularity the nature of  
5 the violation, including a reference of the specific provision or  
6 provisions of law alleged to have been violated and an order to the  
7 respondent to cease any unlawful activity. The cease and desist order  
8 shall advise the respondent:

9 a. of the right to contest the order by requesting a hearing within  
10 thirty days of the service of the cease and desist order before a hear-  
11 ing officer designated by the department;

12 b. of the right to request a stay of the cease and desist order at the  
13 time a hearing is requested; and

14 c. shall set forth the respondent's rights at such a hearing pursuant  
15 to subdivision five of this section.

16 3. Civil penalties. Civil penalties up to five thousand dollars may be  
17 imposed for each violation and the respondent may be ordered to make  
18 restitution to any person who has an interest in any money or property,  
19 either real or personal, acquired by the respondent as a result of a  
20 violation. Whenever the department concludes that civil penalties and/or  
21 restitution may be warranted because of the egregiousness of the unlaw-  
22 ful activity, it may serve, along with the cease and desist order, a  
23 notice of a hearing on the allegations of unlawful activity and the  
24 department's intention to order the respondent to make restitution  
25 and/or impose a civil penalty. The notice should specify the civil  
26 penalty sought for each violation.

27 4. Request for hearing. If the respondent to a cease and desist order  
28 contests the cease and desist order, the respondent shall request a

1 hearing conducted by the department within thirty days of the receipt of  
2 the cease and desist order. Such a hearing shall be scheduled, and the  
3 requesting party notified of the date, within fifteen days of the  
4 receipt of the request for a hearing. If the respondent requests a stay  
5 of the cease and desist order, the hearing officer shall determine  
6 whether the cease and desist order should be stayed in whole or in part  
7 within five working days of the request for a stay. The respondent may  
8 file a written answer to the cease and desist order prior to the hear-  
9 ing. A stenographic record of the hearing shall be made.

10 5. Conduct of hearing. The evidence in support of the cease and desist  
11 order shall be presented by an attorney for the department. The respond-  
12 ent may appear personally and may be represented by counsel at the hear-  
13 ing, may produce witnesses and evidence in his or her behalf at the  
14 hearing, may cross-examine witnesses and examine evidence produced  
15 against him or her at the hearing, and may issue subpoenas in accordance  
16 with section three hundred four of the state administrative procedure  
17 act. The hearing officer shall not be bound by the rules of evidence,  
18 but his or her determination that a violation of section sixty-five  
19 hundred twelve or sixty-five hundred thirteen of this subtitle has  
20 occurred shall be based on a preponderance of the evidence. A hearing  
21 which has been initiated shall not be discontinued because of the death  
22 or incapacity of the hearing officer. In the event of a hearing offi-  
23 cer's death or incapacity to serve, a new hearing officer shall be  
24 designated by the department to continue the hearing. The new hearing  
25 officer shall affirm in writing that he or she has read and considered  
26 evidence and transcripts of the prior proceedings.

27 6. Results of hearing. The hearing officer designated by the depart-  
28 ment shall render a written report which shall include:

1 a. findings of fact;

2 b. a determination on each violation alleged in the cease and desist  
3 order;

4 c. a determination as to whether to accept, reject, or modify any of  
5 the terms of the cease and desist order in whole or in part; and

6 d. the civil penalty imposed, if any. A copy of the hearing officer's  
7 written report shall be served upon the respondent with a notice setting  
8 forth the respondent's rights to an administrative appeal within ten  
9 days of the conclusion of the hearing.

10 7. Appeals. a. The decision of the hearing officer shall be final,  
11 except that it may be appealed to a regents review committee within  
12 twenty days of the receipt of the hearing officer's report. The initi-  
13 ation of an appeal shall not in and of itself affect the validity or  
14 terms of the cease and desist order. The regents review committee shall  
15 consist of three members, at least one of whom shall be a regent. The  
16 review shall be based on the transcript and the report of the hearing  
17 officer. The respondent may appear at the meeting, and the regents  
18 review committee may require the respondent to appear. The respondent  
19 may be represented by counsel. The department shall notify the respond-  
20 ent at least ten days before the meeting (i) of the time and place of  
21 the meeting, (ii) of the right to appear; (iii) of the right to be  
22 represented by counsel; (iv) whether or not the respondent is required  
23 to appear; and (iii) of such other information as may be considered  
24 appropriate.

25 b. After the meeting, the regents review committee shall transmit a  
26 written report of its review to the department. The department (i) shall  
27 consider the transcript, the report of the hearing officer, and the  
28 report of the regents review committee, (ii) shall decide whether the

1 respondent has violated each charge in the cease and desist order, (iii)  
2 shall decide what penalties, if any, to impose as prescribed in this  
3 section, and (iv) shall issue an order to carry out its decisions. Such  
4 decisions shall require the affirmative vote of a majority of the  
5 members of the department. The order shall be served upon the respondent  
6 personally or by certified mail to the respondent's last known address  
7 and such service shall be effective as of the date of the personal  
8 service or five days after mailing by certified mail. The decisions of  
9 the department under this section may be reviewed in a proceeding pursu-  
10 ant to article seventy-eight of the civil practice law and rules brought  
11 in the supreme court, Albany county. Such decisions shall not be stayed  
12 or enjoined except upon application to such supreme court pursuant to  
13 article sixty-three of the civil practice law and rules with notice to  
14 the department and to the attorney general.

15 8. General enforcement of cease and desist order. In any case where  
16 the cease and desist order is confirmed by the department or where the  
17 respondent does not request an administrative hearing within the allot-  
18 ted time or does not appeal the decision of the hearing officer within  
19 the allotted time, an action or proceeding may be filed in the name of  
20 the state of New York seeking a restraining order, injunction, appropri-  
21 ate writ, or judgment against any person who violates the terms of the  
22 cease and desist order.

23 9. a. Special enforcement of civil monetary penalties. Provided that  
24 no appeal is pending on the imposition of such civil penalty, in the  
25 event such civil penalty imposed by the department remains unpaid, in  
26 whole or in part, more than forty-five days after written demand for  
27 payment has been sent by first class mail to the address of the respond-  
28 ent, a notice of impending default judgment shall be sent by first class

1 mail to the respondent. The notice of impending default judgment shall  
2 advise the respondent:

3 (i) that a civil penalty was imposed on the respondent;

4 (ii) the date the penalty was imposed;

5 (iii) the amount of the civil penalty;

6 (iv) the amount of the civil penalty that remains unpaid as of the  
7 date of the notice;

8 (v) the violations for which the civil penalty was imposed; and

9 (vi) that a judgment by default will be entered in the supreme court,  
10 Albany county unless the department receives full payment of all civil  
11 penalties due within twenty days of the date of the notice of impending  
12 default judgment.

13 b. If full payment shall not have been received by the department  
14 within thirty days of mailing of the notice of impending default judg-  
15 ment, the department shall proceed to enter with such court a statement  
16 of the default judgment containing the amount of the penalty or penal-  
17 ties remaining due and unpaid, along with proof of mailing of the notice  
18 of impending default judgment. The filing of such judgment shall have  
19 the full force and effect of a default judgment duly docketed with such  
20 court pursuant to the civil practice law and rules and shall in all  
21 respects be governed by that chapter and may be enforced in the same  
22 manner and with the same effect as that provided by law in respect to  
23 execution issued against property upon judgments of a court of record. A  
24 judgment entered pursuant to this subdivision shall remain in full force  
25 and effect for eight years notwithstanding any other provision of law.

26 TITLE 2

27 MEDICINE

1 Section 6520. Introduction.

2 6521. Definition of practice of medicine.

3 6522. Practice of medicine and use of title "physician".

4 6523. State board for medicine.

5 6524. Requirements for a professional license.

6 6525. Limited permits.

7 6526. Exempt persons.

8 6527. Special provisions.

9 6528. Qualification of certain applicants for licensure.

10 6529. Power of department regarding certain physicians.

11 § 6520. Introduction. This title applies to the profession of medi-  
12 cine. The general provisions for all professions contained in Title one  
13 of this article apply to this title.

14 § 6521. Definition of practice of medicine. The practice of the  
15 profession of medicine is defined as diagnosing, treating, operating or  
16 prescribing for any human disease, pain, injury, deformity or physical  
17 condition.

18 § 6522. Practice of medicine and use of title "physician". Only a  
19 person licensed or otherwise authorized under this title shall practice  
20 medicine or use the title "physician".

21 § 6523. State board for medicine. A state board for medicine shall be  
22 appointed by the department on recommendation of the commissioner for  
23 the purpose of assisting the department and the commissioner on matters  
24 of professional licensing in accordance with section sixty-five hundred  
25 eight of this article. The state board of medicine shall be composed of  
26 not less than twenty physicians licensed in this state for at least five  
27 years, two of whom shall be doctors of osteopathy. To the extent such  
28 physician appointees are available for appointment, at least one of the

1 physician appointees to the state board for medicine shall be an expert  
2 on reducing health disparities among demographic subgroups, and one  
3 shall be an expert on women's health. The state board for medicine shall  
4 also consist of not less than two physician's assistants licensed to  
5 practice in this state. The participation of physician's assistant  
6 members shall be limited to matters relating to title four of this arti-  
7 cle. An executive secretary to the state board of medicine shall be  
8 appointed by the department on recommendation of the commissioner and  
9 shall be either a physician licensed in this state or a non-physician,  
10 deemed qualified by the commissioner and department.

11 § 6524. Requirements for a professional license. To qualify for a  
12 license as a physician, an applicant shall fulfill the following  
13 requirements:

14 1. Application: file an application with the department;

15 2. Education: have received an education, including a degree of doctor  
16 of medicine, "M.D.", or doctor of osteopathy, "D.O.", or equivalent  
17 degree in accordance with the commissioner's regulations;

18 3. Experience: have experience satisfactory to the state board of  
19 medicine and in accordance with the commissioner's regulations;

20 4. Examination: pass an examination satisfactory to the state board of  
21 medicine and in accordance with the commissioner's regulations;

22 5. Age: be at least twenty-one years of age; however, the commissioner  
23 may waive the age requirement for applicants who have attained the age  
24 of eighteen and will be in a residency program until the age of twenty-  
25 one;

26 6. Citizenship or immigration status: be a United States citizen or an  
27 alien lawfully admitted for permanent residence in the United States;  
28 provided, however that the department may grant a three year waiver for

1 an alien physician to practice in an area which has been designated by  
2 the department as medically underserved, except that the department may  
3 grant an additional extension not to exceed six years to an alien physi-  
4 cian to enable him or her to secure citizenship or permanent resident  
5 status, provided such status is being actively pursued; and provided  
6 further that the department may grant an additional three year waiver,  
7 and at its expiration, an extension for a period not to exceed six addi-  
8 tional years, for the holder of an H-1b visa, an O-1 visa, or an equiv-  
9 alent or successor visa thereto;

10 7. Character: be of good moral character as determined by the depart-  
11 ment; and

12 8. Fees: pay a fee of two hundred sixty dollars to the department for  
13 admission to a department conducted examination and for an initial  
14 license, a fee of one hundred seventy-five dollars for each reexamina-  
15 tion, a fee of one hundred thirty-five dollars for an initial license  
16 for persons not requiring admission to a department conducted examina-  
17 tion, a fee of five hundred seventy dollars for any biennial registra-  
18 tion period commencing August first, nineteen hundred ninety-six and  
19 thereafter. The comptroller is hereby authorized and directed to deposit  
20 the fee for each biennial registration period into the special revenue  
21 fundsother entitled "professional medical conduct account" for the  
22 purpose of offsetting any expenditures made pursuant to section two  
23 hundred thirty of this chapter in relation to the operation of the  
24 office of professional medical conduct within the department, provided  
25 that for each biennial registration fee paid by the licensee using a  
26 credit card, the amount of the administrative fee incurred by the  
27 department in processing such credit card transaction shall be deposited  
28 by the comptroller in the office of the professions account established

1 by section ninety-seven-nnn of the state finance law. The amount of the  
2 funds expended as a result of such increase shall not be greater than  
3 such fees collected over the registration period.

4 9. For every license or registration issued after the effective date  
5 of this subdivision, an additional fee of thirty dollars shall be paid  
6 and deposited in the special revenue fund entitled "the professional  
7 medical conduct account" for the purpose of offsetting any expenditures  
8 made pursuant to subdivision fifteen of section two hundred thirty of  
9 this chapter. The amount of such funds expended for such purpose shall  
10 not be greater than such additional fees collected over the licensure  
11 period or for the duration of such program if less than the licensure  
12 period.

13 10. A physician shall not be required to pay any fee under this  
14 section if he or she certifies to the department that for the period of  
15 registration or licensure, he or she shall only practice medicine with-  
16 out compensation or the expectation or promise of compensation. The  
17 following shall not be considered compensation for the purposes of this  
18 subdivision:

19 a. nominal payment solely to enable the physician to be considered an  
20 employee of a health care provider; or

21 b. providing liability coverage to the physician relating to the  
22 services provided.

23 11. No physician may be re-registered unless he or she, as part of the  
24 re-registration application, includes an attestation made under penalty  
25 of perjury, in a form prescribed by the commissioner, that he or she  
26 has, within the six months prior to submission of the re-registration  
27 application, updated his or her physician profile in accordance with

1 subdivision four of section twenty-nine hundred ninety-five-a of this  
2 chapter.

3 § 6525. Limited permits. Permits limited as to eligibility, practice  
4 and duration, shall be issued by the department to eligible applicants,  
5 as follows:

6 1. Eligibility: The following persons shall be eligible for a limited  
7 permit:

8 a. A person who fulfills all requirements for a license as a physician  
9 except those relating to the examination and citizenship or permanent  
10 residence in the United States;

11 b. A foreign physician who holds a standard certificate from the  
12 educational council for foreign medical graduates or who has passed an  
13 examination satisfactory to the state board for medicine and in accord-  
14 ance with the commissioner's regulations; or

15 c. A foreign physician or a foreign intern who is in this country on a  
16 non-immigration visa for the continuation of medical study, pursuant to  
17 the exchange student program of the United States department of state.

18 2. Limit of practice. A permittee shall be authorized to practice  
19 medicine only under the supervision of a licensed physician and only in  
20 a public, voluntary, or proprietary hospital.

21 3. Duration. A limited permit shall be valid for two years. It may be  
22 renewed biennially at the discretion of the department.

23 4. Fees. The fee for each limited permit and for each renewal shall be  
24 one hundred five dollars.

25 § 6526. Exempt persons. The following persons under the following  
26 limitations may practice medicine within the state without a license:

1 1. Any physician who is employed as a resident in a public hospital,  
2 provided such practice is limited to such hospital and is under the  
3 supervision of a licensed physician;

4 2. Any physician who is licensed in a bordering state and who resides  
5 near a border of this state, provided such practice is limited in this  
6 state to the vicinity of such border and provided such physician does  
7 not maintain an office or place to meet patients or receive calls within  
8 this state;

9 3. Any physician who is licensed in another state or country and who  
10 is meeting a physician licensed in this state, for purposes of consulta-  
11 tion, provided such practice is limited to such consultation;

12 4. Any physician who is licensed in another state or country, who is  
13 visiting a medical school or teaching hospital in this state to receive  
14 medical instruction for a period not to exceed six months or to conduct  
15 medical instruction, provided such practice is limited to such instruc-  
16 tion and is under the supervision of a licensed physician;

17 5. Any physician who is authorized by a foreign government to practice  
18 in relation to its diplomatic, consular or maritime staffs, provided  
19 such practice is limited to such staffs;

20 6. Any commissioned medical officer who is serving in the United  
21 States armed forces or public health service or any physician who is  
22 employed in the United States Veterans Administration, provided such  
23 practice is limited to such service or employment;

24 7. Any intern who is employed by a hospital and who is a graduate of a  
25 medical school in the United States or Canada, provided such practice is  
26 limited to such hospital and is under the supervision of a licensed  
27 physician;

1 8. Any medical student who is performing a clinical clerkship or simi-  
2 lar function in a hospital and who is matriculated in a medical school  
3 which meets standards satisfactory to the department, provided such  
4 practice is limited to such clerkship or similar function in such hospi-  
5 tal;

6 9. Any dentist or dental school graduate eligible for licensure in the  
7 state who administers anesthesia as part of a hospital residency program  
8 established for the purpose of training dentists in anesthesiology; or

9 10. a. Any physician who is licensed and in good standing in another  
10 state or territory, and who has a written agreement to provide medical  
11 services to athletes and team personnel of a United States sports team  
12 recognized by the United States Olympic committee or an out-of-state  
13 secondary school, institution of postsecondary education, or profes-  
14 sional athletic organization sports team, may provide medical services  
15 to such athletes and team personnel at a discrete sanctioned team sport-  
16 ing event in this state as defined by the commissioner in regulations,  
17 provided such services are provided only to such athletes and team  
18 personnel at the discrete sanctioned team sporting event. Any such  
19 medical services shall be provided only five days before through three  
20 days after each discrete sanctioned team sporting event.

21 b. Any person practicing as a physician in New York state pursuant to  
22 this subdivision shall be subject to the personal and subject matter  
23 jurisdiction and disciplinary and regulatory authority of the department  
24 and the state board for professional medical conduct established pursu-  
25 ant to section two hundred thirty of this chapter as if he or she is a  
26 licensee and as if the exemption pursuant to this subdivision is a  
27 license. Such individual shall comply with applicable provisions of this  
28 article, this chapter, the rules of the department, the state board for

1 professional medical conduct established pursuant to section two hundred  
2 thirty of this chapter, and the regulations of the commissioner and the  
3 commissioner of health, relating to professional misconduct, discipli-  
4 nary proceedings and penalties for professional misconduct.

5 § 6527. Special provisions. 1. A not-for-profit medical or dental  
6 expense indemnity corporation or a hospital service corporation organ-  
7 ized under the insurance law may employ licensed physicians and enter  
8 into contracts with partnerships or medical corporations organized under  
9 article forty-four of this chapter, health maintenance organizations  
10 possessing a certificate of authority pursuant to article forty-four of  
11 this chapter, professional corporations organized under article fifteen  
12 of the business corporation law or other groups of physicians to prac-  
13 tice medicine on its behalf for persons insured under its contracts or  
14 policies.

15 2. Notwithstanding any inconsistent provision of any general, special  
16 or local law, any licensed physician who voluntarily and without the  
17 expectation of monetary compensation renders first aid or emergency  
18 treatment at the scene of an accident or other emergency, outside a  
19 hospital, doctor's office or any other place having proper and necessary  
20 medical equipment, to a person who is unconscious, ill or injured, shall  
21 not be liable for damages for injuries alleged to have been sustained by  
22 such person or for damages for the death of such person alleged to have  
23 occurred by reason of an act or omission in the rendering of such first  
24 aid or emergency treatment unless it is established that such injuries  
25 were or such death was caused by gross negligence on the part of such  
26 physician. Nothing in this subdivision shall be deemed or construed to  
27 relieve a licensed physician from liability for damages for injuries or  
28 death caused by an act or omission on the part of a physician while

1 rendering professional services in the normal and ordinary course of his  
2 practice.

3 3. No individual who serves as a member of:

4 a. a committee established to administer a utilization review plan of  
5 a hospital, including a hospital as defined in article twenty-eight of  
6 this chapter or a hospital as defined in subdivision ten of section 1.03  
7 of the mental hygiene law;

8 b. a committee having the responsibility of the investigation of an  
9 incident reported pursuant to section 29.29 of the mental hygiene law or  
10 the evaluation and improvement of the quality of care rendered in a  
11 hospital as defined in article twenty-eight of this chapter or a hospi-  
12 tal as defined in subdivision ten of section 1.03 of the mental hygiene  
13 law;

14 c. any medical review committee or subcommittee thereof of a local,  
15 county or state medical, dental, podiatry or optometrical society, any  
16 such society itself, a professional standards review organization or an  
17 individual when such committee, subcommittee, society, organization or  
18 individual is performing any medical or quality assurance review func-  
19 tion including the investigation of an incident reported pursuant to  
20 section 29.29 of the mental hygiene law, either described in paragraphs  
21 a and b of this subdivision, required by law, or involving any contro-  
22 versy or dispute between (i) a physician, dentist, podiatrist or optome-  
23 trist or hospital administrator and a patient concerning the diagnosis,  
24 treatment or care of such patient or the fees or charges therefor or  
25 (ii) a physician, dentist, podiatrist or optometrist or hospital admin-  
26 istrator and a provider of medical, dental, podiatric or optometrical  
27 services concerning any medical or health charges or fees of such physi-  
28 cian, dentist, podiatrist or optometrist;

1 d. a committee appointed pursuant to section twenty-eight hundred  
2 five-j of this chapter to participate in the medical and dental malprac-  
3 tice prevention program;

4 e. any individual who participated in the preparation of incident  
5 reports required by the department of health pursuant to section twen-  
6 ty-eight hundred five-l of this chapter; or

7 f. a committee established to administer a utilization review plan, or  
8 a committee having the responsibility of evaluation and improvement of  
9 the quality of care rendered, in a health maintenance organization  
10 organized under article forty-four of this chapter or article forty-  
11 three of the insurance law, including a committee of an individual prac-  
12 tice association or medical group acting pursuant to a contract with  
13 such a health maintenance organization, shall be liable in damages to  
14 any person for any action taken or recommendations made, by him or her  
15 within the scope of his or her function in such capacity provided that  
16 (i) such individual has taken action or made recommendations within the  
17 scope of his or her function and without malice, and (ii) in the reason-  
18 able belief after reasonable investigation that the act or recommenda-  
19 tion was warranted, based upon the facts disclosed.

20 Neither the proceedings nor the records relating to performance of a  
21 medical or a quality assurance review function or participation in a  
22 medical and dental malpractice prevention program nor any report  
23 required by the department pursuant to section twenty-eight hundred  
24 five-l of this chapter described herein, including the investigation of  
25 an incident reported pursuant to section 29.29 of the mental hygiene  
26 law, shall be subject to disclosure under article thirty-one of the  
27 civil practice law and rules except as hereinafter provided or as  
28 provided by any other provision of law. No person in attendance at a

1 meeting when a medical or a quality assurance review or a medical and  
2 dental malpractice prevention program or an incident reporting function  
3 described herein was performed, including the investigation of an inci-  
4 dent reported pursuant to section 29.29 of the mental hygiene law, shall  
5 be required to testify as to what transpired thereat. The prohibition  
6 relating to discovery of testimony shall not apply to the statements  
7 made by any person in attendance at such a meeting who is a party to an  
8 action or proceeding the subject matter of which was reviewed at such  
9 meeting.

10 4. This title shall not be construed to affect or prevent the follow-  
11 ing:

12 a. The furnishing of medical assistance in an emergency;

13 b. The practice of the religious tenets of any church;

14 c. A physician from refusing to perform an act constituting the prac-  
15 tice of medicine to which he or she is conscientiously opposed by reason  
16 of religious training and belief;

17 d. The organization of a medical corporation under article forty-four  
18 of this chapter, the organization of a university faculty practice  
19 corporation under section fourteen hundred twelve of the not-for-profit  
20 corporation law or the organization of a professional service corpo-  
21 ration under article fifteen of the business corporation law; or

22 e. The physician's use of whatever medical care, conventional or non-  
23 conventional, which effectively treats human disease, pain, injury,  
24 deformity or physical condition.

25 5. There shall be no monetary liability on the part of, and no cause  
26 of action for damages shall arise against, any person, partnership,  
27 corporation, firm, society, or other entity on account of the communi-  
28 cation of information in the possession of such person or entity, or on

1 account of any recommendation or evaluation, regarding the qualifica-  
2 tions, fitness, or professional conduct or practices of a physician, to  
3 any governmental agency, medical or specialists society, a hospital as  
4 defined in article twenty-eight of the public health law, a hospital as  
5 defined in subdivision ten of section 1.03 of the mental hygiene law, or  
6 a health maintenance organization organized under article forty-four of  
7 this chapter or article forty-three of the insurance law, including a  
8 committee of an individual practice association or medical group acting  
9 pursuant to a contract with a health maintenance organization. The fore-  
10 going shall not apply to information which is untrue and communicated  
11 with malicious intent.

12 6. A licensed physician may prescribe and order a non-patient specific  
13 regimen to a registered professional nurse, pursuant to regulations  
14 promulgated by the commissioner, and consistent with this chapter, for:

15 a. administering immunizations.

16 b. the emergency treatment of anaphylaxis.

17 c. administering purified protein derivative (PPD) tests or other  
18 tests to detect or screen for tuberculosis infections.

19 d. administering tests to determine the presence of the human immuno-  
20 deficiency virus.

21 e. administering tests to determine the presence of the hepatitis C  
22 virus.

23 f. the urgent or emergency treatment of opioid related overdose or  
24 suspected opioid related overdose.

25 g. screening of persons at increased risk of syphilis, gonorrhea and  
26 chlamydia.

27 7. A licensed physician may prescribe and order a patient specific  
28 order or non-patient specific regimen to a licensed pharmacist, pursuant

1 to regulations promulgated by the commissioner, and consistent with this  
2 chapter, for:

3 a. administering immunizations to prevent influenza to patients two  
4 years of age or older;

5 b. administering immunizations to prevent pneumococcal, acute herpes  
6 zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,  
7 rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or  
8 pertussis disease and medications required for emergency treatment of  
9 anaphylaxis to patients eighteen years of age or older; and

10 c. administering other immunizations recommended by the advisory  
11 committee on immunization practices of the centers for disease control  
12 and prevention for patients eighteen years of age or older if the  
13 commissioner determines that an immunization: (i) (A) may be safely  
14 administered by a licensed pharmacist within their lawful scope of prac-  
15 tice; and (B) is needed to prevent the transmission of a reportable  
16 communicable disease that is prevalent in New York state; or (ii) is a  
17 recommended immunization for such patients who: (A) meet age require-  
18 ments, (B) lack documentation of such immunization, (C) lack evidence of  
19 past infection, or (D) have an additional risk factor or another indi-  
20 cation as recommended by the advisory committee on immunization prac-  
21 tices of the centers for disease control and prevention. Nothing in this  
22 subdivision shall authorize unlicensed persons to administer immuniza-  
23 tions, vaccines or other drugs.

24 8. A licensed physician may prescribe and order a patient specific  
25 order or non-patient specific order to a licensed pharmacist, pursuant  
26 to regulations promulgated by the commissioner, and consistent with this  
27 chapter, for dispensing up to a seven day starter pack of HIV post-expo-  
28 sure prophylaxis for the purpose of preventing human immunodeficiency

1 virus infection following a potential human immunodeficiency virus expo-  
2 sure.

3 9. Nothing in this title shall prohibit the provision of psychotherapy  
4 as defined in subdivision two of section eighty-four hundred one of this  
5 article to the extent permissible within the scope of practice of medi-  
6 cine, by any not-for-profit corporation or education corporation provid-  
7 ing services within the state of New York and operating under a waiver  
8 pursuant to section sixty-five hundred three-a of this article, provided  
9 that such entities offering such psychotherapy services shall only  
10 provide such services through an individual appropriately licensed or  
11 otherwise authorized to provide such services or a professional entity  
12 authorized by law to provide such services.

13 10. a. Nothing in this title shall be construed to affect or prevent a  
14 person in training or trained and deemed qualified by a supervising  
15 licensed physician, to assist the licensed physician in the care of a  
16 patient for the purpose of instilling mydriatic or cycloplegic eye drops  
17 and anesthetic eye drops in conjunction with such dilating drops to the  
18 surface of the eye of a patient, provided that the person instilling  
19 such eye drops is:

20 (i) under the on-site supervision of a supervising licensed physician;  
21 (ii) at least eighteen years of age; and  
22 (iii) complies with standards issued by the department.

23 b. The supervising licensed physician shall submit a form prescribed  
24 by the department detailing the identity of each person instilling  
25 mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunc-  
26 tion with such dilating drops to the surface of the eye of a patient,  
27 under his or her supervision, attesting to compliance with the above  
28 requirements.

1 c. The supervising licensed physician's use of any such person pursu-  
2 ant to the terms of this subdivision shall be undertaken with profes-  
3 sional judgment in order to ensure the safety and well-being of the  
4 patient. Such use shall subject the licensed physician to the full  
5 disciplinary and regulatory authority of the office of professional  
6 medical conduct and the department. The licensed physician must notify  
7 the patient or the patient's designated health care surrogate that the  
8 licensed physician may utilize the services of an individual to adminis-  
9 ter certain eye drops and must provide the patient or the patient's  
10 designated health care surrogate the opportunity to refuse the licensed  
11 physician's plan to utilize such person.

12 11. A licensed physician may prescribe and order a non-patient-specif-  
13 ic regimen to a licensed pharmacist, for insulin and related supplies  
14 pursuant to section sixty-eight hundred one of this article.

15 § 6528. Qualification of certain applicants for licensure. 1.  
16 Notwithstanding any other provisions of this title or any law to the  
17 contrary, an individual who at the time of his or her enrollment in a  
18 medical school outside the United States is a resident of the United  
19 States shall be eligible for licensure in this state if he or she has  
20 satisfied the requirements of subdivisions one, five, six, seven and  
21 eight of section sixty-five hundred twenty-four of this title and:

22 a. has studied medicine in a medical school located outside the United  
23 States which is recognized by the World Health Organization;

24 b. has completed all of the formal requirements of the foreign medical  
25 school except internship and/or social service;

26 c. has attained a score satisfactory to a medical school approved by  
27 the Liaison Committee on Medical Education on a qualifying examination  
28 acceptable to the state board for medicine, and has satisfactorily

1 completed one academic year of supervised clinical training under the  
2 direction of such medical school;

3 d. has completed the post-graduate hospital training required by the  
4 state board of medicine of all applicants for licensure; and

5 e. has passed the examination required by the state board of medicine  
6 of all applicants for licensure.

7 2. Satisfaction of the requirements of paragraphs a, b and c of subdi-  
8 vision one of this section shall be in lieu of the completion of any  
9 foreign internship and/or social service requirements, and no such  
10 requirements shall be a condition of licensure as a physician in this  
11 State.

12 3. Satisfaction of the requirements of paragraphs a, b and c of subdi-  
13 vision one of this section shall be in lieu of certification by the  
14 Educational Council for Foreign Medical Graduates, and such certif-  
15 ication shall not be a condition of licensure as a physician in this  
16 State for candidates who have completed the requirements of subdivision  
17 one of this section.

18 4. No hospital licensed by this state, or operated by the state or a  
19 political subdivision thereof, or which receives state financial assist-  
20 ance, directly or indirectly, shall require an individual who has satis-  
21 fied the requirements of paragraphs a, b and c of subdivision one of  
22 this section, and who at the time of his or her enrollment in a medical  
23 school outside the United States is a resident of the United States, to  
24 satisfy any further education or examination requirements prior to  
25 commencing an internship or residency.

26 5. A document granted by a medical school located outside the United  
27 States which is recognized by the World Health Organization issued after  
28 the completion of all the formal requirements of such foreign medical

1 school except internship and/or social service shall, upon certification  
2 by the medical school in which such training was received of satisfac-  
3 tory completion by the person to whom such document was issued of the  
4 requirements listed in paragraph c of subdivision one of this section,  
5 be deemed the equivalent of a degree of doctor of medicine for purposes  
6 of licensure and practice as a physician in this State.

7 § 6529. Power of department regarding certain physicians. Notwith-  
8 standing any provision of law to the contrary, the department is author-  
9 ized, in its discretion, to confer the degree of doctor of medicine  
10 (M.D.) upon physicians who are licensed pursuant to section sixty-five  
11 hundred twenty-four or sixty-five hundred twenty-eight of this article.  
12 Each applicant shall pay a fee of three hundred dollars to the depart-  
13 ment for the issuance of such degree.

14 TITLE 3

15 DEFINITIONS OF PROFESSIONAL MISCONDUCT APPLICABLE TO PHYSICIANS,  
16 PHYSICIAN'S ASSISTANTS AND SPECIALIST'S ASSISTANTS

17 Section 6530. Definitions of professional misconduct.

18 6531. Additional definition of professional misconduct, limit-  
19 ed application.

20 6531-a. Additional definition of professional misconduct; mental  
21 health professionals.

22 6532. Enforcement, administration and interpretation of this  
23 title.

24 § 6530. Definitions of professional misconduct. Each of the following  
25 is professional misconduct, and any licensee found guilty of such  
26 misconduct under the procedures prescribed in section two hundred thirty  
27 of this chapter shall be subject to penalties as prescribed in section

1 two hundred thirty-a of this chapter except that the charges may be  
2 dismissed in the interest of justice:

3 1. Obtaining the license fraudulently;

4 2. Practicing the profession fraudulently or beyond its authorized  
5 scope;

6 3. Practicing the profession with negligence on more than one occa-  
7 sion;

8 4. Practicing the profession with gross negligence on a particular  
9 occasion;

10 5. Practicing the profession with incompetence on more than one occa-  
11 sion;

12 6. Practicing the profession with gross incompetence;

13 7. Practicing the profession while impaired by alcohol, drugs, phys-  
14 ical disability, or mental disability;

15 8. Being a habitual abuser of alcohol, or being dependent on or a  
16 habitual user of narcotics, barbiturates, amphetamines, hallucinogens,  
17 or other drugs having similar effects, except for a licensee who is  
18 maintained on an approved therapeutic regimen which does not impair the  
19 ability to practice, or having a psychiatric condition which impairs the  
20 licensee's ability to practice;

21 9. a. Being convicted of committing an act constituting a crime under:

22 (i) New York state law or,

23 (ii) federal law or,

24 (iii) the law of another jurisdiction and which, if committed within  
25 this state, would have constituted a crime under New York state law;

26 b. Having been found guilty of improper professional practice or  
27 professional misconduct by a duly authorized professional disciplinary  
28 agency of another state where the conduct upon which the finding was

1 based would, if committed in New York state, constitute professional  
2 misconduct under the laws of New York state;

3 c. Having been found guilty in an adjudicatory proceeding of violating  
4 a state or federal statute or regulation, pursuant to a final decision  
5 or determination, and when no appeal is pending, or after resolution of  
6 the proceeding by stipulation or agreement, and when the violation would  
7 constitute professional misconduct pursuant to this section;

8 d. Having his or her license to practice medicine revoked, suspended  
9 or having other disciplinary action taken, or having his or her applica-  
10 tion for a license refused, revoked or suspended or having voluntarily  
11 or otherwise surrendered his or her license after a disciplinary action  
12 was instituted by a duly authorized professional disciplinary agency of  
13 another state, where the conduct resulting in the revocation, suspension  
14 or other disciplinary action involving the license or refusal, revoca-  
15 tion or suspension of an application for a license or the surrender of  
16 the license would, if committed in New York state, constitute profes-  
17 sional misconduct under the laws of New York state; or

18 e. Having been found by the commissioner to be in violation of article  
19 thirty-three of this chapter;

20 10. Refusing to provide professional service to a person because of  
21 such person's race, creed, color or national origin;

22 11. Permitting, aiding or abetting an unlicensed person to perform  
23 activities requiring a license;

24 12. Practicing the profession while the license is suspended or inac-  
25 tive as defined in subdivision thirteen of section two hundred thirty of  
26 this chapter, or willfully failing to register or notify the department  
27 of health of any change of name or mailing address, or, if a profes-  
28 sional service corporation, willfully failing to comply with sections

1 fifteen hundred three and fifteen hundred fourteen of the business  
2 corporation law or, if a university faculty practice corporation wilful-  
3 ly failing to comply with paragraphs (b), (c) and (d) of section fifteen  
4 hundred three and section fifteen hundred fourteen of the business  
5 corporation law;

6 13. A willful violation by a licensee of subdivision eleven of section  
7 two hundred thirty of this chapter;

8 14. A violation of section twenty-eight hundred three-d, twenty-eight  
9 hundred five-k or subparagraph (ii) of paragraph (h) of subdivision ten  
10 of section two hundred thirty of this chapter;

11 15. Failure to comply with an order issued pursuant to subdivision  
12 seven, paragraph a of subdivision ten, and subdivision seventeen of  
13 section two hundred thirty of this chapter;

14 16. A willful or grossly negligent failure to comply with substantial  
15 provisions of federal, state, or local laws, rules, or regulations  
16 governing the practice of medicine;

17 17. Exercising undue influence on the patient, including the promotion  
18 of the sale of services, goods, appliances, or drugs in such manner as  
19 to exploit the patient for the financial gain of the licensee or of a  
20 third party;

21 18. Directly or indirectly offering, giving, soliciting, or receiving  
22 or agreeing to receive, any fee or other consideration to or from a  
23 third party for the referral of a patient or in connection with the  
24 performance of professional services;

25 19. Permitting any person to share in the fees for professional  
26 services, other than: a partner, employee, associate in a professional  
27 firm or corporation, professional subcontractor or consultant authorized  
28 to practice medicine, or a legally authorized trainee practicing under

1 the supervision of a licensee. This prohibition shall include any  
2 arrangement or agreement whereby the amount received in payment for  
3 furnishing space, facilities, equipment or personnel services used by a  
4 licensee constitutes a percentage of, or is otherwise dependent upon,  
5 the income or receipts of the licensee from such practice, except as  
6 otherwise provided by law with respect to a facility licensed pursuant  
7 to article twenty-eight of this chapter or article thirteen of the  
8 mental hygiene law;

9 20. Conduct in the practice of medicine which evidences moral unfit-  
10 ness to practice medicine;

11 21. Willfully making or filing a false report, or failing to file a  
12 report required by law or by the department of health or the education  
13 department, or willfully impeding or obstructing such filing, or induc-  
14 ing another person to do so;

15 22. Failing to make available to a patient, upon request, copies of  
16 documents in the possession or under the control of the licensee which  
17 have been prepared for and paid for by the patient or client;

18 23. Revealing of personally identifiable facts, data, or information  
19 obtained in a professional capacity without the prior consent of the  
20 patient, except as authorized or required by law;

21 24. Practicing or offering to practice beyond the scope permitted by  
22 law, or accepting and performing professional responsibilities which the  
23 licensee knows or has reason to know that he or she is not competent to  
24 perform, or performing without adequate supervision professional  
25 services which the licensee is authorized to perform only under the  
26 supervision of a licensed professional, except in an emergency situation  
27 where a person's life or health is in danger;

1 25. Delegating professional responsibilities to a person when the  
2 licensee delegating such responsibilities knows or has reason to know  
3 that such person is not qualified, by training, by experience, or by  
4 licensure, to perform them;

5 25-a. With respect to any non-emergency treatment, procedure or  
6 surgery which is expected to involve local or general anesthesia, fail-  
7 ing to disclose to the patient the identities of all physicians, except  
8 medical residents in certified training programs, podiatrists and  
9 dentists, reasonably anticipated to be actively involved in such treat-  
10 ment, procedure or surgery and to obtain such patient's informed consent  
11 to said practitioners' participation;

12 26. Performing professional services which have not been duly author-  
13 ized by the patient or his or her legal representative;

14 27. Advertising or soliciting for patronage that is not in the public  
15 interest. a. Advertising or soliciting not in the public interest shall  
16 include, but not be limited to, advertising or soliciting that: (i) is  
17 false, fraudulent, deceptive, misleading, sensational, or flamboyant;

18 (ii) represents intimidation or undue pressure;

19 (iii) uses testimonials;

20 (iv) guarantees any service;

21 (v) makes any claim relating to professional services or products or  
22 the costs or price therefor which cannot be substantiated by the licen-  
23 see, who shall have the burden of proof;

24 (vi) makes claims of professional superiority which cannot be substan-  
25 tiated by the licensee, who shall have the burden of proof; or

26 (vii) offers bonuses or inducements in any form other than a discount  
27 or reduction in an established fee or price for a professional service  
28 or product.

1 b. The following shall be deemed appropriate means of informing the  
2 public of the availability of professional services: (i) informational  
3 advertising not contrary to the foregoing prohibitions; and

4 (ii) the advertising in a newspaper, periodical or professional direc-  
5 tory or on radio or television of fixed prices, or a stated range of  
6 prices, for specified routine professional services, provided that if  
7 there is an additional charge for related services which are an integral  
8 part of the overall service being provided by the licensee, the adver-  
9 tisement shall so state, and provided further that the advertisement  
10 indicates the period of time for which the advertised prices shall be in  
11 effect.

12 c. (i) All licensees placing advertisements shall maintain, or cause  
13 to be maintained, an exact copy of each advertisement, transcript, tape  
14 or video tape thereof as appropriate for the medium used, for a period  
15 of one year after its last appearance. This copy shall be made available  
16 for inspection upon demand of the department;

17 (ii) A licensee shall not compensate or give anything of value to  
18 representatives of the press, radio, television or other communications  
19 media in anticipation of or in return for professional publicity in a  
20 news item;

21 d. No demonstrations, dramatizations or other portrayals of profes-  
22 sional practice shall be permitted in advertising on radio or tele-  
23 vision;

24 28. Failing to respond within thirty days to written communications  
25 from the department of health and to make available any relevant records  
26 with respect to an inquiry or complaint about the licensee's profes-  
27 sional misconduct. The period of thirty days shall commence on the date  
28 when such communication was delivered personally to the licensee. If

1 the communication is sent from the department by registered or certified  
2 mail, with return receipt requested, to the address appearing in the  
3 last registration, the period of thirty days shall commence on the date  
4 of delivery to the licensee, as indicated by the return receipt;

5 29. Violating any term of probation or condition or limitation imposed  
6 on the licensee pursuant to section two hundred thirty of this chapter;

7 30. Abandoning or neglecting a patient under and in need of immediate  
8 professional care, without making reasonable arrangements for the  
9 continuation of such care, or abandoning a professional employment by a  
10 group practice, hospital, clinic or other health care facility, without  
11 reasonable notice and under circumstances which seriously impair the  
12 delivery of professional care to patients or clients;

13 31. Willfully harassing, abusing, or intimidating a patient either  
14 physically or verbally;

15 32. Failing to maintain a record for each patient which accurately  
16 reflects the evaluation and treatment of the patient, provided, however,  
17 that a physician who transfers an original mammogram to a medical insti-  
18 tution, or to a physician or health care provider of the patient, or to  
19 the patient directly, as otherwise provided by law, shall have no obli-  
20 gation under this section to maintain the original or a copy thereof.  
21 Unless otherwise provided by law, all patient records must be retained  
22 for at least six years. Obstetrical records and records of minor  
23 patients must be retained for at least six years, and until one year  
24 after the minor patient reaches the age of eighteen years;

25 33. Failing to exercise appropriate supervision over persons who are  
26 authorized to practice only under the supervision of the licensee;

27 34. Guaranteeing that satisfaction or a cure will result from the  
28 performance of professional services;

1 35. Ordering of excessive tests, treatment, or use of treatment facil-  
2 ities not warranted by the condition of the patient;

3 36. Claiming or using any secret or special method of treatment which  
4 the licensee refused to divulge to the department of health;

5 37. Failing to wear an identifying badge, which shall be conspicuously  
6 displayed and legible, indicating the practitioner's name and profes-  
7 sional title authorized pursuant to this chapter, while practicing as an  
8 employee or operator of a hospital, clinic, group practice or multi-pro-  
9 fessional facility, or at a commercial establishment offering health  
10 services to the public;

11 38. Entering into an arrangement or agreement with a pharmacy for the  
12 compounding and/or dispensing of coded or specially marked  
13 prescriptions;

14 39. With respect to all professional practices conducted under an  
15 assumed name, other than facilities licensed pursuant to article twen-  
16 ty-eight of this chapter or article thirteen of the mental hygiene law,  
17 failing to post conspicuously at the site of such practice the name and  
18 licensure field of all of the principal professional licensees engaged  
19 in the practice at that site (i.e., principal partners, officers or  
20 principal shareholders);

21 40. Failing to provide access by qualified persons to patient informa-  
22 tion in accordance with the standards set forth in section eighteen of  
23 this chapter, as added by chapter four hundred ninety-seven of the laws  
24 of nineteen hundred eighty-six;

25 41. Knowingly or willfully performing a complete or partial autopsy on  
26 a deceased person without lawful authority;

27 42. Failing to comply with a signed agreement to practice medicine in  
28 New York state in an area designated by the commissioner as having a

1 shortage of physicians or refusing to repay medical education costs in  
2 lieu of such required service, or failing to comply with any provision  
3 of a written agreement with the state or any municipality within which  
4 the licensee has agreed to provide medical service, or refusing to repay  
5 funds in lieu of such service as consideration of awards made by the  
6 state or any municipality thereof for his or her professional education  
7 in medicine, or failing to comply with any agreement entered into to aid  
8 his or her medical education;

9 43. Failing to complete forms or reports required for the reimburse-  
10 ment of a patient by a third party. Reasonable fees may be charged for  
11 such forms or reports, but prior payment for the professional services  
12 to which such forms or reports relate may not be required as a condition  
13 for making such forms or reports available;

14 44. In the practice of psychiatry:

15 a. any physical contact of a sexual nature between licensee and  
16 patient except the use of films and/or other audiovisual aids with indi-  
17 viduals or groups in the development of appropriate responses to over-  
18 come sexual dysfunction; and

19 b. in therapy groups, activities which promote explicit physical sexu-  
20 al contact between group members during sessions;

21 45. In the practice of ophthalmology, failing to provide a patient,  
22 upon request, with the patient's prescription including the name,  
23 address, and signature of the prescriber and the date of the  
24 prescription;

25 46. A violation of section two hundred thirty-nine of this chapter by  
26 a professional;

1 47. Failure to use scientifically accepted barrier precautions and  
2 infection control practices as established by the department of health  
3 pursuant to section two hundred thirty-a of this chapter;

4 48. A violation of section two hundred thirty-d of this chapter or the  
5 regulations of the commissioner enacted thereunder;

6 49. Except for good cause shown, failing to provide within one day any  
7 relevant records or other information requested by the state or local  
8 department of health with respect to an inquiry into a report of a  
9 communicable disease as defined in the state sanitary code, or HIV/AIDS;  
10 and

11 50. Performing a pelvic examination or supervising the performance of  
12 a pelvic examination in violation of subdivision seven of section twen-  
13 ty-five hundred four of this chapter.

14 § 6531. Additional definition of professional misconduct, limited  
15 application. Notwithstanding any inconsistent provision of this title  
16 or any other provisions of law to the contrary, the license or registra-  
17 tion of a person subject to the provisions of this title and title four  
18 of this article may be revoked, suspended, or annulled or such person  
19 may be subject to any other penalty provided in section two hundred  
20 thirty-a of this chapter in accordance with the provisions and proce-  
21 dures of this title for the following:

22 That any person subject to section sixty-five hundred thirty of this  
23 title that has directly or indirectly requested, received or partic-  
24 ipated in the division, transference, assignment, rebate, splitting, or  
25 refunding of a fee for, or has directly requested, received or profited  
26 by means of a credit or other valuable consideration as a commission,  
27 discount or gratuity, in connection with the furnishing of professional  
28 care or service, including x-ray examination and treatment, or for or in

1 connection with the sale, rental, supplying, or furnishing of clinical  
2 laboratory services or supplies, x-ray laboratory services or supplies,  
3 inhalation therapy service or equipment, ambulance service, hospital or  
4 medical supplies, physiotherapy or other therapeutic service or equip-  
5 ment, artificial limbs, teeth or eyes, orthopedic or surgical appliances  
6 or supplies, optical appliances, supplies, or equipment, devices for aid  
7 of hearing, drugs, medication, or medical supplies, or any other goods,  
8 services, or supplies prescribed for medical diagnosis, care, or treat-  
9 ment under this chapter, except payment, not to exceed thirty-three and  
10 one-third percent of any fee received for x-ray examination, diagnosis,  
11 or treatment, to any hospital furnishing facilities for such examina-  
12 tion, diagnosis, or treatment. Nothing contained in this section shall  
13 prohibit such persons from practicing as partners, in groups or as a  
14 professional corporation or as a university faculty practice corpo-  
15 ration, nor from pooling fees and moneys received, either by the part-  
16 nerships, professional corporations, or university faculty practice  
17 corporations or groups by the individual members thereof, for profes-  
18 sional services furnished by an individual professional member, or  
19 employee of such partnership, corporation, or group, nor shall the  
20 professionals constituting the partnerships, corporations or groups be  
21 prohibited from sharing, dividing, or apportioning the fees and moneys  
22 received by them or by the partnership, corporation, or group in accord-  
23 ance with a partnership or other agreement; provided that no such prac-  
24 tice as partners, corporations, or groups, or pooling of fees or moneys  
25 received or shared, division or apportionment of fees shall be permitted  
26 with respect to and treatment under the workers' compensation law. Noth-  
27 ing contained in this chapter shall prohibit a corporation licensed  
28 pursuant to article forty-three of the insurance law pursuant to its

1 contract with the subscribed from prorating a medical or dental  
2 expenses indemnity allowance among two or more professionals in propor-  
3 tion to the services rendered by each such professional at the request  
4 of the subscriber, provided that prior to payment thereof such profes-  
5 sionals shall submit both to the corporation licensed pursuant to arti-  
6 cle forty-three of the insurance law and to the subscriber statements  
7 itemizing the services rendered by each such professional and the charg-  
8 es therefor.

9 § 6531-a. Additional definition of professional misconduct; mental  
10 health professionals.

11 1. Definitions. For the purposes of this section:

12 a. "Mental health professional" means a person subject to the  
13 provisions of title two of this article.

14 b. "Sexual orientation change efforts" (i) means any practice by a  
15 mental health professional that seeks to change an individual's sexual  
16 orientation, including, but not limited to, efforts to change behaviors,  
17 gender identity, or gender expressions, or to eliminate or reduce sexual  
18 or romantic attractions or feelings towards individuals of the same sex;  
19 and (ii) shall not include counseling for a person seeking to transition  
20 from one gender to another, or psychotherapies that: (A) provide accept-  
21 ance, support and understanding of patients or the facilitation of  
22 patients' coping, social support, and identity exploration and develop-  
23 ment, including sexual orientation-neutral interventions to prevent or  
24 address unlawful conduct or unsafe sexual practices; and (B) do not seek  
25 to change sexual orientation.

26 2. It shall be professional misconduct for a mental health profes-  
27 sional to engage in sexual orientation change efforts upon any patient  
28 under the age of eighteen years, and any mental health professional

1 found guilty of such misconduct under the procedures prescribed in title  
2 two-A of article two of this chapter shall be subject to the penalties  
3 prescribed in section two hundred thirty-a of this chapter, as added by  
4 chapter six hundred six of the laws of nineteen hundred ninety-one.

5 § 6532. Enforcement, administration and interpretation of this title.  
6 The board of professional medical conduct and the department shall  
7 enforce, administer and interpret this title. The commissioner may not  
8 promulgate any rules or regulations concerning this title.

9 TITLE 4

10 PHYSICIAN ASSISTANTS

11 Section 6540. Definitions.

12 6541. Requirements for license.

13 6542. Performance of medical services.

14 6543. Construction.

15 6544. Regulations.

16 6545. Emergency services rendered by physician assistant.

17 6546. Limited permits.

18 § 6540. Definitions. As used in this title: 1. The term "physician  
19 assistant" means a person who is licensed as a physician assistant  
20 pursuant to this title.

21 2. The term "physician" means a practitioner of medicine licensed to  
22 practice medicine pursuant to title two of this article.

23 3. The term "approved program" means a program for the education of  
24 physician assistants which has been formerly approved by the department.

25 4. The term "hospital" means an institution or facility possessing a  
26 valid operating certificate issued pursuant to article twenty-eight of  
27 this chapter and authorized to employ physician assistants in accordance

1 with rules and regulations of the department and health planning coun-  
2 cil.

3 § 6541. Requirements for license. 1. To qualify for a license as a  
4 physician assistant, each person shall pay a fee of one hundred fifteen  
5 dollars to the department for admission to a department conducted exam-  
6 ination, a fee of forty-five dollars for each reexamination and a fee of  
7 seventy dollars for persons not requiring admission to a department  
8 conducted examination and shall also submit satisfactory evidence, veri-  
9 fied by oath or affirmation, that he or she:

10 a. at the time of application is at least twenty-one years of age;

11 b. is of good moral character;

12 c. has received an education including a bachelor's or equivalent  
13 degree in accordance with the commissioner's regulations;

14 d. has satisfactorily completed an approved program for the training  
15 of physician assistants. The approved program for the training of physi-  
16 cian assistants shall include not less than forty weeks of supervised  
17 clinical training and thirty-two credit hours of classroom work. Appli-  
18 cants for a license as a physician assistant who have completed an  
19 approved program leading to a bachelor's degree or equivalent in physi-  
20 cian assistant studies shall be deemed to have satisfied this paragraph.  
21 The commissioner is empowered to determine whether an applicant  
22 possesses equivalent education and training, such as experience as a  
23 nurse or military corpsman, which may be accepted in lieu of all or part  
24 of an approved program; and

25 e. in the case of an applicant for a license as a physician assistant,  
26 has obtained a passing score on an examination acceptable to the depart-  
27 ment.

1     2. The department shall furnish to each person applying for a license  
2 pursuant to this section an application form calling for such informa-  
3 tion as the department deems necessary and shall issue to each applicant  
4 who satisfies the requirements of subdivision one of this section a  
5 license as a physician assistant in a particular medical specialty for  
6 the period expiring December thirty-first of the first odd-numbered year  
7 terminating subsequent to the issuance of such license.

8     3. Every licensee shall apply to the department for a renewal of his  
9 or her license. The department shall mail to every licensed physician  
10 assistant an application form for renewal, addressed to the licensee's  
11 post office address on file with the department. Upon receipt of such  
12 application properly executed, together with evidence of satisfactory  
13 completion of such continuing education requirements as may be estab-  
14 lished by the commissioner pursuant to section thirty-seven hundred one  
15 of this chapter, the department shall issue a renewal. Renewal periods  
16 shall be triennial and the renewal fee shall be forty-five dollars.

17     § 6542. Performance of medical services. 1. Notwithstanding any other  
18 provision of law, a physician assistant may perform medical services,  
19 but only when under the supervision of a physician and only when such  
20 acts and duties as are assigned to him or her are within the scope of  
21 practice of such supervising physician.

22     2. Supervision shall be continuous but shall not be construed as  
23 necessarily requiring the physical presence of the supervising physician  
24 at the time and place where such services are performed.

25     3. No physician shall employ or supervise more than four physician  
26 assistants in his or her private practice.

27     4. Nothing in this title shall prohibit a hospital from employing  
28 physician assistants provided they work under the supervision of a

1 physician designated by the hospital and not beyond the scope of prac-  
2 tice of such physician. The numerical limitation of subdivision three of  
3 this section shall not apply to services performed in a hospital.

4 5. Notwithstanding any other provision of this title, nothing shall  
5 prohibit a physician employed by or rendering services to the department  
6 of corrections and community supervision under contract from supervising  
7 no more than six physician assistants in his or her practice for the  
8 department of corrections and community supervision.

9 6. Notwithstanding any other provision of law, a trainee in an  
10 approved program may perform medical services when such services are  
11 performed within the scope of such program.

12 7. Nothing in this title or in article thirty-seven of this chapter  
13 shall be construed to authorize physician assistants to perform those  
14 specific functions and duties specifically delegated by law to those  
15 persons licensed as allied health professionals under this chapter.

16 § 6543. Construction. Only a person licensed as a physician assistant  
17 by the department may use the title "physician assistant" or the letters  
18 "P.A." after his or her name.

19 § 6544. Regulations. The commissioner may promulgate such other regu-  
20 lations as are necessary to carry out the purposes of this title.

21 § 6545. Emergency services rendered by physician assistant. Notwith-  
22 standing any inconsistent provision of any general, special or local  
23 law, any physician assistant properly licensed in this state who volun-  
24 tarily and without the expectation of monetary compensation renders  
25 first aid or emergency treatment at the scene of an accident or other  
26 emergency, outside a hospital, doctor's office or any other place having  
27 proper and necessary medical equipment, to a person who is unconscious,  
28 ill or injured, shall not be liable for damages for injuries alleged to

1 have been sustained by such person or for damages for the death of such  
2 person alleged to have occurred by reason of an act or omission in the  
3 rendering of such first aid or emergency treatment unless it is estab-  
4 lished that such injuries were or such death was caused by gross negli-  
5 gence on the part of such physician assistant. Nothing in this section  
6 shall be deemed or construed to relieve a licensed physician assistant  
7 from liability for damages for injuries or death caused by an act or  
8 omission on the part of a physician assistant while rendering profes-  
9 sional services in the normal and ordinary course of his or her prac-  
10 tice.

11 § 6546. Limited permits. Permits limited as to eligibility, practice  
12 and duration, shall be issued by the department to eligible applicants,  
13 as follows:

14 1. Eligibility. A person who fulfills all requirements to be licensed  
15 as a physician assistant except that relating to the examination shall  
16 be eligible for a limited permit.

17 2. Limit of practice. A permittee shall be authorized to practice as a  
18 physician assistant only under the direct supervision of a physician.

19 3. Duration. A limited permit shall expire one year from the date of  
20 issuance or upon notice to the permittee by the department that the  
21 application for a license has been denied. A limited permit shall be  
22 extended upon application for one additional year, provided that the  
23 permittee's request for such extension is endorsed by a physician who  
24 either has supervised or will supervise the permittee, except that such  
25 extension may be denied by the department for cause which shall be stat-  
26 ed in writing. If the permittee is awaiting the results of a licensing  
27 examination at the time such limited permit expires, such permit shall

1 continue to be valid until ten days after notification to the permittee  
2 of the result of such examination.

3 4. Fees. The fee for each limited permit shall be one hundred five  
4 dollars.

5 TITLE 5

6 SPECIALIST ASSISTANTS

7 Section 6547. Definitions.

8 6548. Registration.

9 6549. Performance of medical services.

10 6549-a. Construction.

11 6549-b. Regulations.

12 § 6547. Definitions. As used in this title:

13 1. The term "specialist assistant" means a person who is registered  
14 pursuant to this title as a specialist assistant for a particular  
15 medical specialty as defined by regulations promulgated by the commis-  
16 sioner of health pursuant to section thirty-seven hundred eleven of this  
17 chapter.

18 2. The term "physician" means a practitioner of medicine licensed to  
19 practice medicine pursuant to title two of this article.

20 3. The term "approved program" means a program for the education of  
21 specialist assistants which has been approved by the department.

22 4. The term "hospital" means an institution or facility possessing a  
23 valid operating certificate issued pursuant to article twenty-eight of  
24 this chapter and authorized to employ specialist assistants in accord-  
25 ance with rules and regulations of the department and the health plan-  
26 ning council.

1     § 6548. Registration. 1. To qualify for registration as a specialist  
2 assistant, each person shall pay a fee of one hundred fifteen dollars to  
3 the department for admission to a department conducted examination, a  
4 fee of forty-five dollars for each reexamination and a fee of seventy  
5 dollars for persons not requiring admission to a department conducted  
6 examination and shall also submit satisfactory evidence, verified by  
7 oath or affirmation, that he or she:

8     a. at the time of application is at least twenty-one years of age;

9     b. is of good moral character;

10    c. has successfully completed a four-year course of study in a second-  
11 ary school approved by the department or has passed an equivalency test;  
12 and

13    d. has satisfactorily completed an approved program for the training  
14 of specialist assistants.

15    2. The department shall furnish to each person applying for registra-  
16 tion hereunder an application form calling for such information as the  
17 department deems necessary and shall issue to each applicant who satis-  
18 fies the requirements of subdivision one of this section a certificate  
19 of registration as specialist assistant in a particular medical special-  
20 ty for the period expiring December thirty-first of the first odd-num-  
21 bered year terminating subsequent to such registration.

22    3. Every registrant shall apply to the department for a certificate of  
23 registration. The department shall mail to every registered specialist  
24 assistant an application form for registration, addressed to the regis-  
25 trant's post office address on file with the department. Upon receipt of  
26 such application properly executed, together with evidence of satisfac-  
27 tory completion of such continuing education requirements as may be  
28 established by the commissioner pursuant to section thirty-seven hundred

1 eleven of this chapter, the department shall issue a certificate of  
2 registration. Registration periods shall be triennial and the registra-  
3 tion fee shall be forty-five dollars.

4 § 6549. Performance of medical services. 1. Notwithstanding any other  
5 provision of law, a specialist assistant may perform medical services,  
6 but only when under the supervision of a physician and only when such  
7 acts and duties as are assigned to him or her are related to the desig-  
8 nated medical specialty for which he or she is registered and are within  
9 the scope of practice of his or her supervising physician.

10 2. Supervision shall be continuous but shall not be construed as  
11 necessarily requiring the physical presence of the supervising physician  
12 at the time and place where such services are performed.

13 3. No physician shall employ or supervise more than two specialist  
14 assistants in his or her private practice.

15 4. Nothing in this title shall prohibit a hospital from employing  
16 specialist assistants provided they work under the supervision of a  
17 physician designated by the hospital and not beyond the scope of prac-  
18 tice of such physician. The numerical limitation of subdivision three of  
19 this section shall not apply to services performed in a hospital.

20 5. Notwithstanding any other provision of this title, nothing shall  
21 prohibit a physician employed by or rendering services to the department  
22 of correctional services under contract from supervising no more than  
23 four specialist assistants in his or her practice for the department of  
24 corrections and community supervision.

25 6. Notwithstanding any other provision of law, a trainee in an  
26 approved program may perform medical services when such services are  
27 performed within the scope of such program.

1 7. Nothing in this title or in article thirty-seven-A of this chapter,  
2 shall be construed to authorize specialist assistants to perform those  
3 specific functions and duties specifically delegated by law to those  
4 persons licensed as allied health professionals under this chapter.

5 § 6549-a. Construction. Only a person registered as a specialist  
6 assistant by the department may use the title "registered specialist  
7 assistant" or the letters "R.S.A." after his or her name.

8 § 6549-b. Regulations. The commissioner may promulgate such other  
9 regulations as are necessary to carry out the purposes of this title.

10 TITLE 6

11 CHIROPRACTIC

12 Section 6550. Introduction.

13 6551. Definition of practice of chiropractic.

14 6552. Practice of chiropractic and use of title "chiroprac-  
15 tor".

16 6553. State board for chiropractic.

17 6554. Requirements for a professional license.

18 6554-a. Mandatory continuing education for chiropractors.

19 6555. Exempt persons.

20 6556. Special provisions.

21 § 6550. Introduction. This title applies to the profession of chirop-  
22 ractic. The general provisions for all professions contained in title  
23 one of this article apply to this title.

24 § 6551. Definition of practice of chiropractic. 1. The practice of the  
25 profession of chiropractic is defined as detecting and correcting by  
26 manual or mechanical means structural imbalance, distortion, or subluxa-

1 tions in the human body for the purpose of removing nerve interference  
2 and the effects thereof, where such interference is the result of or  
3 related to distortion, misalignment or subluxation of or in the verte-  
4 bral column.

5 2. a. A license to practice as a chiropractor shall not permit the  
6 holder thereof to use radio-therapy, fluoroscopy, or any form of ioniz-  
7 ing radiation except x-ray which shall be used for the detection of  
8 structural imbalance, distortion, or subluxations in the human body.

9 b. The requirements and limitations with respect to the use of x-ray  
10 by chiropractors shall be enforced by the commissioner and he or she is  
11 authorized to promulgate rules and regulations after conferring with the  
12 board to carry out the purposes of this subdivision.

13 c. Chiropractors shall retain, for a period of three years, all x-ray  
14 films taken in the course of their practice, together with the records  
15 pertaining thereto, and shall make such films and records available to  
16 the commissioner or his or her representative on demand.

17 3. A license to practice chiropractic shall not permit the holder  
18 thereof to treat for any infectious diseases such as pneumonia, any  
19 communicable diseases listed in the sanitary code of the state of New  
20 York, any of the cardio-vascular-renal or cardio-pulmonary diseases, any  
21 surgical condition of the abdomen such as acute appendicitis, or  
22 diabetes, or any benign or malignant neoplasms; to operate; to reduce  
23 fractures or dislocations; to prescribe, administer, dispense or use in  
24 his or her practice drugs or medicines; or to use diagnostic or thera-  
25 peutic methods involving chemical or biological means except diagnostic  
26 services performed by clinical laboratories which services shall be  
27 approved by the board as appropriate to the practice of chiropractic; or  
28 to utilize electrical devices except those devices approved by the board

1 as being appropriate to the practice of chiropractic. Nothing herein  
2 shall be construed to prohibit a licensed chiropractor who has success-  
3 fully completed a registered doctoral program in chiropractic, which  
4 contains courses of study in nutrition satisfactory to the department,  
5 from using nutritional counseling, including the dispensing of food  
6 concentrates, food extracts, vitamins, minerals, and other nutritional  
7 supplements approved by the board as being appropriate to, and as a part  
8 of, his or her practice of chiropractic. Nothing herein shall be  
9 construed to prohibit an individual who is not subject to regulation in  
10 this state as a licensed chiropractor from engaging in nutritional coun-  
11 seling.

12 § 6552. Practice of chiropractic and use of title "chiropractor".  
13 Only a person licensed or exempt under this title shall practice chirop-  
14 ractic or use the title "chiropractor".

15 § 6553. State board for chiropractic. A state board for chiropractic  
16 shall be appointed by the department on recommendation of the commis-  
17 sioner for the purpose of assisting the department on matters of profes-  
18 sional licensing and professional conduct in accordance with section  
19 sixty-five hundred eight of this article. The board shall be composed of  
20 not less than seven members, including at least four licensed chiroprac-  
21 tors, one licensed physician who is a doctor of medicine, one licensed  
22 physician who is a doctor of osteopathy, and one educator who holds a  
23 doctorate or equivalent degree in either anatomy, physiology, pathology,  
24 chemistry or microbiology. An executive secretary to the board shall be  
25 appointed by the department on recommendation of the commissioner.

26 § 6554. Requirements for a professional license. To qualify for a  
27 license as a chiropractor, an applicant shall fulfill the following  
28 requirements:

- 1     1. Application: file an application with the department;
- 2     2. Education: have received an education, including two years of  
3 preprofessional college study and completion of a four-year resident  
4 program in chiropractic, in accordance with the commissioner's regu-  
5 lations;
- 6     3. Experience: have experience satisfactory to the board and in  
7 accordance with the commissioner's regulations;
- 8     4. Examination: pass examinations satisfactory to the board and in  
9 accordance with the commissioner's regulations, in clinical chiropractic  
10 analysis, the practice of chiropractic, x-ray as it relates to chirop-  
11 ractic analysis, and examinations satisfactory to the department in  
12 anatomy, physiology, pathology, chemistry, microbiology, diagnosis, and  
13 the use and effect of x-ray;
- 14     5. Age: be at least twenty-one years of age;
- 15     6. Citizenship or immigration status: be a United States citizen or an  
16 alien lawfully admitted for permanent residence in the United States;
- 17     7. Character: be of good moral character as determined by the depart-  
18 ment; and
- 19     8. Fees: pay a fee of one hundred seventy-five dollars to the depart-  
20 ment for admission to a department conducted examination and for an  
21 initial license, a fee of eighty-five dollars for each reexamination, a  
22 fee of one hundred fifteen dollars for an initial license for persons  
23 not requiring admission to a department conducted examination, and a fee  
24 of one hundred fifty-five dollars for each triennial registration peri-  
25 od.
- 26     § 6554-a. Mandatory continuing education for chiropractors. 1. a. Each  
27 chiropractor licensed pursuant to this title, required to register  
28 triennially with the department to practice in this state, shall comply

1 with the provisions of the mandatory continuing education requirements,  
2 except as set forth in paragraphs b and c of this subdivision. Chiro-  
3 practores who do not satisfy the mandatory continuing education require-  
4 ments shall not practice until they have met such requirements and have  
5 been issued a registration or conditional registration certificate.

6 b. Chiropractors shall be exempt from the mandatory continuing educa-  
7 tion requirement for the triennial registration period during which they  
8 are first licensed. In accordance with the intent of this section,  
9 adjustments to the mandatory continuing education requirement may be  
10 granted by the department for reasons of health, certified by an appro-  
11 priate health care professional, for extended active duty with the armed  
12 forces of the United States, or for other good cause acceptable to the  
13 department which may prevent compliance.

14 c. A licensed chiropractor not engaged in chiropractic practice as an  
15 individual practitioner, a partner or a partnership, a shareholder of a  
16 professional service corporation, as an employee of such practice units,  
17 or as an employee of a facility operating pursuant to article twenty-  
18 eight of this chapter, or as otherwise determined by the department,  
19 shall be exempt from the mandatory continuing education requirement upon  
20 the filing of a statement with the department declaring such status.  
21 Any licensee who returns to the public practice of chiropractic during  
22 the triennial registration period shall notify the department prior to  
23 reentering the profession and shall meet such mandatory continuing  
24 education requirements as shall be promulgated by regulation of the  
25 commissioner in consultation with the board.

26 d. Nothing in this section shall be construed as enabling or authoriz-  
27 ing the department or state board for chiropractic to require or imple-

1 ment continuing competency testing or continued competency certification  
2 for chiropractors.

3 2. During each triennial registration period an applicant for regis-  
4 tration shall complete thirty-six hours of acceptable formal continuing  
5 education, a maximum of twelve hours of which may be self-instructional  
6 coursework as approved by the department in consultation with the board.  
7 Any chiropractor whose first registration date following the effective  
8 date of this section occurs less than three years from such effective  
9 date, but on or after January first, two thousand four, shall complete  
10 continuing education hours on a prorated basis at the rate of one hour  
11 per month for the period beginning January first, two thousand four up  
12 to the first registration date thereafter. A licensee who has not satis-  
13 fied the mandatory continuing education requirements shall not be issued  
14 a triennial registration certificate by the department and shall not  
15 practice unless and until a conditional registration certificate is  
16 issued as provided in subdivision three of this section. The individual  
17 licensee shall determine the selection of courses or programs of study  
18 pursuant to subdivision four of this section. Continuing education hours  
19 taken during one triennium may not be carried over or otherwise credited  
20 or transferred to a subsequent triennium.

21 3. The department, in its discretion, may issue a conditional regis-  
22 tration to a licensee who fails to meet the continuing education  
23 requirements established in subdivision two of this section but who  
24 agrees to make up any deficiencies and take any additional education  
25 which the department may require. The fee for such a conditional regis-  
26 tration shall be the same as, and in addition to, the fee for the trien-  
27 nial registration. The duration of such conditional registration shall  
28 be determined by the department but shall not exceed one year. Any

1 licensee who is notified of the denial of registration for failure to  
2 complete the required continued education and who continues to practice  
3 chiropractic without such registration may be subject to disciplinary  
4 proceedings pursuant to section sixty-five hundred ten of this article.

5 4. As used in this section, "acceptable formal continuing education"  
6 shall mean formal programs of learning which are sponsored or presented  
7 by a New York state chiropractic professional organization, national  
8 chiropractic professional organization or higher educational institu-  
9 tion, and which meet the following requirements: contain subject matter  
10 which contributes to the enhancement of professional and clinical skills  
11 of the chiropractor and is approved as acceptable continuing education  
12 by a chiropractic college recognized by the Commission on Accreditation  
13 of the Council of Chiropractic Education to fulfill the mandatory  
14 continuing education requirements, and which meets the standards  
15 prescribed by regulations of the commissioner in consultation with the  
16 board to fulfill the mandatory continuing education requirement.

17 5. Chiropractors shall certify at each triennial registration as to  
18 having satisfied the mandatory continuing education requirements of this  
19 section, shall maintain adequate documentation of completion of accepta-  
20 ble formal continuing education to support such certification and shall  
21 provide such documentation to the department upon request. Failure to  
22 provide such documentation upon request of the department shall be an  
23 act of misconduct subject to disciplinary proceedings pursuant to  
24 section sixty-five hundred ten of this article.

25 6. The mandatory continuing education fee shall be forty-five dollars,  
26 shall be payable on or before the first day of each triennial registra-  
27 tion period, and shall be in addition to the triennial registration fee  
28 required by section sixty-five hundred fifty-four of this title.

1 § 6555. Exempt persons. Nothing in this title shall be construed to  
2 affect or prevent a student enrolled in a college of chiropractic in  
3 this state from engaging in all phases of clinical practice under super-  
4 vision of a licensed chiropractor or physician in a curriculum regis-  
5 tered by the department.

6 § 6556. Special provisions. 1. Any chiropractor who holds a license  
7 stating that the holder is not authorized to use x-ray in his or her  
8 practice shall, on each registration, continue to obtain a license so  
9 marked. Any chiropractor holding such a license may obtain a license  
10 permitting the use of x-ray provided he or she first passes an examina-  
11 tion in the use and effect of x-ray satisfactory to the board and the  
12 department.

13 2. An applicant who graduated from a school of chiropractic prior to  
14 January first, nineteen hundred sixty-eight need not meet the two-year  
15 preprofessional college study requirement provided for in subdivision  
16 two of section sixty-five hundred fifty-four of this title.

17 TITLE 7

18 DENTISTRY, DENTAL HYGIENE, AND REGISTERED DENTAL ASSISTING

19 Section 6600. Introduction.

20 6601. Definition of practice of dentistry.

21 6602. Practice of dentistry and use of title "dentist".

22 6603. State board for dentistry.

23 6604. Requirements for a license as a dentist.

24 6604-a. Mandatory continuing education for dentists.

25 6604-b. Restricted dental faculty license.

26 6605. Limited permits.

27 6605-a. Dental anesthesia certificate.

1       6605-b. Dental hygiene restricted local infiltration  
2               anesthesia/nitrous oxide analgesia certificate.

3       6606. Definition of practice of dental hygiene.

4       6607. Practice of dental hygiene and use of title "dental  
5               hygienist".

6       6608. Definition of practice of registered dental assisting.

7       6608-a. Practice of registered dental assisting and use of title  
8               "registered dental assistant".

9       6608-b. Requirements for certification as a registered dental  
10              assistant.

11       6608-c. Exempt persons; registered dental assistant.

12       6608-d. Limited permits.

13       6609. Requirements for a license as a dental hygienist.

14       6609-a. Mandatory continuing education for dental hygienists.

15       6609-b. Limited permit to practice dental hygiene.

16       6610. Exempt persons; practice of dental hygiene.

17       6611. Special provisions.

18       6612. Identification of removable full or partial prosthetic  
19              devices.

20       6613. Nitrous oxide equipment.

21       § 6600. Introduction. This title applies to the professions of dentis-  
22 try, dental hygiene, and registered dental assisting. The general  
23 provisions for all professions contained in title one of this article  
24 apply to this title.

25       § 6601. Definition of practice of dentistry. The practice of the  
26 profession of dentistry is defined as diagnosing, treating, operating,  
27 or prescribing for any disease, pain, injury, deformity, or physical  
28 condition of the oral and maxillofacial area related to restoring and

1 maintaining dental health. The practice of dentistry includes the  
2 prescribing and fabrication of dental prostheses and appliances. The  
3 practice of dentistry may include performing physical evaluations in  
4 conjunction with the provision of dental treatment.

5 § 6602. Practice of dentistry and use of title "dentist". Only a  
6 person licensed or otherwise authorized to practice under this title  
7 shall practice dentistry or use the title "dentist".

8 § 6603. State board for dentistry. A state board for dentistry shall  
9 be appointed by the department on recommendation of the commissioner for  
10 the purpose of assisting the department on matters of professional  
11 licensing and professional conduct in accordance with section sixty-five  
12 hundred eight of this article. The board shall be composed of not less  
13 than thirteen dentists licensed in this state for at least five years,  
14 not less than three dental hygienists licensed in this state for at  
15 least five years, and not less than one registered dental assistant  
16 licensed in this state for at least one year. An executive secretary to  
17 the board shall be appointed by the department on recommendation of the  
18 commissioner and shall be a dentist licensed in this state.

19 § 6604. Requirements for a license as a dentist. To qualify for a  
20 license as a dentist, an applicant shall fulfill the following require-  
21 ments:

- 22 1. Application: file an application with the department;
- 23 2. Education: have received an education, including a doctoral degree  
24 in dentistry, in accordance with the commissioner's regulations;
- 25 3. Experience: have experience satisfactory to the board and in  
26 accordance with the commissioner's regulations, provided that such expe-  
27 rience shall consist of satisfactory completion of a clinically-based  
28 postdoctoral general practice or specialty dental residency program, of

1 at least one year's duration, in a hospital or dental facility accred-  
2 ited for teaching purposes by a national accrediting body approved by  
3 the department, provided, further that any such residency program shall  
4 include a formal outcome assessment evaluation of the resident's compe-  
5 tence to practice dentistry acceptable to the department;

6 4. Examination: pass a written examination satisfactory to the board  
7 and in accordance with the commissioner's regulations;

8 5. Age: be at least twenty-one years of age;

9 6. Citizenship or immigration status: be a United States citizen or an  
10 alien lawfully admitted for permanent residence in the United States;  
11 provided, however, that the department may grant a three-year waiver for  
12 an alien to practice in an area which has been designated a federal  
13 dental health professions shortage area, except that the department may  
14 grant an additional extension not to exceed six years to an alien to  
15 enable him or her to secure citizenship or permanent resident status,  
16 provided such status is being actively pursued;

17 7. Character: be of good moral character as determined by the depart-  
18 ment; and

19 8. Fees: pay a fee of two hundred twenty dollars to the department for  
20 admission to a department conducted examination and for an initial  
21 license, a fee of one hundred fifteen dollars for each reexamination, a  
22 fee of one hundred thirty-five dollars for an initial license for  
23 persons not requiring admission to a department conducted examination,  
24 and a fee of two hundred ten dollars for each triennial registration  
25 period.

26 § 6604-a. Mandatory continuing education for dentists. 1. a. Each  
27 dentist, licensed pursuant to this title, required to register trienni-  
28 ally with the department to practice in this state shall comply with the

1 provisions of the mandatory continuing education requirements, except as  
2 set forth in paragraphs b and c of this subdivision. Dentists who do not  
3 satisfy the mandatory continuing education requirements shall not prac-  
4 tice until they have met such requirements and have been issued a regis-  
5 tration or conditional registration certificate.

6 b. Dentists shall be exempt from the mandatory continuing education  
7 requirement for the triennial registration period during which they are  
8 first licensed. In accordance with the intent of this section, adjust-  
9 ments to the mandatory continuing education requirement may be granted  
10 by the department for reasons of health, certified by a physician, for  
11 extended active duty with the armed forces of the United States, or for  
12 other good cause acceptable to the department which may prevent compli-  
13 ance.

14 c. A licensed dentist not engaged in public practice as an individual  
15 practitioner, a partner of a partnership, a shareholder of a profes-  
16 sional service corporation, or an employee of such practice units, shall  
17 be exempt from the mandatory continuing education requirement upon the  
18 filing of a statement with the department declaring such status. Any  
19 licensee who returns to the public practice of dentistry during the  
20 triennial registration period shall notify the department prior to reen-  
21 tering the profession and shall meet such mandatory continuing education  
22 requirements as shall be prescribed by regulation of the commissioner.

23 2. During each triennial registration period an applicant for regis-  
24 tration shall complete a minimum of sixty hours of acceptable formal  
25 continuing education, a maximum of eighteen hours of which may be self-  
26 instructional coursework as approved by the department. Beginning with  
27 the first registration renewal period for any dentist occurring on or  
28 after January first, two thousand two, and before the occurrence of the

1 second registration renewal period following that date, a dentist shall  
2 have completed on a one-time basis, as part of the sixty hours of  
3 acceptable formal continuing education required by this section, no  
4 fewer than two hours of coursework and training regarding the chemical  
5 and related effects and usage of tobacco and tobacco products and the  
6 recognition, diagnosis, and treatment of the oral health effects,  
7 including but not limited to cancers and other diseases, caused by  
8 tobacco and tobacco products, provided that any dentist who provides  
9 written proof satisfactory to the department that the dentist has  
10 completed, at any time subsequent to the effective date of this section,  
11 an approved mandatory continuing education course of not less than two  
12 hours in the same or substantially similar subject matter shall be  
13 deemed to have met this requirement, and further provided that dentists  
14 who are exempt from the mandatory continuing education requirement for  
15 the triennial registration period during which they are first licensed  
16 shall also be exempt from this requirement for that period. Any dentist  
17 whose first registration date following the effective date of this  
18 section occurs less than three years from such effective date, but on or  
19 after January first, nineteen hundred ninety-eight and before July  
20 first, two thousand eight, shall complete continuing education hours on  
21 a prorated basis at the rate of one and one-quarter hours per month for  
22 the period beginning January first, nineteen hundred ninety-seven up to  
23 the first registration date thereafter. For any registration period  
24 beginning before July first, two thousand eight and ending on or after  
25 such date, each dentist shall complete continuing education hours on a  
26 pro rata basis at a rate of one and one-quarter hours per month for the  
27 period ending June thirtieth, two thousand eight and at a rate of one  
28 and two-thirds hours per month for the period beginning July first, two

1 thousand eight up to the first registration date thereafter. A licensee  
2 who has not satisfied the mandatory continuing education requirements  
3 shall not be issued a triennial registration certificate by the depart-  
4 ment and shall not practice unless and until a conditional registration  
5 certificate is issued as provided in subdivision three of this section.  
6 The individual licensee shall determine the selection of courses or  
7 programs of study pursuant to subdivision four of this section.

8 3. The department, in its discretion, may issue a conditional regis-  
9 tration to a licensee who fails to meet the continuing education  
10 requirements established in subdivision two of this section but who  
11 agrees to make up any deficiencies and take any additional education  
12 which the department may require. The fee for such a conditional regis-  
13 tration shall be the same as, and in addition to, the fee for the trien-  
14 nial registration. The duration of such conditional registration shall  
15 be determined by the department. Any licensee who is notified of the  
16 denial of registration for failure to submit evidence, satisfactory to  
17 the department, of completion of required continuing education and who  
18 practices dentistry without such registration, may be subject to disci-  
19 plinary proceedings pursuant to section sixty-five hundred ten of this  
20 article.

21 4. As used in this section, "acceptable formal continuing education"  
22 shall mean formal programs of learning which contribute to professional  
23 practice and which meet the standards prescribed by regulations of the  
24 commissioner. To fulfill the mandatory continuing education requirement,  
25 programs must be taken from sponsors having at least one full-time  
26 employee and the facilities, equipment, and financial and physical  
27 resources to provide continuing education courses, approved by the  
28 department, pursuant to the regulations of the commissioner.

1 5. The mandatory continuing education fee shall be forty-five dollars,  
2 shall be payable on or before the first day of each triennial registra-  
3 tion period, and shall be paid in addition to the triennial registration  
4 fee required by section sixty-six hundred four of this title.

5 6. On or after the effective date of this subdivision, and no later  
6 than the end of the first registration period commencing on or after  
7 such date during which he or she is required to comply with the continu-  
8 ing education requirements of this section, each dentist shall have  
9 completed on a one-time basis, as part of the mandatory hours of accept-  
10 able formal continuing education required by this section, no fewer than  
11 three hours in a course approved by the department in dental jurisperu-  
12 dence and ethics, which shall include the laws, rules, regulations and  
13 ethical principles relating to the practice of dentistry in New York  
14 state, provided that postgraduate dental students enrolled in New York  
15 state dental residency programs may satisfy the requirements of this  
16 subdivision by taking such an approved course during the period of their  
17 dental residency prior to their initial licensure.

18 § 6604-b. Restricted dental faculty license. 1. The department may  
19 issue a restricted dental faculty license to a full-time faculty member  
20 employed at an approved New York state school of dentistry. The holder  
21 of such restricted dental faculty license shall have the authority to  
22 practice dentistry, as defined in this title, but such practice of  
23 dentistry shall be limited to the school's facilities or the school's  
24 clinics, or facilities or clinics with relationships to the school  
25 confirmed by formal affiliation agreements. Nothing in this section  
26 shall be construed to authorize such holder of a restricted dental  
27 faculty license to engage in the private practice of dentistry at any  
28 other site.

1 2. To qualify for a restricted dental faculty license the applicant  
2 shall present satisfactory evidence of the following:

3 a. The completion of a total of no less than six academic years of  
4 pre-professional and professional education, including:

5 (i) courses in general chemistry, organic chemistry, biology or zoolo-  
6 gy and physics; and

7 (ii) not less than four academic years of professional dental educa-  
8 tion satisfactory to the department culminating in a degree, diploma or  
9 certificate in dentistry recognized by the appropriate civil authorities  
10 of the jurisdiction in which the school is located as acceptable for  
11 entry into practice in the jurisdiction in which the school is located.

12 b. Within the last five years, have two years of satisfactory practice  
13 as a dentist or have satisfactorily completed an advanced education  
14 program in general dentistry or in a dental specialty, provided such  
15 program is accredited by an organization accepted by the department as a  
16 reliable authority for the purpose of accrediting such programs (such as  
17 the commission on dental accreditation); and

18 c. Possesses good moral character as determined by the department.

19 3. The dean of the dental school shall notify the department in writ-  
20 ing upon the submission of an initial license application and yearly  
21 thereafter that the holder of the dental faculty license is employed  
22 full-time at the dental school. Full-time employment means the holder  
23 of such dental faculty license devotes at least four full working days  
24 per week in teaching or patient care, research or administrative duties  
25 at the dental school where employed. The dean of the dental school and  
26 the holder of such dental faculty license shall each notify the depart-  
27 ment in writing within thirty days of the termination of full-time  
28 employment.

1 4. In order to continue to practice dentistry, the holder of a  
2 restricted dental faculty license shall apply for and hold a current  
3 triennial registration which shall be subject to the same registration  
4 requirements as apply to holders of unrestricted dental licenses, except  
5 that such registration shall be issued only upon the submission of  
6 documentation satisfactory to the department of the holder's continued  
7 status as a full-time dental faculty member, provided that such regis-  
8 tration shall immediately terminate and the holder shall no longer be  
9 authorized to practice if the holder ceases to be a full-time dental  
10 faculty member at an approved New York state school of dentistry.

11 5. The holder of this restricted dental faculty license shall be  
12 subject to the professional misconduct provisions set forth in subtitle  
13 three of title one of this article and in the regulations and rules of  
14 the department.

15 6. The fee for each restricted dental faculty license shall be three  
16 hundred dollars, and the fee for initial registration and each subse-  
17 quent re-registration shall be three hundred dollars.

18 7. In order to be eligible for a restricted dental faculty license an  
19 applicant must be a United States citizen or an alien lawfully admitted  
20 for permanent residence in the United States; provided, however, that  
21 the department may grant a three-year waiver for an alien who otherwise  
22 meets all other requirements for a restricted dental faculty license  
23 except that the department may grant an additional extension not to  
24 exceed six years to an alien to enable him or her to secure citizenship  
25 or permanent resident status, provided such status is being actively  
26 pursued. No current faculty member shall be displaced by the holder of a  
27 restricted dental faculty license.

1 § 6605. Limited permits. 1. On recommendation of the board, the  
2 department may issue a limited permit to a graduate of a dental college  
3 who meets the educational qualifications for admission to the licensing  
4 examination in dentistry for employment in a hospital or dental facility  
5 approved by an appropriate agency, while under the direction or super-  
6 vision of a licensed dentist. No such permit shall be issued or renewed  
7 unless such graduate has a bona fide offer of a position in such a  
8 hospital or dental facility.

9 2. On recommendation of the board, the department may issue a limited  
10 permit for instructing in dentistry to a dentist not licensed under this  
11 title to be employed by a registered school of dentistry or dental  
12 hygiene to instruct and supervise clinical dentistry or dental hygiene  
13 for students in such a registered school in the state, and in so doing  
14 to practice dentistry as defined in this title, but only on the premises  
15 of such registered school or such other premises as may be used for  
16 instruction in the program of health conducted by such institution. No  
17 person shall be permitted or authorized to instruct and supervise clin-  
18 ical dentistry for students unless such person is licensed in this state  
19 or holds the foregoing limited permit for instructing in dentistry.

20 3. The holder of a limited permit under this section may practice  
21 dentistry, as defined in this title, but only in the performance of  
22 duties required by the position for which the limited permit is issued.  
23 Nothing in this section shall be construed to authorize such unlicensed  
24 dentist to engage in the private practice of dentistry.

25 4. A limited permit under this section shall be valid for one year or  
26 until ten days after notification of denial of an application for  
27 license. A limited permit may be renewed for one year, except if the  
28 applicant is serving in a residency program in a hospital or school of

1 dentistry in this state. A limited permit may be renewed annually for  
2 the duration of such residency program. The fee for each limited permit  
3 and for each renewal shall be one hundred five dollars.

4 5. Notwithstanding subdivision one of this section, dental school  
5 graduates who meet the license requirement for education pursuant to  
6 subdivision two of section sixty-six hundred four of this title shall be  
7 deemed to be exempt persons pursuant to section sixty-six hundred ten of  
8 this title and shall not be required to obtain a limited permit,  
9 provided that they are employed in an approved residency program for the  
10 purpose of fulfilling initial licensure requirements pursuant to section  
11 sixty-six hundred four of this title. Not later than sixty days after  
12 entry into an approved residency program, the dental resident shall  
13 register on a form acceptable to the commissioner and pay to the depart-  
14 ment a residency registration fee established by the department, which  
15 residency registration fee shall be reasonable and shall not exceed the  
16 limited permit fee specified in subdivision four of this section. All  
17 persons deemed exempt pursuant to this section shall be subject to all  
18 provisions of title one of this article, including but not limited to  
19 having disciplinary action taken against their residency registration  
20 status.

21 § 6605-a. Dental anesthesia certificate. 1. A licensed dentist shall  
22 not employ conscious sedation, deep sedation or general anesthesia in  
23 the practice of dentistry, at any location other than a general hospi-  
24 tal, without a dental anesthesia certificate issued by the department.

25 2. The commissioner shall promulgate regulations, establishing stand-  
26 ards and procedures for the issuance of certificates. Such standards  
27 shall require completion of an educational program and/or course of  
28 training or experience sufficient to ensure that a dentist is specif-

1 ically trained in the use and administration of conscious sedation, deep  
2 sedation or general anesthesia and in the possible effects of such use,  
3 and in the recognition of and response to possible emergency situations.  
4 Such regulations may also establish standards and safeguards for the use  
5 of conscious sedation, deep sedation or general anesthesia.

6 3. Nothing in this section shall limit a dentist's use of local anes-  
7 thesia, a dentist's use of nitrous oxide, or a dentist's use of any  
8 other substance or agent for a purpose other than achieving deep  
9 sedation, conscious sedation, or general anesthesia.

10 4. The fee for a dental anesthesia certificate shall be one hundred  
11 dollars and shall be paid on a triennial basis upon renewal of such  
12 certificate. A certificate may be suspended or revoked in the same  
13 manner as a license to practice dentistry.

14 § 6605-b. Dental hygiene restricted local infiltration  
15 anesthesia/nitrous oxide analgesia certificate. 1. A dental hygienist  
16 shall not administer or monitor nitrous oxide analgesia or local infil-  
17 tration anesthesia in the practice of dental hygiene without a dental  
18 hygiene restricted local infiltration anesthesia/nitrous oxide analgesia  
19 certificate and except under the personal supervision of a dentist and  
20 in conjunction with the performance of dental hygiene procedures author-  
21 ized by law and in accordance with regulations promulgated by the  
22 commissioner. Personal supervision, for purposes of this section, means  
23 that the supervising dentist remains in the dental office where the  
24 local infiltration anesthesia or nitrous oxide analgesia services are  
25 being performed, personally authorizes and prescribes the use of local  
26 infiltration anesthesia or nitrous oxide analgesia for the patient and,  
27 before dismissal of the patient, personally examines the condition of  
28 the patient after the use of local infiltration anesthesia or nitrous

1 oxide analgesia is completed. It is professional misconduct for a  
2 dentist to fail to provide the supervision required by this section, and  
3 any dentist found guilty of such misconduct under the procedures  
4 prescribed in section sixty-five hundred ten of this article shall be  
5 subject to the penalties prescribed in section sixty-five hundred eleven  
6 of this article.

7 2. The commissioner shall promulgate regulations establishing stand-  
8 ards and procedures for the issuance of such certificate. Such standards  
9 shall require completion of an educational program and/or course of  
10 training or experience sufficient to ensure that a dental hygienist is  
11 specifically trained in the administration and monitoring of nitrous  
12 oxide analgesia and local infiltration anesthesia, the possible effects  
13 of such use, and in the recognition of and response to possible emergen-  
14 cy situations.

15 3. The fee for a dental hygiene restricted local infiltration  
16 anesthesia/nitrous oxide analgesia certificate shall be twenty-five  
17 dollars and shall be paid on a triennial basis upon renewal of such  
18 certificate. A certificate may be suspended or revoked in the same  
19 manner as a license to practice dental hygiene.

20 § 6606. Definition of practice of dental hygiene. 1. The practice of  
21 the profession of dental hygiene is defined as the performance of dental  
22 services which shall include removing calcareous deposits, accretions  
23 and stains from the exposed surfaces of the teeth which begin at the  
24 epithelial attachment and applying topical agents indicated for a  
25 complete dental prophylaxis, removing cement, placing or removing rubber  
26 dam, removing sutures, placing matrix band, providing patient education,  
27 applying topical medication, placing and exposing diagnostic dental  
28 x-ray films, performing topical fluoride applications and topical anes-

1 thetic applications, polishing teeth, taking medical history, charting  
2 caries, taking impressions for study casts, placing and removing tempo-  
3 rary restorations, administering and monitoring nitrous oxide analgesia  
4 and administering and monitoring local infiltration anesthesia, subject  
5 to certification in accordance with section sixty-six hundred five-b of  
6 this title, and any other function in the definition of the practice of  
7 dentistry as may be delegated by a licensed dentist in accordance with  
8 regulations promulgated by the commissioner. The practice of dental  
9 hygiene may be conducted in the office of any licensed dentist or in any  
10 appropriately equipped school or public institution but must be done  
11 either under the supervision of a licensed dentist or, in the case of a  
12 registered dental hygienist working for a hospital as defined in article  
13 twenty-eight of this chapter, pursuant to a collaborative arrangement  
14 with a licensed and registered dentist who has a formal relationship  
15 with the same hospital in accordance with regulations promulgated by the  
16 department. Such collaborative arrangement shall not obviate or super-  
17 sede any law or regulation which requires identified services to be  
18 performed under the personal supervision of a dentist. When dental  
19 hygiene services are provided pursuant to a collaborative agreement,  
20 such dental hygienist shall instruct individuals to visit a licensed  
21 dentist for comprehensive examination or treatment.

22 2. The commissioner shall promulgate regulations defining the func-  
23 tions a dental hygienist may perform that are consistent with the train-  
24 ing and qualifications for a license as a dental hygienist.

25 § 6607. Practice of dental hygiene and use of title "dental hygien-  
26 ist". Only a person licensed under section sixty-six hundred nine of  
27 this title or exempt shall practice dental hygiene or use the title  
28 "dental hygienist".

1    § 6608. Definition of practice of registered dental assisting. The  
2 practice of registered dental assisting is defined as providing support-  
3 ive services to a dentist in his or her performance of dental services  
4 authorized under this title. Such support shall include providing  
5 patient education, taking preliminary medical histories and vital signs  
6 to be reviewed by the dentist, placing and removing rubber dams, select-  
7 ing and prefitting provisional crowns, selecting and prefitting ortho-  
8 dontic bands, removing orthodontic arch wires and ligature ties, placing  
9 and removing matrix bands, taking impressions for study casts or diag-  
10 nostic casts, removing periodontal dressings, and such other dental  
11 supportive services authorized by the dentist consistent with regu-  
12 lations promulgated by the commissioner, provided that such functions  
13 are performed under the direct personal supervision of a licensed  
14 dentist in the course of the performance of dental services. Such  
15 services shall not include diagnosing and/or performing surgical proce-  
16 dures, irreversible procedures or procedures that would alter the hard  
17 or soft tissue of the oral and maxillofacial area or any other proce-  
18 dures determined by the department. The practice of registered dental  
19 assisting may be conducted in the office of any licensed dentist or in  
20 any appropriately equipped school or public institution but must be done  
21 under the direct personal supervision of a licensed dentist. Direct  
22 personal supervision, for purposes of this section, means supervision of  
23 dental procedures based on instructions given by a licensed dentist in  
24 the course of a procedure who remains in the dental office where the  
25 supportive services are being performed, personally diagnoses the condi-  
26 tion to be treated, personally authorizes the procedures, and before  
27 dismissal of the patient, who remains the responsibility of the licensed  
28 dentist, evaluates the services performed by the registered dental

1 assistant. Nothing herein authorizes a registered dental assistant to  
2 perform any of the services or functions defined as part of the practice  
3 of dental hygiene in accordance with the provisions of subdivision one  
4 of section sixty-six hundred six of this title, except those functions  
5 authorized pursuant to this section. All dental supportive services  
6 provided in this section may be performed by currently registered dental  
7 hygienists either under a dentist's supervision, as defined in regu-  
8 lations of the commissioner, or, in the case of a registered dental  
9 hygienist working for a hospital as defined in article twenty-eight of  
10 this chapter, pursuant to a collaborative arrangement with a licensed  
11 dentist in accordance with subdivision one of section sixty-six hundred  
12 six of this title. Such collaborative arrangement shall not obviate or  
13 supersede any law or regulation which requires identified services to be  
14 performed under the personal supervision of a dentist.

15 § 6608-a. Practice of registered dental assisting and use of title  
16 "registered dental assistant". Only a person certified under section  
17 sixty-six hundred eight-b of this title or exempt pursuant to section  
18 sixty-six hundred ten of this title shall practice registered dental  
19 assisting. Only a person certified pursuant to section sixty-six hundred  
20 eight-b of this title shall use the title "registered dental assistant".

21 § 6608-b. Requirements for certification as a registered dental  
22 assistant. To qualify for certification as a registered dental assist-  
23 ant, an applicant shall fulfill the following requirements:

- 24 1. Application: file an application with the department;
- 25 2. Age: be at least eighteen years of age;
- 26 3. Fees: pay a fee of forty-five dollars to the department for initial  
27 certification and a fee of fifty dollars for each triennial registration  
28 period;

1 4. Education and experience: a. have received a high school diploma,  
2 or its equivalent, and b. have successfully completed, in accordance  
3 with the commissioner's regulations: (i) an approved one-year course of  
4 study in dental assisting in a degree-granting institution or a board of  
5 cooperative educational services program which includes at least two  
6 hundred hours of clinical experience, or an equivalent approved course  
7 of study in dental assisting in a non-degree granting institution which  
8 shall not be a professional association or professional organization, or  
9 (ii) an alternate course of study in dental assisting acceptable to the  
10 department which shall be provided by a degree-granting institution or a  
11 board of cooperative educational services program which includes at  
12 least one thousand hours of relevant work experience;

13 5. Examination: pass an examination in dental assisting given by an  
14 organization which administers such examinations and which is acceptable  
15 to the department; and

16 6. Character: be of good moral character as determined by the depart-  
17 ment.

18 § 6608-c. Exempt persons; registered dental assistant. Nothing in this  
19 title shall be construed to affect or prevent a student from engaging in  
20 any procedure authorized under section sixty-six hundred eight of this  
21 title in clinical practice as part of a course of study approved by the  
22 department pursuant to subdivision four of section sixty-six hundred  
23 eight-b of this title.

24 § 6608-d. Limited permits. The department shall issue a limited permit  
25 to an applicant who meets all requirements for admission to the licens-  
26 ing examination. All practice under a limited permit shall be under the  
27 direct personal supervision of a licensed dentist. Limited permits shall  
28 be for one year and may be renewed at the discretion of the department

1 for one additional year. The fee for each limited permit and for each  
2 renewal shall be forty dollars.

3 § 6609. Requirements for a license as a dental hygienist. To qualify  
4 for a license as a dental hygienist, an applicant shall fulfill the  
5 following requirements:

6 1. Application: file an application with the department;

7 2. Education: have received an education, including high school gradu-  
8 ation and completion of a program in dental hygiene, in accordance with  
9 the commissioner's regulations;

10 3. Experience: have experience satisfactory to the board and in  
11 accordance with the commissioner's regulations;

12 4. Examination: pass an examination satisfactory to the board and in  
13 accordance with the commissioner's regulations;

14 5. Age: be at least seventeen years of age;

15 6. Citizenship or immigration status: be a United States citizen or an  
16 alien lawfully admitted for permanent residence in the United States;  
17 provided, however, that the department may grant a three-year waiver for  
18 an alien to practice in an area which has been designated a federal  
19 dental health professions shortage area, except that the department may  
20 grant an additional extension not to exceed six years to an alien to  
21 enable him or her to secure citizenship or permanent resident status,  
22 provided such status is being actively pursued;

23 7. Character: be of good moral character as determined by the depart-  
24 ment; and

25 8. Fees: pay a fee of one hundred fifteen dollars to the department  
26 for admission to a department conducted examination and for an initial  
27 license, a fee of fifty dollars for each reexamination, a fee of seventy  
28 dollars for an initial license for persons not requiring admission to a

1 department conducted examination, and a fee of fifty dollars for each  
2 triennial registration period.

3 § 6609-a. Mandatory continuing education for dental hygienists. 1. a.  
4 Each dental hygienist, licensed pursuant to this title and required to  
5 register triennially with the department to practice in this state shall  
6 comply with the provisions of the mandatory continuing education  
7 requirements, except as set forth in paragraphs b and c of this subdivi-  
8 sion. Dental hygienists who do not satisfy the mandatory continuing  
9 education requirements shall not practice until they have met such  
10 requirements and have been issued a registration or conditional regis-  
11 tration certificate.

12 b. Dental hygienists shall be exempt from the mandatory continuing  
13 education requirement for the triennial registration period during which  
14 they are first licensed. In accordance with the intent of this section,  
15 adjustments to the mandatory continuing education requirement may be  
16 granted by the department for reasons of health, certified by a physi-  
17 cian, for extended active duty with the Armed Forces of the United  
18 States, or for other good cause acceptable to the department which may  
19 prevent compliance.

20 c. A licensed dental hygienist not engaged in the practice of dental  
21 hygiene shall be exempt from the mandatory continuing education require-  
22 ment upon the filing of a statement with the department declaring such  
23 status. Any licensee who returns to the practice of dental hygiene  
24 during the triennial registration period shall notify the department  
25 prior to reentering the profession and shall meet such mandatory contin-  
26 uing education requirements as shall be prescribed by regulation of the  
27 commissioner.

1 2. During each triennial registration period an applicant for regis-  
2 tration shall complete a minimum of twenty-four hours of acceptable  
3 formal continuing education including currently mandated child abuse  
4 reporting instruction and infection control training as approved by the  
5 department. Of these twenty-four hours a maximum of ten hours may be  
6 self-instructional coursework as approved by the department. Any dental  
7 hygienist whose first registration date following the effective date of  
8 this section occurs less than three years from such effective date, but  
9 on or after January first, nineteen hundred ninety-eight, shall complete  
10 continuing education hours on a prorated basis at the rate of one and  
11 one-quarter hours per month for the period beginning January first,  
12 nineteen hundred ninety-seven up to the first registration date there-  
13 after. A licensee who has not satisfied the mandatory continuing educa-  
14 tion requirements shall not be issued a triennial registration certif-  
15 icate by the department and shall not practice unless and until a  
16 conditional registration certificate is issued as provided in subdivi-  
17 sion three of this section. The individual licensee shall determine the  
18 selection of courses or programs of study pursuant to subdivision four  
19 of this section.

20 3. The department, in its discretion, may issue a conditional regis-  
21 tration to a licensee who fails to meet the continuing education  
22 requirements established in subdivision two of this section but who  
23 agrees to make up any deficiencies and take any additional education  
24 which the department may require. The fee for such a conditional regis-  
25 tration shall be the same as, and in addition to, the fee for the trien-  
26 nial registration. The duration of such conditional registration shall  
27 be determined by the department. Any licensee who is notified of the  
28 denial of registration for failure to submit evidence, satisfactory to

1 the department, of completion of required continuing education and who  
2 practices dental hygiene without such registration, may be subject to  
3 disciplinary proceedings pursuant to section sixty-five hundred ten of  
4 this article.

5 4. As used in this section, "acceptable formal continuing education"  
6 shall mean formal programs of learning which contribute to professional  
7 practice and which meet the standards prescribed by regulations of the  
8 commissioner. To fulfill the mandatory continuing education requirement,  
9 programs must be taken from sponsors approved by the department, pursu-  
10 ant to the regulations of the commissioner.

11 5. The mandatory continuing education fee of thirty dollars shall be  
12 payable on or before the first day of each triennial registration peri-  
13 od, and shall be paid in addition to the triennial registration fee  
14 required by section sixty-six hundred nine of this title.

15 § 6609-b. Limited permit to practice dental hygiene. 1. A limited  
16 permit to practice dental hygiene may be granted to an individual who  
17 has, to the satisfaction of the department, met all the requirements of  
18 section sixty-six hundred nine of this title, but has not yet passed the  
19 examination required by subdivision four of such section.

20 2. A limited permit shall authorize the holder to practice dental  
21 hygiene as defined in section sixty-six hundred six of this title, but  
22 only under the personal supervision of a licensed dentist, as defined in  
23 regulations promulgated by the commissioner.

24 3. Limited permits shall be issued for a period of one year and may be  
25 renewed at the discretion of the department for one additional year.

26 4. The fee for a limited permit and for each renewal shall be fifty  
27 dollars.

1 § 6610. Exempt persons; practice of dental hygiene. Nothing in this  
2 title shall be construed to affect or prevent:

3 1. An unlicensed person from performing solely mechanical work upon  
4 inert matter in a dental office or on a dental laboratory prescription  
5 of a dentist holding a license or limited permit.

6 2. A student from engaging in clinical practice as part of a regis-  
7 tered program operated by a school of dentistry under supervision of a  
8 dentist holding a license or limited permit for instructing in dentistry  
9 in a school of dentistry.

10 3. A student from engaging in any procedure authorized under section  
11 sixty-six hundred six of this title in clinical practice as part of a  
12 registered program in dental hygiene under supervision of a dentist  
13 holding a license or a limited permit for instructing in dentistry in a  
14 school of dental hygiene.

15 4. An employee of a federal agency from using the title of and prac-  
16 ticing as a dentist or dental hygienist insofar as such activities are  
17 required by his salaried position.

18 5. A dentist or a dental hygienist licensed in some other state or  
19 country from making a teaching clinical demonstration before a regularly  
20 organized dental or medical society or group, or from meeting licensed  
21 dentists in this state for consultation, provided such activities are  
22 limited to such demonstration or consultation.

23 6. A dentist licensed in another state or country who is employed on a  
24 full-time basis by a registered dental school as a faculty member with  
25 the rank of assistant professor or higher from conducting research and  
26 clinical demonstrations as a part of such employment, under the super-  
27 vision of a licensed dentist and on the premises of the school. No fee

1 may be charged for the practice of dentistry authorized by this subdivi-  
2 sion.

3 7. A dentist licensed in another state or country who is visiting an  
4 approved dental school or any other entity operating a residency program  
5 that has been accredited by a national accrediting body approved by the  
6 department to receive dental instruction for a period not to exceed  
7 ninety days from engaging in clinical practice, provided such practice  
8 is limited to such instruction and is under the direct supervision of a  
9 licensed dentist.

10 8. Any student matriculated in an accredited dental school located  
11 outside New York state from engaging in appropriately supervised clin-  
12 ical practice as part of the school's dental program in a teaching  
13 hospital which has a teaching affiliation agreement with the student's  
14 dental school.

15 § 6611. Special provisions. 1. Except upon the written dental labora-  
16 tory prescription of a licensed dentist and except by the use of  
17 impressions or casts made by a licensed dentist, no dental laboratory  
18 shall furnish, supply, construct, reproduce, place, adjust, or repair  
19 any dental prosthesis, device, or appliance. A dental laboratory  
20 prescription shall be made out in duplicate. It shall contain such data  
21 as may be prescribed by the commissioner's regulations. One copy shall  
22 be retained by the practitioner of dentistry for a period of one year.  
23 The other copy shall be issued to the person, firm or corporation  
24 engaged in filling dental laboratory prescriptions, who or which shall  
25 each retain and file in their respective offices or places of business  
26 their respective copies for a period of one year.

27 2. The department is empowered to inspect and to have access to all  
28 places, including the office or offices of a licensed dentist, where

1 copies of dental laboratory prescriptions issued by him or her are  
2 retained as required by this section, and to all places where dental  
3 laboratory prescriptions are filled or to any workroom or workrooms in  
4 which prosthetic restorations, prosthetic dentures, bridges, orthodontic  
5 or other appliances or structures to be used as substitutes for natural  
6 teeth or tissue or for the correction of malocclusion or deformities are  
7 made, repaired or altered, with power to subpoena and examine records of  
8 dental laboratory prescriptions. A person who fails to grant access to  
9 such places or who fails to maintain prescriptions as required by this  
10 section shall be guilty of a class A misdemeanor.

11 3. The department may arrange for the conduct of clinical examinations  
12 in the clinic of any school of dentistry or dental hygiene within or  
13 outside the state for dental or dental hygiene candidates.

14 4. A not-for-profit dental or medical expense indemnity corporation or  
15 hospital service corporation organized under the insurance law or pursu-  
16 ant to special legislation may enter into contracts with dentists or  
17 partnerships of dentists to provide dental care on its behalf for  
18 persons insured under its contracts or policies.

19 5. Legally incorporated dental corporations existing and in operation  
20 prior to January first, nineteen hundred sixteen, may continue to oper-  
21 ate through licensed dentists while conforming to the provisions of this  
22 title. Any such corporation which shall be dissolved or cease to exist  
23 or operate for any reason whatsoever shall not be permitted to resume  
24 operations. No such corporation shall change its name or sell its fran-  
25 chise or transfer its corporate rights directly or indirectly, by trans-  
26 fer of capital stock control or otherwise, to any person or to another  
27 corporation without permission from the department, and any corporation  
28 so changing its name or so transferring its franchise or corporate

1 rights without such permission shall be deemed to have forfeited its  
2 rights to exist and may be dissolved by an action brought by the attor-  
3 ney general.

4 6. Notwithstanding any inconsistent provision of any general, special  
5 or local law, any licensed dentist who voluntarily and without the  
6 expectation of monetary compensation renders first aid or emergency  
7 treatment at the scene of an accident or other emergency, outside of a  
8 hospital or any other place having proper and necessary medical equip-  
9 ment, to a person who is unconscious, ill or injured shall not be liable  
10 for damages for injuries alleged to have been sustained by such person  
11 or for damages for the death of such person alleged to have occurred by  
12 reason of an act or omission in the rendering of such first aid or emer-  
13 gency treatment unless it is established that such injuries were or such  
14 death was caused by gross negligence on the part of such dentist. Notth-  
15 ing in this subdivision shall be deemed or construed to relieve a  
16 licensed dentist from liability for damages for injuries or death caused  
17 by an act or omission on the part of a dentist while rendering profes-  
18 sional services in the normal and ordinary course of practice.

19 7. Any dentist or dental hygienist, who in the performance of dental  
20 services, x-rays the mouth or teeth of a patient shall during the  
21 performance of such x-rays shield the torso and thyroid area of such  
22 patient including but not limited to the gonads and other reproductive  
23 organs with a lead apron thyroid collar, or other similar protective  
24 garment or device. Notwithstanding the provisions of this subdivision,  
25 if in the dentist's professional judgment the use of a thyroid collar  
26 would be inappropriate under the circumstances, because of the nature of  
27 the patient, the type of x-ray being taken, or other factors, the  
28 dentist or dental hygienist need not shield the thyroid area.

1 8. An unlicensed person may provide supportive services to a dentist  
2 incidental to and concurrent with such dentist personally performing a  
3 service or procedure. Nothing in this subdivision shall be construed to  
4 allow an unlicensed person to provide any service which constitutes the  
5 practice of dentistry or dental hygiene as defined in this title.

6 9. There shall be no monetary liability on the part of, and no cause  
7 of action for damages shall arise against, any person, partnership,  
8 corporation, firm, society, or other entity on account of the communi-  
9 cation of information in the possession of such person or entity, or on  
10 account of any recommendation or evaluation, regarding the qualifica-  
11 tions, fitness, or professional conduct or practices of a dentist, to  
12 any governmental agency, dental or specialists society, or hospital as  
13 defined in article twenty-eight of this chapter. The foregoing shall  
14 not apply to information which is untrue and communicated with malicious  
15 intent.

16 10. Each dentist and registered dental hygienist working for a hospi-  
17 tal as defined in article twenty-eight of this chapter who practices in  
18 collaboration with a licensed dentist shall become certified in cardiop-  
19 ulmonary resuscitation (CPR) from an approved provider and thereafter  
20 maintain current certification, which shall be included in the mandatory  
21 hours of continuing education acceptable for dentists to the extent  
22 provided in the commissioner's regulations. In the event the dentist or  
23 registered dental hygienist cannot physically perform CPR, the commis-  
24 sioner's regulations shall allow the dentist or registered dental  
25 hygienist to make arrangements for another individual in the office to  
26 administer CPR. All dental facilities shall have an automatic external  
27 defibrillator or other defibrillator at the facility.

1    § 6612. Identification of removable full or partial prosthetic  
2 devices. 1. Except as provided herein, every dentist licensed in this  
3 state making or directing to be made a removable prosthetic denture,  
4 bridge, appliance or other structure to be used and worn as a substitute  
5 for natural teeth, shall offer to the patient for whom the prosthesis is  
6 intended the opportunity to have such prosthesis marked with the  
7 patient's name or initials. Such markings shall be accomplished at the  
8 time the prosthesis is made and the location and methods used to apply  
9 or implant them shall be determined by the dentist or the person acting  
10 on behalf of the dentist. Such marking shall be permanent, legible and  
11 cosmetically acceptable.

12    2. Notwithstanding the foregoing, if in the judgment of the dentist or  
13 the person making the prosthesis, such identification is not practicable  
14 or clinically safe, the identification marks may be omitted entirely.

15    3. The commissioner shall adopt rules and regulations and provide  
16 standards necessary to carry out the provisions of this section.

17    § 6613. Nitrous oxide equipment. Any machine used in a dental office  
18 for the administration of nitrous oxide to a patient shall be equipped  
19 with a scavenging system that appropriately minimizes leakage of nitrous  
20 oxide.

21                                    TITLE 8

22                                    LICENSED PERFUSIONISTS

23    Section 6630. Definitions.

24            6631. Practice of perfusion and use of title "licensed perfu-  
25                                    sionist".

26            6632. Requirements for licensure as a perfusionist.

27            6633. Special provisions.

1           6634. State committee for perfusion.

2           6635. Limited permits.

3           6636. Exempt persons.

4       § 6630. Definitions. As used in this title: 1. The term "perfusionist"  
5 means a person who is licensed to practice perfusion pursuant to this  
6 title.

7       2. The term "registered program" means a program for the education of  
8 perfusionists which has been registered by the department or determined  
9 by the department to be the substantial equivalent.

10       3. a. The term "perfusion" means the provision of extracorporeal or  
11 intracorporeal patient care services to support or replace the circula-  
12 tory or respiratory function of a patient, including the administration  
13 of pharmacological and therapeutic agents, and blood products, and the  
14 management, treatment and monitoring of the physiological status of a  
15 patient during the operation of extracorporeal circulation equipment or  
16 intracorporeal equipment that replaces or support circulatory or respir-  
17 atory functions.

18       b. All perfusion services shall be pursuant to the order and direction  
19 of a physician. Perfusion services may be performed in a general hospi-  
20 tal licensed pursuant to article twenty-eight of this chapter or during  
21 the transport of patients or organs supported by extracorporeal or  
22 intracorporeal equipment.

23       4. The term "committee" means the state committee for perfusion  
24 created by section sixty-six hundred thirty-four of this title.

25       § 6631. Practice of perfusion and use of title "licensed perfusion-  
26 ist". Only a person licensed or exempt under this title shall practice  
27 perfusion. Only persons licensed as perfusionists may use the title  
28 "licensed perfusionist".

1 § 6632. Requirements for licensure as a perfusionist. To qualify for  
2 licensure as a "licensed perfusionist", an applicant shall fulfill the  
3 following requirements:

4 1. Application: file an application with the department;

5 2. Education:

6 a. has successfully completed a baccalaureate or higher degree in  
7 perfusion registered by the department, or the substantial equivalent as  
8 determined by the department; or

9 b. has completed a baccalaureate or higher degree and a credit bearing  
10 certificate program in perfusion acceptable to the department; or

11 c. until two years from the effective date of this title, has  
12 completed a baccalaureate or higher degree and an accredited training  
13 program in perfusion acceptable to the department pursuant to regu-  
14 lations.

15 3. Examination: has obtained a passing score on an examination accept-  
16 able to the department;

17 4. Age: at the time of application is at least twenty-one years of  
18 age;

19 5. Character: be of good moral character as determined by the depart-  
20 ment; and

21 6. Fee: pay a fee determined by the department for an initial license  
22 and for each triennial registration period.

23 § 6633. Special provisions. An individual who meets the requirements  
24 for a license as a licensed perfusionist except for examination, experi-  
25 ence and education and who meets the requirements enumerated under  
26 subdivisions one or two of this section may be licensed without meeting  
27 additional requirements provided that such individual submits an appli-

1 cation to the department within two years of the effective date of this  
2 section.

3 1. Applicants may be licensed if they have been practicing as a perfu-  
4 sionist for five years in the past ten years in an inpatient unit that  
5 provides cardiac surgery services in a hospital approved by the depart-  
6 ment or a substantially equivalent accrediting body acceptable to the  
7 committee and the department at least three of such years of experience  
8 having occurred during the past five years.

9 2. Applicants who possess certification from a national certification  
10 organization acceptable to the committee and the department may be  
11 licensed if they have been employed as a perfusionist for three of the  
12 past five years.

13 § 6634. State committee for perfusion. 1. A state committee for perfu-  
14 sion shall be appointed by the department upon the recommendation of the  
15 commissioner as a committee of the board for medicine to advise solely  
16 in matters relating to perfusion and shall assist on matters of licen-  
17 sure and professional conduct.

18 2. The committee shall consist of no fewer than eight individuals, to  
19 be composed of a minimum of the following:

- 20 a. four licensed perfusionists;  
21 b. two licensed physicians; and  
22 c. two representatives of the public at large.

23 § 6635. Limited permits. 1. Eligibility. A person who fulfills all  
24 requirements for licensure as a perfusionist except that relating to the  
25 examination shall be eligible for a limited permit.

26 2. Limit of practice. A permittee shall be authorized to practice as a  
27 perfusionist only under the supervision of a licensed perfusionist and  
28 pursuant to the order and direction of a physician.

1 3. Duration. A limited permit shall expire one year from the date of  
2 issuance. A limited permit may be extended for one additional year for  
3 good cause as determined by the department.

4 4. Fees. The fee for each limited permit shall be one hundred five  
5 dollars.

6 § 6636. Exempt persons. This title shall not prohibit:

7 1. The practice of perfusion by any student who is engaged in clinical  
8 training in a general hospital licensed pursuant to article twenty-eight  
9 of this chapter or during the transport of patients or organs supported  
10 by extracorporeal or intracorporeal equipment and who is enrolled in a  
11 perfusion program approved by the department, provided such practice is  
12 limited to such clinical training which shall be carried out under the  
13 direct supervision of a licensed perfusionist and pursuant to the order  
14 and direction of a physician; or

15 2. The performance of any of the tasks or responsibilities included in  
16 the definition of perfusion by any other person licensed under this  
17 article, provided that such tasks or responsibilities are authorized by  
18 the title governing the profession pursuant to which said person is  
19 licensed; or

20 3. The practice of perfusion by any legally qualified perfusionist of  
21 any other state or territory who is serving in the armed forces or the  
22 public health service of the United States or who is employed by the  
23 veterans administration, while engaged in the performance of his or her  
24 duties.

25 TITLE 9

26 PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANTS

27 Section 6730. Introduction.

- 1        6731. Definition of physical therapy.
- 2        6732. Practice of physical therapy and the use of title "phys-  
3                ical therapist".
- 4        6733. State board for physical therapy.
- 5        6734. Requirements for a professional license.
- 6        6735. Limited permits; physical therapist.
- 7        6736. Exempt persons.
- 8        6737. Non-liability of licensed physical therapists for first  
9                aid or emergency treatment.
- 10       6738. Definition of physical therapist assistant.
- 11       6739. Duties of physical therapist assistants and the use of  
12               title "physical therapist assistant".
- 13       6740. Requirements for certification as a physical therapist  
14               assistant.
- 15       6741. Exemption.
- 16       6741-a. Limited permits; physical therapist assistant.
- 17       6742. Special provisions.
- 18       6742-a. Mandatory continuing education.
- 19       6743. Validity of existing licenses.
- 20       § 6730. Introduction. This title applies to the profession of physical  
21 therapy and provides for the licensing of physical therapists and for  
22 the certification of physical therapist assistants. The general  
23 provisions for all professions contained in title one of this article  
24 apply to this title.
- 25       § 6731. Definition of physical therapy. Physical therapy is defined  
26 as:
- 27       1. The evaluation, treatment or prevention of disability, injury,  
28 disease, or other condition of health using physical, chemical, and

1 mechanical means including, but not limited to heat, cold, light, air,  
2 water, sound, electricity, massage, mobilization, and therapeutic exer-  
3 cise with or without assistive devices, and the performance and inter-  
4 pretation of tests and measurements to assess pathophysiological, patho-  
5 mechanical, and developmental deficits of human systems to determine  
6 treatment, and assist in diagnosis and prognosis.

7 2. The use of roentgen rays or radium, or the use of electricity for  
8 surgical purposes such as cauterization shall not be included in the  
9 practice of physical therapy.

10 3. Such treatment shall be rendered pursuant to a referral which may  
11 be directive as to treatment by a licensed physician, dentist, podia-  
12 trist, nurse practitioner or licensed midwife, each acting within his or  
13 her lawful scope of practice, and in accordance with their diagnosis,  
14 except as provided in subdivision four of this section.

15 4. Such treatment may be rendered by a licensed physical therapist for  
16 ten visits or thirty days, whichever shall occur first, without a refer-  
17 ral from a physician, dentist, podiatrist, nurse practitioner or  
18 licensed midwife provided that:

19 a. The licensed physical therapist has practiced physical therapy on a  
20 full-time basis equivalent to not less than three years.

21 b. Each physical therapist licensed pursuant to this title shall  
22 provide written notice to each patient receiving treatment absent a  
23 referral from a physician, dentist, podiatrist, nurse practitioner or  
24 licensed midwife that physical therapy may not be covered by the  
25 patient's health care plan or insurer without such a referral and that  
26 such treatment may be a covered expense if rendered pursuant to a refer-  
27 ral. The physical therapist shall keep on file with the patient's  
28 records a form attesting to the patient's notice of such advice. Such

1 form shall be in duplicate, with one copy to be retained by the patient,  
2 signed and dated by both the physical therapist and the patient in such  
3 form as prescribed pursuant to regulations promulgated by the commis-  
4 sioner.

5 § 6732. Practice of physical therapy and the use of title "physical  
6 therapist". Only a person licensed or otherwise authorized under this  
7 title shall practice physical therapy or use the title "physical thera-  
8 pist", "physiotherapist" or "mechanotherapist" or the abbreviation of  
9 "P.T." in connection with his or her name or with any trade name in the  
10 conduct of his or her profession. Only a person licensed or otherwise  
11 authorized under this title to practice physical therapy, and who has  
12 obtained a doctorate in physical therapy may use the title "doctor of  
13 physical therapy" or abbreviation "D.P.T." in connection with his or her  
14 name or with any trade name to indicate or imply that the person is  
15 licensed or otherwise authorized to practice physical therapy.

16 § 6733. State board for physical therapy. A state board for physical  
17 therapy shall be appointed by the department on recommendation of the  
18 commissioner for the purpose of assisting the department on matters of  
19 professional licensing and professional conduct in accordance with  
20 section sixty-five hundred eight of this article. The board shall be  
21 composed of not less than eight licensed physical therapists and not  
22 less than one public representative. An executive secretary to the board  
23 shall be appointed by the department on recommendation of the commis-  
24 sioner.

25 § 6734. Requirements for a professional license. To qualify for a  
26 license as a physical therapist, an applicant shall fulfill the follow-  
27 ing requirements:

28 1. Application: file an application with the department;

- 1     2. Education: have received an education, including completion of a
- 2 master's degree or higher in physical therapy or determined to be equiv-
- 3 alent, in accordance with the commissioner's regulations;
- 4     3. Experience: have experience satisfactory to the board in accordance
- 5 with the commissioner's regulations;
- 6     4. Examination: pass an examination satisfactory to the board and in
- 7 accordance with the commissioner's regulations;
- 8     5. Age: be at least twenty-one years of age;
- 9     6. Character: be of good moral character as determined by the depart-
- 10 ment; and
- 11     7. Fees: pay a fee of one hundred seventy-five dollars to the depart-
- 12 ment for admission to a department conducted examination and for an
- 13 initial license; a fee of eighty-five dollars for each reexamination; a
- 14 fee of one hundred fifteen dollars for an initial license for persons
- 15 not requiring admission to a department conducted examination; and a fee
- 16 of one hundred fifty-five dollars for each triennial registration peri-
- 17 od.
- 18     § 6735. Limited permits; physical therapist. 1. The department shall
- 19 issue a limited permit to an applicant who meets all requirements for
- 20 admission to the licensing examination.
- 21     2. All practice under a limited permit shall be under the supervision
- 22 of a licensed physical therapist in a public hospital, an incorporated
- 23 hospital or clinic, a licensed proprietary hospital, a licensed nursing
- 24 home, a public health agency, a recognized public or non-public school
- 25 setting, the office of a licensed physical therapist, or in the civil
- 26 service of the state or political subdivision thereof.
- 27     3. Limited permits shall be for six months and the department may for
- 28 justifiable cause renew a limited permit provided that no applicant

1 shall practice under any limited permit for more than a total of one  
2 year.

3 4. Supervision of a permittee by a licensed physical therapist shall  
4 be on-site supervision and not necessarily direct personal supervision  
5 except that such supervision need not be on-site when the supervising  
6 physical therapist has determined, through evaluation, the setting of  
7 goals and the establishment of a treatment plan, that the program is one  
8 of maintenance as defined pursuant to title XVIII of the federal social  
9 security act.

10 5. The fee for each limited permit and for each renewal shall be  
11 seventy dollars.

12 § 6736. Exempt persons. 1. This title shall not be construed to affect  
13 or prevent the administration of physical therapy or the use of modali-  
14 ties by a person employed by a licensed physician or physical therapist  
15 in his or her office, or in the civil service of the state or any poli-  
16 tical subdivision thereof, or in a hospital or clinic, or in an infir-  
17 mary maintained by a person, firm or corporation employing one or more  
18 full-time licensed physicians or physical therapists, provided that such  
19 person was so employed for a period of at least two years prior to April  
20 tenth, nineteen hundred fifty, and has been issued a written authori-  
21 zation by the department.

22 2. This title shall not be construed to affect or prevent:

23 a. a physical therapy student from engaging in clinical practice under  
24 the supervision of a licensed physical therapist as part of a program  
25 conducted in an approved school of physical therapy or in a clinical  
26 facility or health care agency affiliated with the school of physical  
27 therapy and supervision of a physical therapy student by a licensed

1 physical therapist shall be on-site supervision and not necessarily  
2 direct personal supervision;

3 b. a physical therapist graduate of an approved program from engaging  
4 in clinical practice under the on-site, but not necessarily direct  
5 personal supervision of a licensed physical therapist provided the grad-  
6 uate has: (i) applied and paid a fee for the licensing and examination,  
7 (ii) applied and paid a fee for the temporary permit. This exemption  
8 shall not extend beyond ninety days after graduation;

9 c. a physical therapist licensed in another state or country from  
10 conducting a teaching clinical demonstration in connection with a  
11 program of basic clinical education, graduate education, or post-gradu-  
12 ate education in an approved school of physical therapy or in its affil-  
13 iated clinical facility or health care agency, or before a group of  
14 licensed physical therapists who are members of a professional society;

15 d. a physical therapist who is serving in the armed forces or the  
16 public health service of the United States or is employed by the veter-  
17 ans administration from practicing the profession of physical therapy,  
18 provided such practice is limited to such service or employment.

19 § 6737. Non-liability of licensed physical therapists for first aid or  
20 emergency treatment. Notwithstanding any inconsistent provision of any  
21 general, special or local law, any licensed physical therapist who  
22 voluntarily and without the expectation of monetary compensation renders  
23 first aid or emergency treatment at the scene of an accident or other  
24 emergency, outside a hospital, doctor's office or any other place having  
25 proper and necessary physical therapy equipment, to a person who is  
26 unconscious, ill or injured, shall not be liable for damages for inju-  
27 ries alleged to have been sustained by such person or for damages for  
28 the death of such person alleged to have occurred by reason of an act or

1 omission in the rendering of such first aid or emergency treatment  
2 unless it is established that such injuries were or such death was  
3 caused by gross negligence on the part of such physical therapist. Noth-  
4 ing in this section shall be deemed or construed to relieve a licensed  
5 physical therapist from liability for damages for injuries or death  
6 caused by an act or omission on the part of a physical therapist while  
7 rendering professional services in the normal and ordinary course of his  
8 or her practice.

9 § 6738. Definition of physical therapist assistant. 1. A "physical  
10 therapist assistant" means a person certified in accordance with this  
11 title who works under the supervision of a licensed physical therapist  
12 performing such patient related activities as are assigned by the super-  
13 vising physical therapist. Duties of physical therapist assistants shall  
14 not include evaluation, testing, interpretation, planning or modifica-  
15 tion of patient programs. Supervision of a physical therapist assistant  
16 by a licensed physical therapist shall be on-site supervision, but not  
17 necessarily direct personal supervision. The number of physical thera-  
18 pist assistants supervised by one licensed physical therapist shall not  
19 exceed the ratio of four physical therapist assistants to one licensed  
20 physical therapist as shall be determined by the commissioner's regu-  
21 lations insuring that there be adequate supervision in the best interest  
22 of public health and safety. Nothing in this section shall prohibit a  
23 hospital from employing physical therapist assistants, provided they  
24 work under the supervision of physical therapists designated by the  
25 hospital and not beyond the scope of practice of a physical therapist  
26 assistant. The numerical limitation of this section shall not apply to  
27 work performed in a hospital, provided that there be adequate super-  
28 vision in the best interest of public health and safety.

1 2. Notwithstanding the provisions of subdivision one of this section,  
2 supervision of a physical therapist assistant by a licensed physical  
3 therapist, a. in a residential health care facility, as defined in arti-  
4 cle twenty-eight of this chapter, b. in a diagnostic and treatment  
5 center licensed under article twenty-eight of this chapter that  
6 provides, as its principal mission, services to individuals with devel-  
7 opmental disabilities, c. in a facility, as defined in section 1.03 of  
8 the mental hygiene law, or d. under a monitored program of the office  
9 for people with developmental disabilities as defined in subdivision (a)  
10 of section 13.15 of the mental hygiene law, shall be continuous but not  
11 necessarily on site when the supervising physical therapist has deter-  
12 mined, through evaluation, the setting of goals and the establishment of  
13 a treatment plan, that the program is one of maintenance as defined  
14 pursuant to title XVIII of the federal social security act. The  
15 provisions of this subdivision shall not apply to the provision of phys-  
16 ical therapy services when the condition requires multiple adjustments  
17 of sequences and procedures due to rapidly changing physiological status  
18 and/or response to treatment, or to children under five years of age.

19 3. For the purposes of the provision of physical therapist assistant  
20 services in a home care services setting, as such services are defined  
21 in article thirty-six of this chapter, except that the home care  
22 services setting shall not include early intervention services as  
23 defined in title two-A of article twenty-five of this chapter, whether  
24 such services are provided by a home care services agency or under the  
25 supervision of a physical therapist licensed pursuant to this title,  
26 continuous supervision of a physical therapist assistant, who has had  
27 direct clinical experience for a period of not less than two years, by a  
28 licensed physical therapist shall not be construed as requiring the

1 physical presence of such licensed physical therapist at the time and  
2 place where such services are performed. For purposes of this subdivi-  
3 sion "continuous supervision" shall be deemed to include: a. the  
4 licensed physical therapist's setting of goals, establishing a plan of  
5 care and determining whether the patient is appropriate to receive the  
6 services of a physical therapist assistant subject to the licensed phys-  
7 ical therapist's evaluation; b. an initial joint visit with the patient  
8 by the supervising licensed physical therapist and the physical thera-  
9 pist assistant; c. periodic treatment and evaluation of the patient by  
10 the supervising licensed physical therapist, as indicated in the plan of  
11 care and as determined in accordance with patient need, but in no  
12 instance shall the interval between such treatment exceed every six  
13 patient visits or thirty days, whichever occurs first; and d. a final  
14 evaluation by the supervising licensed physical therapist to determine  
15 if the plan of care shall be terminated. For purposes of this subdivi-  
16 sion, the number of physical therapist assistants supervised in the home  
17 care services setting by a licensed physical therapist shall not exceed  
18 the ratio of two physical therapist assistants to one licensed physical  
19 therapist.

20 4. a. For purposes of the provision of physical therapist assistant  
21 services in public primary or private primary or secondary schools and  
22 for preschool children, as that term is defined in paragraph i of subdi-  
23 vision one of section forty-four hundred ten of the education law, and  
24 receiving services thereunder, continuous supervision of a physical  
25 therapist assistant, who has direct clinical experience providing age  
26 appropriate physical therapy services for a period of not less than two  
27 years, by a licensed physical therapist shall not be construed as  
28 requiring the physical presence of such licensed physical therapist at

1 the time and place where such services are performed. For purposes of  
2 this subdivision "continuous supervision" shall be deemed to include:

3 (i) the licensed physical therapist's setting of the goals, establish-  
4 ing a plan of care, determining on an initial and ongoing basis whether  
5 the patient is appropriate to receive the services of a physical thera-  
6 pist assistant, determining the frequency of joint visits with the  
7 patient by both the supervising licensed physical therapist and the  
8 physical therapist assistant, except that in no instance shall the  
9 interval between joint visits, be more than every ninety calendar days,  
10 subject to the licensed physical therapist's evaluation;

11 (ii) an initial joint visit with the patient by the supervising  
12 licensed physical therapist and physical therapist assistant;

13 (iii) periodic treatment and evaluation of the patient by the super-  
14 vising licensed physical therapist as indicated in the plan of care and  
15 as determined in accordance with patient need, except that in no  
16 instance shall the interval between such treatment exceed every twelfth  
17 visit or thirty days, whichever occurs first; and

18 (iv) notification of the supervising licensed physical therapist by  
19 the physical therapist assistant whenever there is a change in status,  
20 condition or performance of the patient.

21 b. This subdivision shall not apply to the provision of physical ther-  
22 apy services when a child's condition requires multiple adjustments of  
23 sequences and procedures due to rapidly changing physiologic status  
24 and/or response to treatment.

25 § 6739. Duties of physical therapist assistants and the use of title  
26 "physical therapist assistant". Only a person certified or otherwise  
27 authorized under this title shall participate in the practice of phys-  
28 ical therapy as a physical therapist assistant and only a person certi-

1 fied under this section shall use the title "physical therapist assist-  
2 ant".

3 § 6740. Requirements for certification as a physical therapist assist-  
4 ant. 1. Application: file an application with the department;

5 2. Education: have received an education including completion of a  
6 two-year college program in a physical therapist assistant program or  
7 equivalent in accordance with the commissioner's regulations;

8 3. Experience: have experience satisfactory to the state board for  
9 physical therapy in accordance with the commissioner's regulations;

10 4. Examination: pass an examination satisfactory to the board and in  
11 accordance with the commissioner's regulations;

12 5. Age: be at least eighteen years of age;

13 6. Character: be of good moral character as determined by the depart-  
14 ment;

15 7. Registration: all certified physical therapist assistants shall  
16 register triennially with the department in accordance with the regu-  
17 lations of the commissioner; and

18 8. Fees: pay a fee for an initial certificate of forty-five dollars,  
19 and for the biennial registration period ending December thirty-first,  
20 nineteen hundred eighty-two a fee of twenty dollars and a fee of fifty  
21 dollars for each triennial registration period.

22 § 6741. Exemption. 1. This title shall not be construed to affect or  
23 prevent a physical therapist assistant student from engaging in clinical  
24 assisting under the supervision of a licensed physical therapist as part  
25 of a program conducted in an approved program for physical therapist  
26 assistants or in a clinical facility or health care agency affiliated  
27 with the program for physical therapist assistants.

1 2. Supervision of a physical therapist assistant student by a licensed  
2 physical therapist shall be on-site supervision and not necessarily  
3 direct personal supervision.

4 3. Nothing in this title is intended to affect the overall medical  
5 direction by a licensed physician of a physical therapist assistant.

6 § 6741-a. Limited permits; physical therapist assistant. 1. The  
7 department shall issue a limited permit to an applicant who meets all  
8 requirements for admission to the certification examination.

9 2. All practice under a limited permit shall be under the supervision  
10 of a licensed physical therapist in a public hospital, an incorporated  
11 hospital or clinic, a licensed proprietary hospital, a licensed nursing  
12 home, a public health agency, a recognized public or non-public school  
13 setting, the office of a licensed physical therapist, or in the civil  
14 service of the state or political subdivision thereof.

15 3. Limited permits shall be for six months and the department may for  
16 justifiable cause renew a limited permit provided that no applicant  
17 shall practice under any limited permit for more than a total of one  
18 year.

19 4. Supervision of a permittee by a licensed physical therapist shall  
20 be on-site supervision and not necessarily direct personal supervision.

21 5. The fee for each limited permit and for each renewal shall be fifty  
22 dollars.

23 § 6742. Special provisions. 1. Any person who is employed as a phys-  
24 ical therapist assistant in a facility satisfactory to the state board  
25 for a period of not less than two years prior to the effective date of  
26 this title and who does not qualify for certification under subdivision  
27 two of section sixty-seven hundred forty of this title may be certified  
28 as a physical therapist assistant upon successful completion of an exam-

1 ination approved by the state board of physical therapy in accordance  
2 with the commissioner's regulations.

3 2. Application for examination for certification pursuant to this  
4 section must be submitted not later than January first, nineteen hundred  
5 eighty-five. The department shall provide a total of three such exam-  
6 inations. The third examination shall be given not later than April  
7 first, nineteen hundred eighty-five. The fee for examination or reexam-  
8 ination shall be twenty-five dollars for each examination. Any person  
9 who qualifies for admission to an examination pursuant to this section  
10 may practice as a physical therapist assistant in the course of his or  
11 her employment in a facility satisfactory to the state board until thir-  
12 ty days after notification of failure to qualify pursuant to this  
13 section.

14 3. Any person who was employed as a physical therapist assistant for  
15 at least two years prior to April first, nineteen hundred eighty-one,  
16 and who had attained permanent civil service status as a physical thera-  
17 pist assistant prior to that date, shall be issued written authorization  
18 from the department to continue working in that capacity without exam-  
19 ination. This authorization shall remain in effect until the person  
20 leaves the position in which the civil service status had been granted.

21 § 6742-a. Mandatory continuing education. 1. a. Each licensed physical  
22 therapist and certified physical therapist assistant required under this  
23 title to register triennially with the department to practice in the  
24 state shall comply with the provisions of the mandatory continuing  
25 education requirements prescribed in subdivision two of this section  
26 except as set forth in paragraphs b and c of this subdivision. Licensed  
27 physical therapist and certified physical therapist assistants who do  
28 not satisfy the mandatory continuing education requirements shall not

1 practice until they have met such requirements, and they have been  
2 issued a registration certificate, except that a licensed physical ther-  
3 apist or certified physical therapist assistant may practice without  
4 having met such requirements if he or she is issued a conditional regis-  
5 tration certificate pursuant to subdivision three of this section.

6 b. Each licensed physical therapist and certified physical therapist  
7 assistant shall be exempt from the mandatory continuing education  
8 requirement for the triennial registration period during which they are  
9 first licensed. In accordance with the intent of this section, adjust-  
10 ment to the mandatory continuing education requirement may be granted by  
11 the department for reasons of health certified by an appropriate health  
12 care professional, for extended active duty with the armed forces of the  
13 United States, or for other good cause acceptable to the department  
14 which may prevent compliance.

15 c. A licensed physical therapist and certified physical therapist  
16 assistant not engaged in practice, as determined by the department,  
17 shall be exempt from the mandatory continuing education requirement upon  
18 the filing of a statement with the department declaring such status. Any  
19 licensee who returns to the practice of physical therapy during the  
20 triennial registration period shall notify the department prior to reen-  
21 tering the profession and shall meet such mandatory education require-  
22 ments as shall be prescribed by regulations of the commissioner.

23 2. During each triennial registration period an applicant for regis-  
24 tration as a licensed physical therapist or certified physical therapist  
25 assistant shall complete a minimum of thirty-six hours of acceptable  
26 formal continuing education, as specified in subdivision four of this  
27 section. Any licensed physical therapist or certified physical therapist  
28 assistant whose first registration date following the effective date of

1 this section occurs less than three years from such effective date, but  
2 on or after January first, two thousand ten, shall complete continuing  
3 education hours on a prorated basis at the rate of one-half hour per  
4 month for the period beginning January first, two thousand ten up to the  
5 first registration date thereafter. A licensee who has not satisfied the  
6 mandatory continuing education requirements shall not be issued a trien-  
7 nial registration certificate by the department and shall not practice  
8 unless and until a conditional registration certificate is issued as  
9 provided for in subdivision three of this section. Continuing education  
10 hours taken during one triennium may not be transferred to a subsequent  
11 triennium.

12 3. The department, in its discretion, may issue a conditional regis-  
13 tration to a licensee who fails to meet the continuing education  
14 requirements established in subdivision two of this section but who  
15 agrees to make up any deficiencies and complete any additional education  
16 which the department may require. The fee for such a conditional regis-  
17 tration shall be the same as, and in addition to, the fee for the trien-  
18 nial registration. The duration of such conditional registration shall  
19 be determined by the department but shall not exceed one year. Any  
20 licensee who is notified of the denial of registration for failure to  
21 submit evidence, satisfactory to the department, of required continuing  
22 education and who practices without such registration may be subject to  
23 disciplinary proceedings pursuant to section sixty-five hundred ten of  
24 this article.

25 4. As used in subdivision two of this section, "acceptable formal  
26 education" shall mean formal courses of learning which contribute to  
27 professional practice in physical therapy and which meet the standards  
28 prescribed by regulations of the commissioner. Such formal courses of

1 learning shall include, but not be limited to, collegiate level credit  
2 and non-credit courses, professional development programs and technical  
3 sessions offered by national, state and local professional associations  
4 and other organizations acceptable to the department, and any other  
5 organized educational and technical programs acceptable to the depart-  
6 ment. The department may, in its discretion and as needed to contribute  
7 to the health and welfare of the public, require the completion of  
8 continuing education courses in specific subjects to fulfill this manda-  
9 tory continuing education requirement. Courses must be taken from a  
10 sponsor approved by the department, pursuant to the regulations of the  
11 commissioner.

12 5. Licensed physical therapist or certified physical therapist assist-  
13 ant shall maintain adequate documentation of completion of acceptable  
14 formal continuing education and shall provide such documentation at the  
15 request of the department. Failure to provide such documentation upon  
16 the request of the department shall be an act of misconduct subject to  
17 disciplinary proceedings pursuant to section sixty-five hundred ten of  
18 this article.

19 6. The mandatory continuing education fee shall be forty-five dollars,  
20 shall be payable on or before the first day of each triennial registra-  
21 tion period, and shall be paid in addition to the triennial registration  
22 fee required by section sixty-seven hundred thirty-four of this title.

23 § 6743. Validity of existing licenses. This title shall not be  
24 construed to affect the validity of existing licenses and permits or the  
25 continuation of any administrative actions or proceedings commenced  
26 prior to the effective date of this title.

1 TITLE 10

2 PHARMACY

3 Section 6800. Introduction.

4 6801. Definition of practice of pharmacy.

5 6801-a. Collaborative drug therapy management demonstration  
6 program.

7 6802. Definitions.

8 6803. Practice of pharmacy and use of title "pharmacist".

9 6804. State board of pharmacy.

10 6805. Requirements for a professional license.

11 6806. Limited permits.

12 6807. Exempt persons; special provisions.

13 6808. Registering and operating establishments.

14 6809. Identification of pharmacists.

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16 6810. Prescriptions.

17 6811. Misdemeanors.

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19 6813. Seizure.

20 6814. Records of shipment.

21 6815. Adulterating, misbranding and substituting.

22 6816. Omitting to label drugs, or labeling them wrongly.

23 6816-a. When substitution is required.

24 6819. Regulations making exceptions.

25 6820. Certification of coal-tar colors for drugs and cosmet-  
26 ics.

27 6821. Poison schedules; register.

- 1        6822. Examinations and investigations.
- 2        6823. Factory inspection.
- 3        6824. Injunction proceedings.
- 4        6825. Proof required in prosecution for certain violations.
- 5        6826. Drug retail price lists.
- 6        6826-a. Reducing certain copayments.
- 7        6827. Mandatory continuing education.
- 8        6828. Certificates of administration.
- 9        6829. Interpretation and translation requirements for  
10                prescription drugs and standardized medication label-  
11                ing.
- 12        6830. Standardized patient-centered data elements.
- 13        6831. Special provisions relating to outsourcing facilities.
- 14        6832. Limitations on assistance of an unlicensed person.
- 15        § 6800. Introduction. This title applies to the profession of pharma-  
16 cy. The general provisions for all professions contained in title one of  
17 this article apply to this title.
- 18        § 6801. Definition of practice of pharmacy. 1. The practice of the  
19 profession of pharmacy is defined as the administering, preparing,  
20 compounding, preserving, or the dispensing of drugs, medicines and ther-  
21 apeutic devices on the basis of prescriptions or other legal authority,  
22 and collaborative drug therapy management in accordance with the  
23 provisions of section sixty-eight hundred one-a of this title.
- 24        2. A licensed pharmacist may execute a non-patient specific regimen  
25 prescribed or ordered by a physician licensed in this state or nurse  
26 practitioner certified in this state, pursuant to rules and regulations  
27 promulgated by the commissioner. When a licensed pharmacist administers  
28 an immunizing agent, he or she shall:

1 a. report such administration by electronic transmission or facsimile  
2 to the patient's attending primary health care practitioner or practi-  
3 tioners, if any, and, to the extent practicable, make himself or herself  
4 available to discuss the outcome of such immunization, including any  
5 adverse reactions, with the attending primary health care practitioner,  
6 and to the statewide immunization registry or the citywide immunization  
7 registry, as established pursuant to and to the extent permitted by  
8 section twenty-one hundred sixty-eight of this chapter; and

9 b. provide information to the patient or, where applicable, the person  
10 legally responsible for the patient, on the importance of having a  
11 primary health care practitioner, developed by the commissioner; and

12 c. report such administration, absent of any individually identifiable  
13 health information, to the department in a manner required by the  
14 commissioner; and

15 d. prior to administering the immunization, inform the patient or,  
16 where applicable, the person legally responsible for the patient, of the  
17 total cost of the immunization or immunizations, subtracting any health  
18 insurance subsidization, if applicable. In the case the immunization is  
19 not covered, the pharmacist must inform the patient or, where applica-  
20 ble, the person legally responsible for the patient, of the possibility  
21 that the immunization may be covered when administered by a primary care  
22 physician or practitioner; and

23 e. administer the immunization or immunizations according to the most  
24 current recommendations by the advisory committee for immunization prac-  
25 tices (ACIP), provided however, that a pharmacist may administer any  
26 immunization authorized under this section when specified by a patient  
27 specific order.

1 3. No pharmacist shall administer immunizing agents without receiving  
2 training satisfactory to the commissioner which shall include, but not  
3 be limited to, techniques for screening individuals and obtaining  
4 informed consent; techniques of administration; indications, precautions  
5 and contraindications in the use of agent or agents; record keeping of  
6 immunization and information; and handling emergencies, including  
7 anaphylaxis and needlesticks.

8 4. When administering an immunization in a pharmacy, the licensed  
9 pharmacist shall provide an area for the immunization that provides for  
10 a patient's privacy. The privacy area should include:

11 a. a clearly visible posting of the most current "Recommended Adult  
12 Immunization Schedule" published by the advisory committee for immuniza-  
13 tion practices (ACIP); and

14 b. education materials on influenza vaccinations for children as  
15 determined by the commissioner.

16 5. A licensed pharmacist may execute a non-patient specific order, for  
17 dispensing up to a seven-day starter pack of HIV post-exposure prophy-  
18 laxis medications for the purpose of preventing human immunodeficiency  
19 virus infection, by a physician licensed in this state or nurse practi-  
20 tioner certified in this state, pursuant to rules and regulations  
21 promulgated by the commissioner following a potential human immunodefi-  
22 ciency virus exposure.

23 6. A licensed pharmacist may execute a non-patient-specific regimen of  
24 insulin and related supplies to an individual who has a valid  
25 prescription for insulin and related supplies which has since expired  
26 within the last twelve months. The valid prescription must have been  
27 prescribed or ordered by a physician licensed in this state or nurse

1 practitioner certified in this state. Execution of a non-patient-specific  
2 ic regimen shall be on an emergency basis provided the pharmacist:

3 a. first attempts to obtain an authorization from the prescriber of  
4 the patient-specific prescription and cannot obtain the authorization,  
5 and the prescriber does not object to dispensing to the patient under  
6 the non-patient-specific regimen;

7 b. provides a refill of the patient-specific prescription and the  
8 quantity of that refill is in conformity with the directions for use  
9 under the patient-specific prescription, but limited to an amount not to  
10 exceed a thirty-day emergency supply; and

11 c. notifies, within seventy-two hours of dispensing the refill or  
12 refills, the prescriber of the patient-specific prescription whose  
13 authorization could not be obtained, that an emergency prescription of  
14 insulin has been dispensed.

15 § 6801-a. Collaborative drug therapy management demonstration program.

16 1. As used in this section, the following terms shall have the following  
17 meanings:

18 a. "Board" shall mean the state board of pharmacy as established by  
19 section sixty-eight hundred four of this title.

20 b. "Clinical services" shall mean the collection and interpretation of  
21 patient data for the purpose of initiating, modifying and monitoring  
22 drug therapy with associated accountability and responsibility for  
23 outcomes in a direct patient care setting.

24 c. "Collaborative drug therapy management" shall mean the performance  
25 of clinical services by a pharmacist relating to the review, evaluation  
26 and management of drug therapy to a patient, who is being treated by a  
27 physician for a specific disease or associated disease states, in  
28 accordance with a written agreement or protocol with a voluntarily

1 participating physician and in accordance with the policies, procedures,  
2 and protocols of the facility. Such agreement or protocol as entered  
3 into by the physician and a pharmacist, may include, and shall be limit-  
4 ed to:

5 (i) adjusting or managing a drug regimen of a patient, pursuant to a  
6 patient specific order or protocol made by the patient's physician,  
7 which may include adjusting drug strength, frequency of administration  
8 or route of administration. Adjusting the drug regimen shall not  
9 include substituting or selecting a different drug which differs from  
10 that initially prescribed by the patient's physician unless such substi-  
11 tution is expressly authorized in the written order or protocol. The  
12 pharmacist shall be required to immediately document in the patient  
13 record changes made to the patient's drug therapy and shall use any  
14 reasonable means or method established by the facility to notify the  
15 patient's other treating physicians with whom he or she does not have a  
16 written agreement or protocol regarding such changes. The patient's  
17 physician may prohibit, by written instruction, any adjustment or change  
18 in the patient's drug regimen by the pharmacist;

19 (ii) evaluating and, only if specifically authorized by the protocol  
20 and only to the extent necessary to discharge the responsibilities set  
21 forth in this section, ordering disease state laboratory tests related  
22 to the drug therapy management for the specific disease or disease state  
23 specified within the written agreement or protocol; and

24 (iii) only if specifically authorized by the written agreement or  
25 protocol and only to the extent necessary to discharge the responsibil-  
26 ities set forth in this section, ordering or performing routine patient  
27 monitoring functions as may be necessary in the drug therapy management,  
28 including the collecting and reviewing of patient histories, and order-

1 ing or checking patient vital signs, including pulse, temperature, blood  
2 pressure and respiration.

3 d. "Facility" shall mean: (i) a teaching hospital or general hospital,  
4 including any diagnostic center, treatment center, or hospital-based  
5 outpatient department as defined in section twenty-eight hundred one of  
6 this chapter; or (ii) a nursing home with an on-site pharmacy staffed by  
7 a licensed pharmacist; provided, however, for the purposes of this  
8 section the term "facility" shall not include dental clinics, dental  
9 dispensaries, residential health care facilities and rehabilitation  
10 centers. For the purposes of this section, a "teaching hospital" shall  
11 mean a hospital licensed pursuant to article twenty-eight of this chap-  
12 ter that is eligible to receive direct or indirect graduate medical  
13 education payments pursuant to article twenty-eight of this chapter.

14 e. "Physician" shall mean the physician selected by or assigned to a  
15 patient, who has primary responsibility for the treatment and care of  
16 the patient for the disease and associated disease states that are the  
17 subject of the collaborative drug therapy management.

18 f. "Written agreement or protocol" shall mean a written document,  
19 pursuant to and consistent with any applicable state or federal require-  
20 ments, that addresses a specific disease or associated disease states  
21 and that describes the nature and scope of collaborative drug therapy  
22 management to be undertaken by the pharmacists, in collaboration with  
23 the participating physician in accordance with the provisions of this  
24 section.

25 2. a. A pharmacist who meets the experience requirements of paragraph  
26 b of this subdivision and who is employed by or otherwise affiliated  
27 with a facility shall be permitted to enter into a written agreement or  
28 protocol with a physician authorizing collaborative drug therapy manage-

1 ment, subject to the limitations set forth in this section, within the  
2 scope of such employment or affiliation.

3 b. A participating pharmacist must:

4 (i) (A) have been awarded either a master of science in clinical phar-  
5 macy or a doctor of pharmacy degree;

6 (B) maintain a current unrestricted license; and

7 (C) have a minimum of two years experience, of which at least one year  
8 of such experience shall include clinical experience in a health facili-  
9 ty, which involves consultation with physicians with respect to drug  
10 therapy and may include a residency at a facility involving such consul-  
11 tation; or

12 (ii) (A) have been awarded a bachelor of science in pharmacy;

13 (B) maintain a current unrestricted license; and

14 (C) within the last seven years, have a minimum of three years experi-  
15 ence, of which at least one year of such experience shall include clin-  
16 ical experience in a health facility, which involves consultation with  
17 physicians with respect to drug therapy and may include a residency at a  
18 facility involving such consultation; and

19 (iii) meet any additional education, experience, or other requirements  
20 set forth by the department in consultation with the board.

21 c. Notwithstanding any provision of law, nothing in this section shall  
22 prohibit a licensed pharmacist from engaging in clinical services asso-  
23 ciated with collaborative drug therapy management, in order to gain  
24 experience necessary to qualify under clause (C) of subparagraph (i) or  
25 (ii) of paragraph b of this subdivision, provided that such practice is  
26 under the supervision of a pharmacist that currently meets the refer-  
27 enced requirement, and that such practice is authorized under the writ-  
28 ten agreement or protocol with the physician.

1 d. Notwithstanding any provision of this section, nothing herein shall  
2 authorize the pharmacist to diagnose disease. In the event that a treat-  
3 ing physician may disagree with the exercise of professional judgment by  
4 a pharmacist, the judgment of the treating physician shall prevail.

5 3. The physician who is a party to a written agreement or protocol  
6 authorizing collaborative drug therapy management shall be employed by  
7 or otherwise affiliated with the same facility with which the pharmacist  
8 is also employed or affiliated.

9 4. The existence of a written agreement or protocol on collaborative  
10 drug therapy management and the patient's right to choose to not partic-  
11 ipate in collaborative drug therapy management shall be disclosed to any  
12 patient who is eligible to receive collaborative drug therapy manage-  
13 ment. Collaborative drug therapy management shall not be utilized unless  
14 the patient or the patient's authorized representative consents, in  
15 writing, to such management. If the patient or the patient's authorized  
16 representative consents, it shall be noted on the patient's medical  
17 record. If the patient or the patient's authorized representative who  
18 consented to collaborative drug therapy management chooses to no longer  
19 participate in such management, at any time, it shall be noted on the  
20 patient's medical record. In addition, the existence of the written  
21 agreement or protocol and the patient's consent to such management shall  
22 be disclosed to the patient's primary physician and any other treating  
23 physician or healthcare provider.

24 5. Participation in a written agreement or protocol authorizing colla-  
25 borative drug therapy management shall be voluntary, and no patient,  
26 physician, pharmacist, or facility shall be required to participate.

27 6. Nothing in this section shall be deemed to limit the scope of prac-  
28 tice of pharmacy nor be deemed to limit the authority of pharmacists and

1 physicians to engage in medication management prior to the effective  
2 date of this section and to the extent authorized by law.

3 § 6802. Definitions. 1. "Pharmacy" means any place in which drugs,  
4 prescriptions or poisons are possessed for the purpose of compounding,  
5 preserving, dispensing or retailing, or in which drugs, prescriptions or  
6 poisons are compounded, preserved, dispensed or retailed, or in which  
7 such drugs, prescriptions or poisons are by advertising or otherwise  
8 offered for sale at retail.

9 3. "Formulary" means the latest edition of the official national  
10 formulary, and its supplement.

11 4. "Pharmacopeia", when not otherwise limited, means the latest  
12 edition of the official United States pharmacopeia, and its supplement.

13 5. "Homeopathic pharmacopeia" means the official homeopathic pharma-  
14 copeia of the United States, and its supplement.

15 6. "Official compendium" means the official United States pharmacop-  
16 eia, official homeopathic pharmacopeia of the United States, official  
17 national formulary, or their supplements.

18 7. "Drugs" means:

19 a. Articles recognized in the official United States pharmacopeia,  
20 official homeopathic pharmacopeia of the United States, or official  
21 national formulary.

22 b. Articles intended for use in the diagnosis, cure, mitigation,  
23 treatment or prevention of disease in man or animals.

24 c. Articles (other than food) intended to affect the structure or any  
25 function of the body of man or animals.

26 d. Articles intended for use as a component of any article specified  
27 in paragraph a, b, or c of this subdivision; but does not include  
28 devices or their components, parts or accessories.

1 8. "Cosmetics" means:

2 a. Articles intended to be rubbed, poured, sprinkled or sprayed on,  
3 introduced into or otherwise applied to the human body for cleansing,  
4 beautifying, promoting attractiveness, or altering the appearance.

5 b. Articles intended for use as a component of any such articles;  
6 except that the term shall not include soap.

7 9. "Poison", where not otherwise limited, means any drug, chemical or  
8 preparation likely to be destructive to adult human life in quantity of  
9 sixty grains or less.

10 10. "Label" means a display of written, printed or pictorial matter  
11 upon the immediate container of any drug, device or cosmetic. Any  
12 requirement made by or under authority of this title, that any word,  
13 statement, or other information appear on the label shall not be consid-  
14 ered to be complied with unless such word, statement or other informa-  
15 tion also appears on the outside container or wrapper, if there be any,  
16 of the retail package of such drug, device or cosmetic or is easily  
17 legible through the outside container or wrapper.

18 11. "Immediate container" does not include package liners.

19 12. "Labeling" means all labels and other written, printed or pictori-  
20 al matter:

21 a. Upon any drug, device or cosmetic or any of its containers or wrap-  
22 pers, or

23 b. Accompanying such drug, device or cosmetic.

24 13. "Misbranding". If a drug, device or cosmetic is alleged to be  
25 misbranded because the labeling is misleading, or if an advertisement is  
26 alleged to be false because it is misleading then in determining whether  
27 the labeling or advertisement is misleading there shall be taken into  
28 account (among other things) not only representations made or suggested

1 by statement, word, design, device, sound or any combination thereof,  
2 but also the extent to which the labeling fails to reveal facts material  
3 in the light of such representations or material with respect to conse-  
4 quences which may result from the use of the drug, device, or cosmetic  
5 to which the labeling or advertising relates under the conditions of use  
6 prescribed in the labeling or advertising thereof or under such condi-  
7 tions of use as are customary or usual. No drug, device or cosmetic  
8 which is subject to, and complies with regulations promulgated under the  
9 provisions of the Federal Food, Drug, and Cosmetic Act, relating to  
10 adulteration and misbranding shall be deemed to be adulterated or  
11 misbranded in violation of the provisions of this title because of its  
12 failure to comply with the board's regulations, or the rules of the  
13 state board of pharmacy, insofar as the regulations are in conflict with  
14 regulations relating to adulteration and misbranding under the Federal  
15 Food, Drug and Cosmetic Act.

16 14. "Antiseptic". The representation of a drug, device or cosmetic in  
17 its labeling, as an antiseptic, shall be considered to be a represen-  
18 tation that it is a germicide, except in the case of a drug purporting  
19 to be, or represented as, an antiseptic for inhibitory use as a wet  
20 dressing, ointment, dusting powder, or such other use as involves  
21 prolonged contact with the body.

22 15. "New drug" means:

23 a. Any drug not generally recognized, among experts qualified by  
24 scientific training and experience to evaluate the safety and effective-  
25 ness of drugs, as safe and effective for use under the conditions  
26 prescribed, recommended or suggested by the drug's labeling, except that  
27 such a drug not so recognized shall not be deemed to be a "new drug" if  
28 at any time prior to September first, nineteen hundred thirty-nine it

1 was subject to the former federal food and drug act of June thirtieth,  
2 nineteen hundred six, as amended, and if at such time its labeling  
3 contained the same representations concerning the conditions of its use;

4 b. Any drug, the composition of which is such that the drug, as a  
5 result of investigations to determine its safety and effectiveness for  
6 use under such conditions, has become recognized, but which has not  
7 otherwise than in such investigations been used to a material extent or  
8 for a material time under such conditions.

9 16. "Device" means instruments, apparatus, and contrivances, including  
10 their components, parts and accessories, intended:

11 a. For use in the diagnosis, cure, mitigation, treatment, or  
12 prevention of disease in man or animals; or

13 b. To affect the structure or any function of the body of man or  
14 animals.

15 17. The term "Federal Food, Drug and Cosmetic Act" means the Federal  
16 Food, Drug, and Cosmetic Act of the United States of America, approved  
17 June twenty-fifth, nineteen hundred thirty-eight, officially cited as  
18 public document number seven hundred seventeen--seventy-fifth congress  
19 (chapter six hundred seventy-five--third session), and all its amend-  
20 ments now or hereafter enacted.

21 18. "Wholesaler" means a person who bottles, packs or purchases drugs,  
22 devices or cosmetics for the purpose of selling or reselling to pharma-  
23 cies or to other channels as provided in this title.

24 19. "Advertisement" means all representations disseminated in any  
25 manner or by any means, other than by labeling, for the purpose of  
26 inducing, or which are likely to induce, directly or indirectly, the  
27 purchase of drugs, devices or cosmetics.

1 20. "Controlled substance" means any drug defined as a controlled  
2 substance by article thirty-three of this chapter.

3 21. "Manufacturer" means a person who compounds, mixes, prepares,  
4 produces, and bottles or packs drugs, cosmetics or devices for the  
5 purpose of distributing or selling to pharmacies or to other channels of  
6 distribution.

7 22. "Administer", for the purpose of section sixty-eight hundred one  
8 of this title, means:

9 a. the direct application of an immunizing agent to adults, whether by  
10 injection, ingestion, inhalation or any other means, pursuant to a  
11 patient specific order or non-patient specific regimen prescribed or  
12 ordered by a physician or certified nurse practitioner, for: immuniza-  
13 tions to prevent influenza, pneumococcal, acute herpes zoster, hepatitis  
14 A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicel-  
15 la, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease  
16 and medications required for emergency treatment of anaphylaxis; and  
17 other immunizations recommended by the advisory committee on immuniza-  
18 tion practices of the centers for disease control and prevention for  
19 patients eighteen years of age or older if the commissioner of education  
20 in consultation with the commissioner determines that an immunization:

21 (i) (A) may be safely administered by a licensed pharmacist within  
22 their lawful scope of practice; and (B) is needed to prevent the trans-  
23 mission of a reportable communicable disease that is prevalent in New  
24 York state; or (ii) is a recommended immunization for such patients who:  
25 (A) meet age requirements, (B) lack documentation of such immunization,  
26 (C) lack evidence of past infection, or (D) have an additional risk  
27 factor or another indication as recommended by the advisory committee on  
28 immunization practices of the centers for disease control and

1 prevention. If the commissioner determines that there is an outbreak of  
2 disease, or that there is the imminent threat of an outbreak of disease,  
3 then the commissioner may issue a non-patient specific regimen applica-  
4 ble statewide.

5 b. the direct application of an immunizing agent to children between  
6 the ages of two and eighteen years of age, whether by injection, inges-  
7 tion, inhalation or any other means, pursuant to a patient specific  
8 order or non-patient specific regimen prescribed or ordered by a physi-  
9 cian or certified nurse practitioner, for immunization to prevent influ-  
10 enza and medications required for emergency treatment of anaphylaxis  
11 resulting from such immunization. If the commissioner determines that  
12 there is an outbreak of influenza, or that there is the imminent threat  
13 of an outbreak of influenza, then the commissioner may issue a non-pa-  
14 tient specific regimen applicable statewide.

15 23. "Electronic prescription" means a prescription created, recorded,  
16 or stored by electronic means; issued with an electronic signature; and  
17 transmitted by electronic means, in accordance with regulations of the  
18 commissioner and federal regulations; provided, however, that an  
19 original hard copy prescription that is created electronically or other-  
20 wise may be transmitted from the prescriber to the pharmacist by facsim-  
21 ile and must be manually signed. "Electronic" means of or relating to  
22 technology having electrical, digital, magnetic, wireless, optical,  
23 electromagnetic, or similar capabilities. "Electronic signature" means  
24 an electronic sound, symbol, or process, attached to or logically asso-  
25 ciated with an electronic prescription and executed or adopted by a  
26 person with the intent to sign the prescription, in accordance with  
27 regulations of the commissioner and federal regulations.

1 24. "Compounding" means the combining, admixing, mixing, diluting,  
2 pooling, reconstituting, or otherwise altering of a drug or bulk drug  
3 substance to create a drug with respect to an outsourcing facility under  
4 section 503B of the Federal Food, Drug and Cosmetic Act and further  
5 defined in this section.

6 25. "Outsourcing facility" means a facility that:

7 a. is engaged in the compounding of sterile drugs;

8 b. is currently registered as an outsourcing facility with the  
9 Secretary of Health and Human Services; and

10 c. complies with all applicable requirements of federal and state law,  
11 including the Federal Food, Drug and Cosmetic Act.

12 26. "Sterile drug" means a drug that is intended for parenteral admin-  
13 istration, an ophthalmic or oral inhalation drug in aqueous format, or a  
14 drug that is required to be sterile under federal or state law.

15 27. "Biological product" means a biological product as defined in  
16 subsection (i) of section 351 of the Public Health Service Act, 42  
17 U.S.C. Section 262(i).

18 28. "Interchangeable biological product" means a biological product  
19 licensed by the United States Food and Drug Administration pursuant to  
20 42 U.S.C. Section 262(k)(4) as set forth in the latest edition or  
21 supplement of the United States Food and Drug Administration Lists of  
22 Licensed Biological Products with Reference Product Exclusivity and  
23 Biosimilarity or Interchangeability Evaluations, sometimes referred to  
24 as the "Purple Book", or a biological product determined by the United  
25 States Food and Drug Administration to be therapeutically equivalent as  
26 set forth in the latest edition or supplement of the United States Food  
27 and Drug Administration Approved Drug Products with Therapeutic Equiv-  
28 alence Evaluations, sometimes referred to as the "Orange Book".

1 § 6803. Practice of pharmacy and use of title "pharmacist". Only a  
2 person licensed or otherwise authorized under this title shall practice  
3 pharmacy or use the title "pharmacist" or any derivative.

4 § 6804. State board of pharmacy. A state board of pharmacy shall be  
5 appointed by the regents on recommendation of the commissioner for the  
6 purpose of assisting the regents and the department on matters of  
7 professional licensing and professional conduct in accordance with  
8 section sixty-five hundred eight of this article. The board shall be  
9 composed of not less than nine pharmacists licensed in this state for at  
10 least five years and two registered pharmacy technicians. The initial  
11 registered pharmacy technician members of the state board of pharmacy  
12 need not be licensed prior to their appointment but shall have met all  
13 other requirements of licensure pursuant to section sixty-eight hundred  
14 forty-four of this article except for filing an application and paying a  
15 fee. An executive secretary to the board shall be appointed by the  
16 regents on recommendation of the commissioner and shall be a pharmacist  
17 licensed in this state for at least five years. The board shall provide  
18 assistance to the department:

19 1. To regulate the practice of pharmacy, registered pharmacy techni-  
20 cians and the employment of interns and employees in pharmacies,

21 2. To regulate and control the sale, distribution, character and stan-  
22 dard of drugs, poisons, cosmetics, devices and new drugs,

23 3. To prevent the sale or distribution of such drugs, poisons, cosmet-  
24 ics, devices and new drugs as do not conform to the provisions of this  
25 chapter,

26 4. To investigate alleged violations of the provisions of this title,  
27 and

28 5. To issue limited permits or registrations.

1 § 6805. Requirements for a professional license. 1. To qualify for a  
2 pharmacist's license, an applicant shall fulfill the following require-  
3 ments:

4 a. Application: file an application with the department;

5 b. Education: have received an education, including a bachelor's or  
6 equivalent degree in pharmacy, in accordance with the commissioner's  
7 regulations;

8 c. Experience: have experience satisfactory to the board and in  
9 accordance with the commissioner's regulations;

10 d. Examination: pass an examination satisfactory to the board and in  
11 accordance with the commissioner's regulations;

12 e. Age: be at least twenty-one years of age;

13 f. Citizenship or immigration status: be a United States citizen or an  
14 alien lawfully admitted for permanent residence in the United States;

15 g. Character: be of good moral character as determined by the depart-  
16 ment; and

17 h. Fees: pay a fee of one hundred seventy-five dollars to the depart-  
18 ment for admission to a department conducted examination and for an  
19 initial license, a fee of eighty-five dollars for each re-examination, a  
20 fee of one hundred fifteen dollars for an initial license for persons  
21 not requiring admission to a department conducted examination, and a fee  
22 of one hundred fifty-five dollars for each triennial registration peri-  
23 od.

24 2. On or before April first, nineteen hundred seventy-two, any person  
25 who holds a valid license as "druggist" in this state shall make appli-  
26 cation and on the payment of fees specified in this title be licensed by  
27 the department as a pharmacist. Such person shall have all of the  
28 rights, privileges, duties and responsibilities of a pharmacist.

1 § 6806. Limited permits. 1. The department may issue a limited permit  
2 for employment as a "pharmacy intern" to:

3 a. A student enrolled in the last two years of a registered program in  
4 pharmacy, or

5 b. A graduate of a program in pharmacy which meets standards estab-  
6 lished by the commissioner's regulations who is engaged in meeting the  
7 experience requirements or whose application for initial licensure is  
8 pending with the department.

9 2. A pharmacy intern may, as determined by the commissioner's regu-  
10 lations, practice as a pharmacist under the immediate personal super-  
11 vision of a licensed pharmacist. A pharmacy intern may also receive a  
12 certificate of administration if he or she provides satisfactory  
13 evidence to the commissioner that he or she meets the requirements of  
14 subdivision three of this section.

15 3. No pharmacy intern shall administer immunizing agents without  
16 receiving training satisfactory to the commissioner, as prescribed in  
17 regulations of the commissioner, which shall include, but not be limited  
18 to: techniques for screening individuals and obtaining informed consent;  
19 techniques of administration; indications, precautions and contraindica-  
20 tions in the use of an agent or agents; recordkeeping of immunization  
21 and information; and handling emergencies, including anaphylaxis and  
22 needlestick injuries. To receive a certification to administer immuniza-  
23 tions, the pharmacy intern shall provide documentation, on a form  
24 prescribed by the department, from the dean or other appropriate offi-  
25 cial of the registered program that the intern has completed the  
26 required training, pursuant to regulations of the commissioner.

1 4. A limited permit issued to a pharmacy intern shall have an expira-  
2 tion date of five years from the date of issue. Limited permits may be  
3 renewed once for a period not to exceed two years.

4 5. The fee for each limited permit issued to a pharmacy intern shall  
5 be seventy dollars.

6 6. In the case of a pharmacy intern, certified to administer immuniza-  
7 tions, administration must be conducted under the immediate personal  
8 supervision of a licensed pharmacist certified to administer vaccines. A  
9 person receiving a vaccine must be informed that a pharmacy intern,  
10 certified to administer immunizations, will be administering the vaccine  
11 and of the option to receive the vaccination from a certified pharma-  
12 cist.

13 § 6807. Exempt persons; special provisions. 1. This title shall not be  
14 construed to affect or prevent:

15 a. Unlicensed assistants from being employed in licensed pharmacies  
16 for purposes other than the practice of pharmacy;

17 b. Any physician, dentist, veterinarian or other licensed health care  
18 provider legally authorized to prescribe drugs under this title who is  
19 not the owner of a pharmacy or who is not in the employ of such owner,  
20 from supplying his patients with such drugs as the physician, dentist,  
21 veterinarian or other licensed health care provider legally authorized  
22 to prescribe drugs under this title deems proper in connection with his  
23 practice, provided, however, that all such drugs shall be dispensed in a  
24 container labeled with the name and address of the dispenser and  
25 patient, directions for use, and date of delivery, and in addition, such  
26 drug shall bear a label containing the proprietary or brand name of the  
27 drug and, if applicable, the strength of the contents, unless the person  
28 issuing the prescription specifically states on the prescription in his

1 own handwriting, that the name of the drug and the strength thereof  
2 should not appear on the label; provided further that if such drugs are  
3 controlled substances, they shall be dispensed pursuant to the require-  
4 ments of article thirty-three of this chapter;

5 c. Any merchant from selling proprietary medicines, except those which  
6 are poisonous, deleterious or habit forming, or materials and devices  
7 specifically exempted by regulations of the department or by provisions  
8 of this chapter;

9 d. Any personnel in an institution of higher learning from using pres-  
10 cription-required drugs on the premises for authorized research, exper-  
11 iments or instruction, in accordance with the department's regulations  
12 and, if such drugs are controlled substances, in accordance with title  
13 three of article thirty-three of this chapter; or

14 e. The necessary and ordinary activities of manufacturers and whole-  
15 salers, subject to the provisions of article thirty-three of this chap-  
16 ter.

17 2. a. Notwithstanding the provisions of paragraph b of subdivision one  
18 of this section, no prescriber who is not the owner of a pharmacy or who  
19 is not in the employ of such owner, may dispense more than a seventy-  
20 two-hour supply of drugs, except for:

21 (i) persons practicing in hospitals as defined in section twenty-eight  
22 hundred one of this chapter;

23 (ii) the dispensing of drugs at no charge to their patients;

24 (iii) persons whose practices are situated ten miles or more from a  
25 registered pharmacy;

26 (iv) the dispensing of drugs in a clinic, infirmary or health service  
27 that is operated by or affiliated with a post-secondary institution;

28 (v) persons licensed pursuant to title eight of this article;

1 (vi) the dispensing of drugs in a medical emergency as defined in  
2 subdivision six of section sixty-eight hundred ten of this title;

3 (vii) the dispensing of drugs that are diluted, reconstituted or  
4 compounded by a prescriber;

5 (viii) the dispensing of allergenic extracts; or

6 (ix) the dispensing of drugs pursuant to an oncological or AIDS proto-  
7 col.

8 b. The commissioner may promulgate regulations to implement this  
9 subdivision and may, by regulation, establish additional renewable  
10 exemptions for a period not to exceed one year from the provisions of  
11 paragraph a of this subdivision.

12 3. A pharmacist may dispense drugs and devices to a registered profes-  
13 sional nurse, and a registered professional nurse may possess and admin-  
14 ister, drugs and devices, pursuant to a non-patient specific regimen  
15 prescribed or ordered by a licensed physician or certified nurse practi-  
16 tioner, pursuant to regulations promulgated by the commissioner and by  
17 provisions of this chapter.

18 § 6808. Registering and operating establishments. 1. Registration  
19 requirement. No person, firm, corporation or association shall possess  
20 drugs, prescriptions or poisons for the purpose of compounding, dispens-  
21 ing, retailing, wholesaling, or manufacturing, or shall offer drugs,  
22 prescriptions or poisons for sale at retail or wholesale unless regis-  
23 tered by the department as a pharmacy, wholesaler, manufacturer or  
24 outsourcing facility.

25 2. Pharmacies. a. Obtaining a registration. A pharmacy shall be  
26 registered as follows:

27 (i) The application shall be made on a form prescribed by the depart-  
28 ment.

1 (ii) The application shall be accompanied by a fee of three hundred  
2 forty-five dollars.

3 (iii) To secure and retain a registration, a pharmacy must be equipped  
4 with facilities, apparatus, utensils and stocks of drugs and medicines  
5 sufficient to permit the prompt and efficient compounding and dispensing  
6 of prescriptions, as prescribed by regulation.

7 b. Renewal of registration. All pharmacy registrations shall be  
8 renewed on dates set by the department. The triennial registration fee  
9 shall be two hundred sixty dollars, or a prorated portion thereof as  
10 determined by the department. At the time of renewal, the owner of every  
11 pharmacy shall report under oath to the department any facts required by  
12 the state board of pharmacy.

13 c. Display of registration. The registration shall be conspicuously  
14 displayed at all times in the pharmacy. The names of the owner or owners  
15 of a pharmacy shall be conspicuously displayed upon the exterior of such  
16 establishment. The names so displayed shall be presumptive evidence of  
17 ownership of such pharmacy by such person or persons. In the event that  
18 the owner of a licensed pharmacy is not a licensed pharmacist, the phar-  
19 macy registration issued shall also bear the name of the licensed phar-  
20 macist having personal supervision of the pharmacy. In the event that  
21 such licensed pharmacist shall no longer have personal supervision of  
22 the pharmacy, the owner shall notify the department of such fact and of  
23 the name of the licensed pharmacist replacing the pharmacist named on  
24 the license and shall apply for an amended registration showing the  
25 change. The amended registration must be attached to the original regis-  
26 tration and displayed in the same manner. Both the owner and the super-  
27 vising pharmacist shall be responsible for carrying out the provisions  
28 of this title.

1 d. Change of location. In the event that the location of a pharmacy  
2 shall be changed, the owner shall apply to the department for inspection  
3 of the new location and endorsement of the registration for the new  
4 location. The fee for inspection and endorsement shall be fifty dollars,  
5 unless it appears to the satisfaction of the department that the change  
6 in location is of temporary nature due to fire, flood or other disaster.

7 e. Conduct of a pharmacy. Every owner of a pharmacy is responsible for  
8 the strength, quality, purity and the labeling thereof of all drugs,  
9 toxic substances, devices and cosmetics, dispensed or sold, subject to  
10 the guaranty provisions of this title and this chapter. Every owner of a  
11 pharmacy or every pharmacist in charge of a pharmacy shall be responsi-  
12 ble for the proper conduct of their pharmacy. Every pharmacy shall be  
13 under the immediate supervision and management of a licensed pharmacist  
14 at all hours when open. No pharmacist shall have personal supervision  
15 of more than one pharmacy at the same time.

16 f. A pharmacy as a department. When a pharmacy is operated as a  
17 department of a larger commercial establishment, the area comprising the  
18 pharmacy shall be physically separated from the rest of the establish-  
19 ment, so that access to the pharmacy and drugs is not available when a  
20 pharmacist is not on duty. Identification of the area within the pharma-  
21 cy by use of the words "drugs", "medicines", "drug store", or "pharmacy"  
22 or similar terms shall be restricted to the area licensed by the depart-  
23 ment as a pharmacy.

24 g. Limited pharmacy registration. (i) When, in the opinion of the  
25 department, a high standard of patient safety, consistent with good  
26 patient care, can be provided by the registering of a pharmacy within a  
27 hospital, nursing home or extended care facility which does not meet all  
28 of the requirements for registration as a pharmacy, the department may

1 waive any requirements pertaining to full-time operation by a licensed  
2 pharmacist, minimum equipment, minimum space and waiting area, provided  
3 that when the waiver of any of the above requirements is granted by the  
4 board, the pharmaceutical services to be rendered by the pharmacy shall  
5 be limited to furnishing drugs to patients registered for treatment by  
6 the hospital, and to in-patients for treatment by the nursing home or  
7 extended care facility.

8 (ii) When in the opinion of the department, a high standard of patient  
9 safety, consistent with good patient care, can be provided by the regis-  
10 tering of a pharmacy within a facility distributing dialysis solutions  
11 for patients suffering from end stage renal disease and where the phar-  
12 maceutical services to be rendered by the pharmacy shall be limited to  
13 furnishing dialysis solutions to patients for whom such has been  
14 prescribed by a duly authorized prescriber, the department may waive  
15 certain requirements, including, but not limited to, full-time operation  
16 by a licensed pharmacist, minimum equipment, and minimum space and wait-  
17 ing area. Such solutions shall only be dispensed by employees who have  
18 completed an approved training program and who have demonstrated profi-  
19 ciency to perform the task or tasks of assembling, labeling or deliver-  
20 ing a patient order and who work under the general supervision of a  
21 licensed pharmacist who shall be responsible for the distribution,  
22 record keeping, labeling and delivery of all dialysis solutions  
23 dispensed by the distributor as required by the department.

24 (iii) The department shall promulgate such rules or regulations  
25 consistent with this paragraph as are necessary to ensure the safe  
26 distribution of such dialysis solutions, including establishment regis-  
27 tration and proper record keeping, storage, and labeling.

1 (iv) The initial registration fee and renewal fee for a limited phar-  
2 macy shall be three hundred forty-five dollars for each triennial regis-  
3 tration period.

4 h. Applicant registration. An applicant for registration as a pharmacy  
5 shall be of good moral character, as determined by the department. In  
6 the case of a corporate applicant, the requirement shall extend to all  
7 officers and directors and to stockholders having a ten percent or  
8 greater interest in the corporation.

9 3. Wholesaler's or manufacturer's registration. a. Obtaining a regis-  
10 tration. A wholesaler or manufacturer shall be registered as follows:

11 (i) The application shall be made on a form prescribed by the depart-  
12 ment.

13 (ii) The application shall be accompanied by a fee of eight hundred  
14 twenty-five dollars.

15 b. Renewal of registration. All wholesalers' and manufacturers' regis-  
16 trations shall be renewed on dates set by the department. The triennial  
17 registration fee shall be five hundred twenty dollars, or a prorated  
18 portion thereof as determined by the department.

19 c. Display of registration. The registration shall be displayed  
20 conspicuously at all times in the place of business.

21 d. Change of location. In the event that the location of such place of  
22 business shall be changed, the owner shall apply to the department for  
23 inspection of the new location and endorsement of the registration for  
24 the new location. The fee for inspection and endorsement shall be one  
25 hundred seventy dollars, unless it appears to the satisfaction of the  
26 department that the change in location is of a temporary nature due to  
27 fire, flood or other disaster.

1 4. Outsourcing facility's registration. a. Obtaining a registration.  
2 An outsourcing facility shall be registered as follows:  
3 (i) An application for initial registration or renewal of registration  
4 shall be made on a form prescribed by the department.  
5 (ii) An application for initial registration shall be accompanied by a  
6 fee of eight hundred twenty-five dollars.  
7 b. Renewal of registration. All outsourcing facilities' registrations  
8 shall be renewed on a date set by the department. The triennial regis-  
9 tration fee shall be five hundred twenty dollars, or a prorated portion  
10 thereof as determined by the department.  
11 c. Display of registration. The registration shall be displayed  
12 conspicuously in the place of business.  
13 d. Change of location. In the event that the location of such place of  
14 business shall be changed, the owner shall apply to the department for  
15 inspection of the new location and endorsement of the registration for  
16 the new location. The fee for inspection and endorsement shall be one  
17 hundred seventy-five dollars, unless it appears to the satisfaction of  
18 the department that the change in location is of a temporary nature due  
19 to fire, flood or other disaster.  
20 e. Report. Upon initially registering as an outsourcing facility and  
21 every six months thereafter, each outsourcing facility shall submit to  
22 the executive secretary of the state board of pharmacy a report:  
23 (i) identifying the drugs compounded by such outsourcing facility  
24 during the previous six-month period; and  
25 (ii) with respect to each drug identified under subparagraph (i) of  
26 this paragraph, providing the active ingredient; the source of such  
27 active ingredient; the National Drug Code number of the source drug or  
28 bulk active ingredient, if available; the strength of the active ingre-

1 dient per unit; the dosage form and route of administration; the package  
2 description; the number of individual units produced; and the National  
3 Drug Code number of the final product, if assigned.

4 f. Conduct of outsourcing facility. Every owner of an outsourcing  
5 facility is responsible for the strength, quality, purity and labeling  
6 thereof of all compounded drugs, subject to the guaranty provisions of  
7 this title and this chapter. Every outsourcing facility shall be under  
8 the immediate supervision and management of a pharmacist licensed to  
9 practice in New York state.

10 g. Applicant for registration. An applicant for registration of an  
11 outsourcing facility shall be of good moral character, as determined by  
12 the department. In the case of a corporate applicant, the requirement  
13 shall extend to all officers and directors and stakeholders having a ten  
14 percent or greater interest in the corporation.

15 5. Inspection. The state board of pharmacy and the department, and  
16 their employees designated by the commissioner, shall have the right to  
17 enter any pharmacy, wholesaler, manufacturer, outsourcing facility or  
18 vehicle and to inspect, at reasonable times, such factory, warehouse,  
19 establishment or vehicle and all records required by this title, perti-  
20 nent equipment, finished and unfinished materials, containers, and  
21 labels.

22 6. Penalties. A pharmacy, wholesaler, manufacturer or outsourcing  
23 facility registered under this section shall be under the supervision of  
24 the department and shall be subject to disciplinary proceedings and  
25 penalties in accordance with subtitle three of title one of this article  
26 in the same manner and to the same extent as individuals and profes-  
27 sional service corporations with respect to their licenses and registra-

1 tions, provided that failure to comply with the requirements of this  
2 section shall constitute professional misconduct.

3 7. Sale of drugs at auction. No controlled substance or substances and  
4 no poisonous or deleterious drugs or drugs in bulk or in opened contain-  
5 ers shall be sold at auction unless the place where such drugs are sold  
6 at auction shall have been registered by the board, and unless such sale  
7 shall be under the personal supervision of a licensed pharmacist. Drugs  
8 in open containers shall not be sold at auction unless the seller shall  
9 have in his or her possession a certificate of the board showing that  
10 such drugs have been inspected and meet the requirements of this title.  
11 In the event that the drug so sold is one as to which this title or any  
12 federal statute or any regulation adopted pursuant to this title or an  
13 applicable federal statute require that the expiration date be stated on  
14 each package, such drug may not be sold at auction after such expiration  
15 date or when such expiration date will occur within a period of thirty  
16 days or less from the date of sale.

17 § 6809. Identification of pharmacists. Every pharmacist on duty shall  
18 be identified by a badge designed by the state board of pharmacy, which  
19 shall contain his or her name and title.

20 § 6809-a. Registration of nonresident establishments. 1. Definition.  
21 The term "nonresident establishment" shall mean any pharmacy, manufac-  
22 turer, wholesaler, or outsourcing facility located outside of the state  
23 that ships, mails or delivers prescription drugs or devices to other  
24 establishments, authorized prescribers and/or patients residing in this  
25 state. Such establishments shall include, but not be limited to, pharma-  
26 cies that transact business through the use of the internet.

27 2. Registration. All nonresident establishments that ship, mail, or  
28 deliver prescription drugs and/or devices to other registered establish-

1 ments, authorized prescribers, and/or patients into this state shall be  
2 registered with the department; except that such registration shall not  
3 apply to intra-company transfers between any division, affiliate,  
4 subsidiaries, parent or other entities under complete common ownership  
5 and control. The provisions of this subdivision shall apply solely to  
6 nonresident establishments and shall not affect any other provision of  
7 this title.

8 3. Agent of record. Each nonresident establishment that ships, mails  
9 or delivers drugs and/or devices into this state shall designate a resi-  
10 dent agent in this state for service of process pursuant to rule three  
11 hundred eighteen of the civil practice law and rules.

12 4. Conditions of registration. As a condition of registration, a  
13 nonresident establishment shall comply with the following requirements:

14 a. Be licensed and/or registered and in good standing with the state  
15 of residence;

16 b. Maintain, in readily retrievable form, records of drugs and/or  
17 devices shipped into this state;

18 c. Supply, upon request, all information needed by the department to  
19 carry out the department's responsibilities under the laws and rules and  
20 regulations pertaining to nonresident establishments;

21 d. Comply with all statutory and regulatory requirements of the state  
22 where the nonresident establishment is located, for prescription drugs  
23 or devices shipped, mailed or delivered into this state, except that for  
24 controlled substances shipped, mailed or delivered into this state, the  
25 nonresident pharmacy shall follow federal law and New York law relating  
26 to controlled substances;

27 e. The application shall be made in the manner and form prescribed by  
28 the department;

1 f. The application of establishments to be registered as a manufactur-  
2 er, wholesaler or outsourcing facility of drugs and/or devices shall be  
3 accompanied by a fee as provided in section sixty-eight hundred eight of  
4 this title; and

5 g. The application of establishments to be registered as a nonresident  
6 pharmacy shall be accompanied by a fee of three hundred forty-five  
7 dollars and shall be renewed triennially at a fee of two hundred sixty  
8 dollars.

9 5. Additional requirements. Nonresident pharmacies registered pursuant  
10 to this section shall:

11 a. Provide a toll-free telephone number that is available during  
12 normal business hours and at least forty hours per week, to enable  
13 communication between a patient in this state and a pharmacist at the  
14 pharmacy who has access to the patient's records; and

15 b. Place such toll-free telephone number on a label affixed to each  
16 drug or device container.

17 6. Disciplinary action. Except in emergencies that constitute an imme-  
18 diate threat to public health, the department shall not prosecute a  
19 complaint or otherwise take formal action against a nonresident estab-  
20 lishment based upon delivery of a drug into this state or a violation of  
21 law, rule, or regulation of this state if the agency having jurisdiction  
22 in the state where the nonresident establishment is based commences  
23 action on the violation complained of within one hundred twenty days  
24 from the date that the violation was reported; provided however, that  
25 the department may prosecute a complaint or take formal action against a  
26 nonresident establishment if it determines that the agency having juris-  
27 isdiction in the state where the nonresident establishment is based has

1 unreasonably delayed or otherwise failed to take prompt and appropriate  
2 action on a reported violation.

3 7. Revocation or suspension. A nonresident establishment that fails to  
4 comply with the requirements of this section shall be subject to revoca-  
5 tion or suspension of its registration and other applicable penalties in  
6 accordance with the provisions of subtitle three of title one of this  
7 article.

8 8. Exception. The department may grant an exception from the registra-  
9 tion requirements of this section on the application of a nonresident  
10 establishment that restricts its sale or dispensing of drugs and/or  
11 devices to residents of this state to isolated transactions.

12 9. Rules and regulations. The department shall promulgate rules and  
13 regulations to implement the provisions of this section.

14 § 6810. Prescriptions. 1. No drug for which a prescription is required  
15 by the provisions of the Federal Food, Drug and Cosmetic Act or by the  
16 commissioner shall be distributed or dispensed to any person except upon  
17 a prescription written by a person legally authorized to issue such  
18 prescription. Such drug shall be compounded or dispensed by a licensed  
19 pharmacist, and no such drug shall be dispensed without affixing to the  
20 immediate container in which the drug is sold or dispensed a label bear-  
21 ing the name and address of the owner of the establishment in which it  
22 was dispensed, the date compounded, the number of the prescription under  
23 which it is recorded in the pharmacist's prescription files, the name of  
24 the prescriber, the name and address of the patient, and the directions  
25 for the use of the drug by the patient as given upon the prescription.  
26 All labels shall conform to such rules and regulations as promulgated by  
27 the commissioner pursuant to section sixty-eight hundred twenty-nine of  
28 this title. The prescribing and dispensing of a drug which is a

1 controlled substance shall be subject to additional requirements  
2 provided in article thirty-three of this chapter. The words "drug" and  
3 "prescription required drug" within the meaning of this title shall not  
4 be construed to include soft or hard contact lenses, eyeglasses, or any  
5 other device for the aid or correction of vision. Nothing in this subdi-  
6 vision shall prevent a pharmacy from furnishing a drug to another phar-  
7 macy which does not have such drug in stock for the purpose of filling a  
8 prescription.

9 2. a. A prescription may not be refilled unless it bears a contrary  
10 instruction and indicates on its face the number of times it may be  
11 refilled. A prescription may not be refilled more times than allowed on  
12 the prescription. The date of each refilling must be indicated on the  
13 original prescription. Prescriptions for controlled substances shall be  
14 refilled only pursuant to article thirty-three of this chapter.

15 b. A pharmacy registered with the department pursuant to section  
16 sixty-eight hundred eight or sixty-eight hundred nine-a of this title  
17 may not deliver a new or refilled prescription off premises without the  
18 consent of the patient or an individual authorized to consent on the  
19 patient's behalf. For the purposes of this section, consent may be  
20 obtained in the same manner and process by which consent is deemed  
21 acceptable under the federal Medicare Part D program.

22 c. Pharmacy providers who deliver medication without patient or  
23 authorized individual consent will be required to accept the return of  
24 the medication from the patient, provide that patient credit for any  
25 charges they may have paid, and will be required to destroy those medi-  
26 cations sent without consent on delivery in accordance with applicable  
27 state and federal law. Nothing in this section shall be deemed to inter-  
28 fere with the requirements for refill reminder or medication adherence

1 programs. Nothing in this section is intended to apply to long-term  
2 care pharmacy dispensing and delivery.

3 3. A copy of a prescription for a controlled substance shall not be  
4 furnished to the patient but may be furnished to any licensed practi-  
5 tioner authorized to write such prescription. Copies of other  
6 prescriptions shall be furnished to the patient at his or her request,  
7 but such copies are issued for the informational purposes of the pres-  
8 cribers only, and shall be so worded.

9 4. a. Oral prescriptions for controlled substances shall be filled  
10 pursuant to article thirty-three of this chapter. A pharmacist may fill  
11 an oral prescription for a drug, other than a controlled substance, made  
12 by a practitioner legally authorized to prescribe drugs. An oral  
13 authorization for the refill of a prescription, other than a  
14 prescription for a controlled substance, may be made by a practitioner  
15 legally authorized to prescribe drugs. The pharmacist receiving such  
16 oral authorization for the refill of a prescription shall write on the  
17 reverse side of the original prescription the date, time, and name of  
18 the practitioner authorizing the refill of the prescription. An oral  
19 prescription or an oral authorization for the refill of a prescription  
20 for the drug, other than a controlled substance, may be communicated by  
21 an employee of the prescribing practitioner; provided, however, the  
22 pharmacist shall:

23 (i) contemporaneously reduce such prescription to writing;

24 (ii) dispense the substance in conformity with the labeling require-  
25 ments applicable to a written prescription; and

26 (iii) make a good faith effort to verify the employee's identity if  
27 the employee is unknown to the pharmacist.

1 b. Oral prescriptions for patients in general hospitals, nursing  
2 homes, residential health care facilities as defined in section twenty-  
3 eight hundred one of this chapter, hospitals as defined in subdivision  
4 ten of section 1.03 of the mental hygiene law, or facilities operated by  
5 the office for people with developmental disabilities, may be communi-  
6 cated to a pharmacist serving as a vendor of pharmaceutical services  
7 based upon a contractual arrangement by an agent designated by and under  
8 the direction of the prescriber or the institution. Such agent shall be  
9 a health care practitioner currently licensed and registered under this  
10 article.

11 5. Records of all prescriptions filled or refilled shall be maintained  
12 for a period of at least five years and upon request made available for  
13 inspection and copying by a representative of the department. Such  
14 records shall indicate date of filling or refilling, doctor's name,  
15 patient's name and address and the name or initials of the pharmacist  
16 who prepared, compounded, or dispensed the prescription. Records of  
17 prescriptions for controlled substances shall be maintained pursuant to  
18 requirements of article thirty-three of this chapter.

19 6. a. Every prescription written in this state by a person authorized  
20 to issue such prescription shall be on prescription forms containing one  
21 line for the prescriber's signature. The prescriber's signature shall  
22 validate the prescription. Every electronic prescription shall provide  
23 for the prescriber's electronic signature, which shall validate the  
24 electronic prescription. Imprinted conspicuously on every prescription  
25 written in this state in eight-point upper case type immediately below  
26 the signature line shall be the words: "THIS PRESCRIPTION WILL BE  
27 FILLED GENERICALLY UNLESS PRESCRIBER WRITES 'd a w' IN THE BOX BELOW".  
28 Unless the prescriber writes d a w in such box in the prescriber's own

1 handwriting or, in the case of electronic prescriptions, inserts an  
2 electronic direction to dispense the drug as written, the prescriber's  
3 signature or electronic signature shall designate approval of substi-  
4 tution by a pharmacist of a drug product pursuant to paragraph (o) of  
5 subdivision one of section two hundred six of this chapter. No other  
6 letters or marks in such box shall prohibit substitution. No  
7 prescription forms used or intended to be used by a person authorized to  
8 issue a prescription shall have 'd a w' preprinted in such box. Such box  
9 shall be placed directly under the signature line and shall be three-  
10 quarters inch in length and one-half inch in height, or in comparable  
11 form for an electronic prescription as may be specified by regulation of  
12 the commissioner. Immediately below such box shall be imprinted in six  
13 point type the words "Dispense As Written". Notwithstanding any other  
14 provision of law, no state official, agency, board or other entity shall  
15 promulgate any regulation or guideline modifying those elements of the  
16 prescription form's contents specified in this subdivision. To the  
17 extent otherwise permitted by law, a prescriber may modify only those  
18 elements of the prescription form's contents not specified in this  
19 subdivision. Notwithstanding any other provision of this section or any  
20 other law, when a generic drug is not available and the brand name drug  
21 originally prescribed is available and the pharmacist agrees to dispense  
22 the brand name product for a price that will not exceed the price that  
23 would have been charged for the generic substitute had it been avail-  
24 able, substitution of a generic drug product will not be required. If  
25 the generic drug product is not available and a medical emergency situ-  
26 ation, which for purposes of this section is defined as any condition  
27 requiring alleviation of severe pain or which threatens to cause disa-  
28 bility or take life if not promptly treated, exists, then the pharmacist

1 may dispense the brand name product at his or her regular price. In such  
2 instances the pharmacist must record the date, hour and nature of the  
3 medical emergency on the back of the prescription and keep a copy of all  
4 such prescriptions.

5 b. The prescriber shall inform the patient whether he or she has  
6 prescribed a brand name or its generic equivalent drug product.

7 c. The provisions of this subdivision shall not apply to a hospital as  
8 defined in article twenty-eight of this chapter.

9 d. No prescriber shall be subjected to civil liability arising solely  
10 from authorizing, in accordance with this subdivision, the substitution  
11 by a pharmacist of a drug product pursuant to paragraph (o) of subdivi-  
12 sion one of section two hundred six of this chapter.

13 7. a. No prescription for a drug written in this state by a person  
14 authorized to issue such prescription shall be on a prescription form  
15 which authorizes the dispensing or compounding of any other drug. No  
16 drug shall be dispensed by a pharmacist when such prescription form  
17 includes any other drug.

18 b. With respect to drugs other than controlled substances, the  
19 provisions of this subdivision shall not apply to pharmacists employed  
20 by or providing services under contract to general hospitals, nursing  
21 homes, residential health care facilities as defined in section twenty-  
22 eight hundred one of this chapter, hospitals as defined in subdivision  
23 ten of section 1.03 of the mental hygiene law, or facilities operated by  
24 the office for people with developmental disabilities, who dispense  
25 drugs in the course of said employment or in the course of providing  
26 such services under contract. With respect to such pharmacists, each  
27 prescription shall be transcribed on a patient specific prescription  
28 form.

1 8. Every prescription, whether or not for a controlled substance,  
2 written in this state by a person authorized to issue such prescription  
3 and containing the prescriber's signature shall, in addition to such  
4 signature, be imprinted or stamped legibly and conspicuously with the  
5 printed name of the prescriber who has signed the prescription. The  
6 imprinted or stamped name of the signing prescriber shall appear in an  
7 appropriate location on the prescription form and shall not be entered  
8 in or upon any space or line reserved for the prescriber's signature.  
9 The imprinted or stamped name shall not be employed as a substitute for,  
10 or fulfill any legal requirement otherwise mandating that the  
11 prescription be signed by the prescriber.

12 9. No person, corporation, association or other entity, not licensed  
13 to issue a prescription pursuant to this article, shall willfully cause  
14 prescription forms, blanks or facsimiles thereof to be disseminated to  
15 any person other than a person who is licensed to issue a prescription  
16 pursuant to this article. A violation of this subdivision shall be a  
17 class B misdemeanor punishable in accordance with the provisions of the  
18 penal law.

19 10. Notwithstanding any other provision of this section or any other  
20 law to the contrary, effective three years subsequent to the date on  
21 which regulations establishing standards for electronic prescriptions  
22 are promulgated by the commissioner pursuant to subdivision three of  
23 section two hundred eighty-one of this chapter, no practitioner shall  
24 issue any prescription in this state, unless such prescription is made  
25 by electronic prescription from the practitioner to a pharmacy, except  
26 for prescriptions: a. issued by veterinarians; b. issued or dispensed in  
27 circumstances where electronic prescribing is not available due to  
28 temporary technological or electrical failure, as set forth in regu-

1 lation; c. issued by practitioners who have received a waiver or a  
2 renewal thereof for a specified period determined by the commissioner,  
3 not to exceed one year, from the requirement to use electronic prescrib-  
4 ing, pursuant to a process established in regulation by the commissioner  
5 due to economic hardship, technological limitations that are not reason-  
6 ably within the control of the practitioner, or other exceptional  
7 circumstance demonstrated by the practitioner; d. issued by a practi-  
8 tioner under circumstances where, notwithstanding the practitioner's  
9 present ability to make an electronic prescription as required by this  
10 subdivision, such practitioner reasonably determines that it would be  
11 impractical for the patient to obtain substances prescribed by electron-  
12 ic prescription in a timely manner, and such delay would adversely  
13 impact the patient's medical condition, provided that if such  
14 prescription is for a controlled substance, the quantity that does not  
15 exceed a five-day supply if the controlled substance was used in accord-  
16 ance with the directions for use; or e. issued by a practitioner to be  
17 dispensed by a pharmacy located outside the state, as set forth in regu-  
18 lation.

19 10-a. A pharmacy that receives an electronic prescription from the  
20 person issuing the prescription may, if the prescription has not been  
21 dispensed and at the request of the patient or a person authorized to  
22 make the request on behalf of the patient, immediately transfer or  
23 forward such prescription to an alternative pharmacy designated by the  
24 requesting party.

25 11. In the case of a prescription issued by a practitioner under para-  
26 graph b of subdivision ten of this section, the practitioner shall be  
27 required to indicate in the patient's health record that the

1 prescription was issued other than electronically due to temporary tech-  
2 nological or electrical failure.

3 12. In the case of a prescription issued by a practitioner under para-  
4 graph d or e of subdivision ten of this section, the practitioner shall,  
5 upon issuing such prescription, indicate in the patient's health record  
6 either that the prescription was issued other than electronically  
7 because it: a. was impractical to issue an electronic prescription in a  
8 timely manner and such delay would have adversely impacted the patient's  
9 medical condition, or b. was to be dispensed by a pharmacy located  
10 outside the state.

11 13. The waiver process established in regulation pursuant to paragraph  
12 c of subdivision ten of this section shall provide that a practitioner  
13 prescribing under a waiver must notify the department in writing prompt-  
14 ly upon gaining the capability to use electronic prescribing, and that a  
15 waiver shall terminate within a specified period of time after the prac-  
16 titioner gains such capability.

17 14. Notwithstanding any other provision of law to the contrary, no  
18 outsourcing facility may distribute or dispense any drug to any person  
19 pursuant to a prescription unless it is also registered as a pharmacy in  
20 this state and meets all other applicable requirements of federal and  
21 state law.

22 15. Notwithstanding any other provisions of this section or any other  
23 law to the contrary, a practitioner shall not be required to issue  
24 prescriptions electronically if he or she certifies to the department,  
25 in a manner specified by the department, that he or she will not issue  
26 more than twenty-five prescriptions during a twelve-month period.  
27 Prescriptions in both oral and written form for both controlled  
28 substances and non-controlled substances shall be included in determin-

1 ing whether the practitioner will reach the limit of twenty-five  
2 prescriptions.

3 a. A certification shall be submitted in advance of the twelve-month  
4 certification period, except that a twelve-month certification submitted  
5 on or before July first, two thousand sixteen, may begin March twenty-  
6 seventh, two thousand sixteen.

7 b. A practitioner who has made a certification under this subdivision  
8 may submit an additional certification on or before the expiration of  
9 the current twelve-month certification period, for a maximum of three  
10 twelve-month certifications.

11 c. A practitioner may make a certification under this subdivision  
12 regardless of whether he or she has previously received a waiver under  
13 paragraph c of subdivision ten of this section.

14 § 6811. Misdemeanors. It shall be a class A misdemeanor for:

15 1. Any person knowingly or intentionally to prevent or refuse to  
16 permit any board member or department representative to enter a pharmacy  
17 or any other establishment for the purpose of lawful inspection;

18 2. Any person whose license has been revoked to refuse to deliver the  
19 license;

20 3. Any pharmacist to display his or her license or permit it to be  
21 displayed in a pharmacy of which he or she is not the owner or in which  
22 he or she is not employed, or any owner to fail to display in his or her  
23 pharmacy the license of the pharmacist employed in such pharmacy;

24 4. Any holder of a license to fail to display the license;

25 5. Any owner of a pharmacy to display or permit to be displayed in his  
26 or her pharmacy the license of any pharmacist not employed in such phar-  
27 macy;

1 6. Any person to carry on, conduct or transact business under a name  
2 which contains as a part thereof the words "drugs", "medicines", "drug  
3 store", "apothecary", or "pharmacy", or similar terms or combination of  
4 terms, or in any manner by advertisement, circular, poster, sign or  
5 otherwise describe or refer to the place of business conducted by such  
6 person, or describe the type of service or class of products sold by  
7 such person, by the terms "drugs", "medicine", "drug store", "apothecary",  
8 or "pharmacy", unless the place of business so conducted is a  
9 pharmacy licensed by the department;

10 7. Any person to enter into an agreement with a physician, dentist,  
11 podiatrist or veterinarian for the compounding or dispensing of secret  
12 formula (coded) prescriptions;

13 8. Any person to manufacture, sell, deliver for sale, hold for sale or  
14 offer for sale of any drug, device or cosmetic that is adulterated or  
15 misbranded;

16 9. Any person to adulterate or misbrand any drug, device or cosmetic;

17 10. Any person to receive in commerce any drug, device or cosmetic  
18 that is adulterated or misbranded, and to deliver or proffer delivery  
19 thereof for pay or otherwise;

20 11. Any person to sell, deliver for sale, hold for sale, or offer for  
21 sale any drug, device or cosmetic in violation of this title;

22 12. Any person to disseminate any false advertisement;

23 13. Any person to refuse to permit entry or inspection as authorized  
24 by this title;

25 14. Any person to forge, counterfeit, simulate, or falsely represent,  
26 or without proper authority using any mark, stamp, tag, label or other  
27 identification device authorized or required by rules and regulations  
28 promulgated under the provisions of this title;

1 15. Any person to use for his or her own advantage, or reveal, other  
2 than to the commissioner or his or her duly authorized representative,  
3 or to the courts when relevant in any judicial proceedings under this  
4 title, any information acquired under authority of this title or  
5 concerning any method or process, which is a trade secret;

6 16. Any person to alter, mutilate, destroy, obliterate or remove the  
7 whole or any part of the labeling of, or the doing of any other act with  
8 respect to a drug, device, or cosmetic, if such act is done while such  
9 article is held for sale and results in such article being misbranded;

10 17. Any person to violate any of the provisions of section sixty-eight  
11 hundred ten of this title;

12 18. Any person to violate any of the provisions of section sixty-eight  
13 hundred sixteen of this title;

14 19. Any person, to sell at retail or give away in tablet form bichlo-  
15 ride of mercury, mercuric chloride or corrosive sublimate, unless such  
16 bichloride of mercury, mercuric chloride or corrosive sublimate, when so  
17 sold, or given away, shall conform to the provisions of national formu-  
18 lary XII. Nothing contained in this paragraph shall be construed to  
19 prohibit the sale and dispensing of bichloride of mercury in any form,  
20 shape, or color, when combined or compounded with one or more other  
21 drugs or excipients, for the purposes of internal medication only, or  
22 when sold in bulk in powder form, or to any preparation containing one-  
23 tenth of a grain or less of bichloride of mercury;

24 20. Any pharmacy to fail to properly post the list required by section  
25 sixty-eight hundred twenty-six of this title;

26 21. Any pharmacy to change its current selling price without changing  
27 the listed price as provided by section sixty-eight hundred twenty-six  
28 of this title;

1 22. Any person to refuse to permit access to or copying of any record  
2 as required by this title;

3 23. Any manufacturer to sell or offer for sale any drug not manufac-  
4 tured, prepared or compounded under the personal supervision of a chem-  
5 ist or licensed pharmacist or not labeled with the full name of the  
6 manufacturer or seller; or

7 24. Any outsourcing facility to sell or offer to sell any drug that is  
8 not both compounded under the personal supervision of a licensed pharma-  
9 cist and labeled with the full name of the outsourcing facility.

10 § 6812. Special provisions. 1. Where any pharmacy, manufacturer,  
11 wholesaler or outsourcing facility registered by the department is  
12 damaged by fire the board shall be notified within a period of forty-  
13 eight hours, and the board shall have power to impound all drugs for  
14 analysis and condemnation, if found unfit for use. Where a pharmacy is  
15 discontinued, the owner of its prescription records shall notify the  
16 department as to the disposition of said prescription records, and in no  
17 case shall records be sold or given away to a person who does not  
18 currently possess a registration to operate a pharmacy.

19 2. Nothing in this title shall be construed as requiring the prose-  
20 cution or the institution of injunction proceedings for minor violations  
21 of this title whenever the public interest will be adequately served by  
22 a suitable written notice of warning.

23 3. The executive secretary of the state board of pharmacy is author-  
24 ized to conduct examinations and investigations for the purposes of this  
25 title through officers and employees of the United States, or through  
26 any health, food, or drug officer or employee of any city, county or  
27 other political subdivision of this state.

1     § 6813. Seizure. 1. Any drug, device or cosmetic that is adulterated,  
2 misbranded or may not be sold under the provisions of this chapter, may  
3 be seized on petition or complaint of the board and condemned in the  
4 supreme court of any county in which it is found. Seizure shall be made:

5     a. by process pursuant to the petition or complaint, or

6     b. if the secretary or other officer designated by him or her has  
7 probable cause to believe that the article:

8     (i) is adulterated; or

9     (ii) is so misbranded as to be dangerous to health. The article shall  
10 be seized by order of such officer. The order shall describe the article  
11 to be seized, the place where the article is located, and the officer or  
12 employee making the seizure. The officer, in lieu of taking actual  
13 possession, may affix a tag or other appropriate marking to the article  
14 giving notice that the article has been quarantined and warning all  
15 persons not to remove or dispose of it by sale or otherwise until  
16 permission for removal or disposal is given by the officer or the court.  
17 In case of seizures or quarantine, pursuant to such order, the jurisdic-  
18 tion of such court shall attach upon such seizure or quarantine, and a  
19 petition or complaint for condemnation shall be filed promptly.

20     2. The procedure for cases under this section shall conform as much as  
21 possible to the procedure for attachment. Any issue of fact joined in  
22 any case under this section shall be tried by jury on the demand of  
23 either party. The court at any time after seizure and up to the time of  
24 trial shall allow by order any party or his or her agent or attorney to  
25 obtain a representative sample of the condemned material, a true copy of  
26 the analysis on which the proceeding was based, and the identifying  
27 marks or numbers, if any, on the packages from which the samples  
28 analyzed were obtained.

1 3. Any drug, device or cosmetic condemned under this section shall be  
2 disposed of by destruction or sale as the court may direct after the  
3 decree in accordance with the provisions of this section. The proceeds  
4 of the sale, if any, shall be paid into the state treasury after  
5 deduction for legal costs and charges. However, the drug, device or  
6 cosmetic shall not be sold contrary to the provisions of this title.  
7 After entry of the decree, if the owner of the condemned articles pays  
8 the costs of the proceeding and posts a sufficient bond as security that  
9 the articles will not be disposed of contrary to the provisions of this  
10 title, the court may by order direct that the seized articles be deliv-  
11 ered to the owner to be destroyed or brought into conformance with this  
12 title under supervision of the secretary. The expenses of the super-  
13 vision shall be borne by the person obtaining the release under bond.  
14 Any drug condemned by reason of its being a new drug which may not be  
15 sold under this title shall be disposed of by destruction.

16 4. When the decree of condemnation is entered, court costs and fees,  
17 storage and other expense shall be awarded against the person, if any,  
18 intervening as claimant of the condemned articles.

19 5. In any proceeding against the board, or the secretary, or an agent  
20 of either, because of seizure, or quarantine, under this section, the  
21 board, or the secretary, or such agent shall not be liable if the court  
22 finds that there was probable cause for the acts done by them.

23 § 6814. Records of shipment. For the purpose of enforcing provisions  
24 of this title, carriers engaged in commerce, and persons receiving  
25 drugs, devices or cosmetics in commerce or holding such articles so  
26 received, shall, upon the request of an officer duly assigned by the  
27 secretary, permit such officer, at reasonable times, to have access to  
28 and to copy all records showing the movement in commerce of any drug,

1 device or cosmetic, or the holding thereof during or after such move-  
2 ment, and the quantity, shipper, and consignee thereof; and it shall be  
3 unlawful for any such carrier or person to fail to permit such access to  
4 and copying of any such record so requested when such request is accom-  
5 panied by a statement in writing specifying the nature or kind of drug,  
6 device or cosmetic to which such request relates; provided, that  
7 evidence obtained under this section shall not be used in a criminal  
8 prosecution of the person from whom obtained; provided further, that  
9 carriers shall not be subject to the other provisions of this title by  
10 reason of their receipt, carriage, holding or delivery of drugs, devices  
11 or cosmetics in the usual course of business as carriers.

12 § 6815. Adulterating, misbranding and substituting. 1. Adulterated  
13 drugs. A drug or device shall be deemed to be adulterated:

14 a. (i) If it consists in whole or in part of any filthy, putrid, or  
15 decomposed substance; or (ii) if it has been prepared, packed, or held  
16 under insanitary conditions whereby it may have been contaminated with  
17 filth, or whereby it may have been rendered injurious to health; or  
18 (iii) if it is a drug and its container is composed, in whole or in  
19 part, of any poisonous or deleterious substance which may render the  
20 contents injurious to health; or (iv) if it is a drug and it bears or  
21 contains, for purposes of coloring only, a coal-tar color other than one  
22 from a batch that has been certified in accordance with regulations  
23 provided in this title.

24 b. If it purports to be, or is represented as, a drug the name of  
25 which is recognized in an official compendium, and its strength differs  
26 from, or its quality or purity falls below, the standard set forth in  
27 such compendium. Such determination as to strength, quality or purity  
28 shall be made in accordance with the tests or methods of assay set forth

1 in such compendium, or, in the absence or inadequacy of such tests or  
2 methods of assay, then in accordance with tests or methods of assay  
3 prescribed by regulations of the board of pharmacy as promulgated under  
4 this title. Deviations from the official assays may be made in the quan-  
5 tities of samples and reagents employed, provided they are in proportion  
6 to the quantities stated in the official compendium. No drug defined in  
7 an official compendium shall be deemed to be adulterated under this  
8 paragraph because (i) it exceeds the standard of strength therefor set  
9 forth in such compendium, if such difference is plainly stated on its  
10 label; or (ii) it falls below the standard of strength, quality, or  
11 purity therefor set forth in such compendium if such difference is  
12 plainly stated on its label, except that this subparagraph shall apply  
13 only to such drugs, or classes of drugs, as are specified in regulations  
14 which the board shall promulgate when, as applied to any drug, or class  
15 of drugs, the prohibition of such difference is not necessary for the  
16 protection of the public health. Whenever a drug is recognized in both  
17 the United States pharmacopoeia and the homeopathic pharmacopoeia of the  
18 United States, it shall be subject to the requirements of the United  
19 States pharmacopoeia unless it is labeled and offered for sale as a  
20 homeopathic drug, in which case it shall be subject to the provisions of  
21 the homeopathic pharmacopoeia of the United States and not to those of  
22 the United States pharmacopoeia.

23 c. If it is not subject to the provisions of paragraph b of this  
24 subdivision and its strength differs from, or its purity or quality  
25 falls below, that which it purports or is represented to possess.

26 d. If it is a drug and any substance has been (i) mixed or packed  
27 therewith so as to reduce its quality or strength or (ii) substituted  
28 wholly or in part therefor.

1 e. If it is sold under or by a name not recognized in or according to  
2 a formula not given in the United States pharmacopoeia or the national  
3 formulary but that is found in some other standard work on pharmacology  
4 recognized by the board, and it differs in strength, quality or purity  
5 from the strength, quality or purity required, or the formula prescribed  
6 in, the standard work.

7 2. Misbranded and substituted drugs and devices. A drug or device  
8 shall be deemed to be misbranded:

9 a. If its labeling is false or misleading in any particular.

10 b. If in package form, unless it bears a label containing: (i) the  
11 name and place of business of the manufacturer, packer, or distributor,  
12 and (ii) an accurate statement of the quantity of the contents in terms  
13 of weight, measure, or numerical count; provided, that under subpara-  
14 graph (ii) of this paragraph the board may establish reasonable vari-  
15 ations as to quantity and exemptions as to small packages.

16 c. If any word, statement, or other information required by or under  
17 authority of this title to appear on the label or labeling is not promi-  
18 nently placed thereon with such conspicuousness, as compared with other  
19 words, statements, designs, or devices, in the labeling, and in such  
20 terms as to render it likely to be read and understood by the ordinary  
21 individual under customary conditions of purchase and use.

22 d. If it is for use by man and contains any quantity of the narcotic  
23 or hypnotic substance alpha eucaine, barbituric acid, beta eucaine,  
24 bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin,  
25 marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or  
26 any chemical derivative of such substance, which derivative has been by  
27 the secretary, after investigation, found to be, and by regulations  
28 under this title, or by regulations promulgated by the board, designated

1 as, habit forming; unless its label bears the name and quantity, or  
2 proportion, of such substance or derivative and in juxtaposition there-  
3 with the statement "Warning--May be habit forming".

4 e. If it is a drug and is not designated solely by a name recognized  
5 in an official compendium unless its label bears: (i) the common or  
6 usual name of the drug, if such there be, and (ii) in case it is fabri-  
7 cated from two or more ingredients, the common or usual name of each  
8 active ingredient, including the kind and quantity by percentage or  
9 amount of any alcohol, and also including, whether active or not, the  
10 name and quantity or proportion of any bromides, ether, chloroform,  
11 acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine,  
12 hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain,  
13 strophanthin, strychnine, thyroid, or any derivative or preparation of  
14 any such substances, contained therein; provided that, to the extent  
15 that compliance with the requirements of subparagraph (ii) of this para-  
16 graph is impracticable, exemptions shall be established by regulations  
17 promulgated by the board.

18 f. Unless its labeling bears: (i) adequate directions for use, and  
19 (ii) such adequate warnings against use in those pathological condi-  
20 tions or by children where its use may be dangerous to health, or  
21 against unsafe dosage or methods or duration of administration or appli-  
22 cation, in such manner and form, as are necessary for the protection of  
23 users; provided, that, where any requirement of subparagraph (i) of this  
24 paragraph, as applied to any drug or device, is not necessary for the  
25 protection of the public health, the board shall promulgate regulations  
26 exempting such drug or device from such requirement.

27 g. If it purports to be a drug the name of which is recognized in an  
28 official compendium, unless it is packaged and labeled as prescribed

1 therein; provided, that, the method of packing may be modified with the  
2 consent of the secretary in accordance with regulations promulgated by  
3 the board. Whenever a drug is recognized in both the United States phar-  
4 macopoeia and the homeopathic pharmacopoeia of the United States, it  
5 shall be subject to the requirements of the United States pharmacopoeia  
6 with respect to packaging and labeling unless it is labeled and offered  
7 for sale as a homeopathic drug, in which case it shall be subject to the  
8 provisions of the homeopathic pharmacopoeia of the United States, and  
9 not to those of the United States pharmacopoeia.

10 h. (i) If it is a drug and its container is so made, formed or filled  
11 as to be misleading; (ii) if it is an imitation of another drug; (iii)  
12 if it is offered for sale under the name of another drug; or (iv) if it  
13 bears a copy, counterfeit, or colorable imitation of the trademark,  
14 label, container or identifying name or design of another drug.

15 i. If it is dangerous to health when used in the dosage, or with the  
16 frequency or duration prescribed, recommended or suggested in the label-  
17 ing thereof.

18 j. Except as required by article thirty-three of this chapter, the  
19 labeling provisions of this title shall not apply to the compounding and  
20 dispensing of drugs on the written prescription of a physician, a  
21 dentist, a podiatrist or a veterinarian, which prescription when filled  
22 shall be kept on file for at least five years by the pharmacist or drug-  
23 gist. Such drug shall bear a label containing the name and place of  
24 business of the dispenser, the serial number and date of the  
25 prescription, directions for use as may be stated in the prescription,  
26 name and address of the patient and the name of the physician or other  
27 practitioner authorized by law to issue the prescription. In addition,  
28 such label shall contain the proprietary or brand name of the drug and,

1 if applicable, the strength of the contents, unless the person issuing  
2 the prescription explicitly states on the prescription, in his or her  
3 own handwriting, that the name of the drug and the strength thereof  
4 should not appear on the label.

5 § 6816. Omitting to label drugs, or labeling them wrongly. 1. a. Any  
6 person, who, in putting up any drug, medicine, or food or preparation  
7 used in medical practice, or making up any prescription, or filling any  
8 order for drugs, medicines, food or preparation puts any untrue label,  
9 stamp or other designation of contents upon any box, bottle or other  
10 package containing a drug, medicine, food or preparation used in medical  
11 practice, or substitutes or dispenses a different article for or in lieu  
12 of any article prescribed, ordered, or demanded, except where required  
13 pursuant to section sixty-eight hundred sixteen-a of this title, or puts  
14 up a greater or lesser quantity of any ingredient specified in any such  
15 prescription, order or demand than that prescribed, ordered or demanded,  
16 except where required pursuant to paragraph (g) of subdivision two of  
17 section three hundred sixty-five-a of the social services law, or other-  
18 wise deviates from the terms of the prescription, order or demand by  
19 substituting one drug for another, except where required pursuant to  
20 section sixty-eight hundred sixteen-a of this title, is guilty of a  
21 misdemeanor; provided, however, that except in the case of physicians'  
22 prescriptions, nothing herein contained shall be deemed or construed to  
23 prevent or impair or in any manner affect the right of an apothecary,  
24 druggist, pharmacist or other person to recommend the purchase of an  
25 article other than that ordered, required or demanded, but of a similar  
26 nature, or to sell such other article in place or in lieu of an article  
27 ordered, required or demanded, with the knowledge and consent of the  
28 purchaser. Upon a second conviction for a violation of this section the

1 offender must be sentenced to the payment of a fine not to exceed one  
2 thousand dollars and may be sentenced to imprisonment for a term not to  
3 exceed one year. The third conviction of a violation of any of the  
4 provisions of this section, in addition to rendering the offender liable  
5 to the penalty prescribed by law for a second conviction, shall forfeit  
6 any right which he or she may possess under the law of this state at the  
7 time of such conviction, to engage as proprietor, agent, employee or  
8 otherwise, in the business of an apothecary, pharmacist, or druggist, or  
9 to compound, prepare or dispense prescriptions or orders for drugs,  
10 medicines or foods or preparations used in medical practice; and the  
11 offender shall be by reason of such conviction disqualified from engag-  
12 ing in any such business as proprietor, agent, employee or otherwise or  
13 compounding, preparing or dispensing medical prescriptions or orders for  
14 drugs, medicines, or foods or preparations used in medical practice.

15 b. The provisions of this section shall not apply to the practice of a  
16 practitioner who is not the proprietor of a store for the dispensing or  
17 retailing of drugs, medicines and poisons, or who is not in the employ  
18 of such a proprietor, and shall not prevent practitioners from supplying  
19 their patients with such articles as they may deem proper, and except as  
20 to the labeling of poisons shall not apply to the sale of medicines or  
21 poisons at wholesale when not for the use or consumption by the purchas-  
22 er; provided, however, that the sale of medicines or poisons at whole-  
23 sale shall continue to be subject to such regulations as from time to  
24 time may be lawfully made by the board of pharmacy or by any competent  
25 board of health.

26 c. The provisions of this section shall not apply to a limited pharma-  
27 cy which prepares a formulary containing the brand names and the generic  
28 names of drugs and of manufacturers which it stocks, provided that it

1 furnishes a copy of such formulary to each physician on its staff and  
2 the physician signs a statement authorizing the hospital to supply the  
3 drug under any generic or non-proprietary name listed therein and in  
4 conformity with the regulations of the commissioner.

5 2. For the purposes set forth in this section, the terms prescription,  
6 order or demand shall apply only to those items subject to provisions of  
7 subdivision one of section sixty-eight hundred ten of this title. The  
8 written order of a physician for items not subject to provisions of  
9 subdivision one of section sixty-eight hundred ten of this title shall  
10 be construed to be a direction, a fiscal order or a voucher.

11 § 6816-a. When substitution is required. 1. A pharmacist shall substi-  
12 tute a less expensive drug product containing the same active ingredi-  
13 ents, dosage form and strength as the drug product prescribed, ordered  
14 or demanded, provided that the following conditions are met:

15 a. The prescription is written on a form which meets the requirements  
16 of subdivision six of section sixty-eight hundred ten of this title and  
17 the prescriber does not prohibit substitution, or in the case of oral  
18 prescriptions, the prescriber must expressly state whether substitution  
19 is to be permitted or prohibited. Any oral prescription that does not  
20 include such an express statement shall not be filled; and

21 b. The substituted drug product is contained in the list of drug  
22 products established pursuant to paragraph (o) of subdivision one of  
23 section two hundred six of this chapter; and

24 c. The pharmacist shall indicate on the label affixed to the immediate  
25 container in which the drug is sold or dispensed the name and strength  
26 of the drug product and its manufacturer unless the prescriber specif-  
27 ically states otherwise. The pharmacist shall record on the prescription

1 form the brand name or the name of the manufacturer of the drug product  
2 dispensed.

3 2. In the event a patient chooses to have a prescription filled by an  
4 out of state dispenser, the laws of that state shall prevail.

5 3. A pharmacist shall substitute a less expensive biological product  
6 for a prescribed biological product provided that all of the following  
7 conditions are met:

8 a. the substituted biological product is either an interchangeable  
9 biological product for the prescribed product or the substituted biolog-  
10 ical product is one for which the prescribed product is an interchangea-  
11 ble biological product;

12 b. the prescriber does not designate that a substitution is prohibited  
13 as described in subdivision six of section sixty-eight hundred ten of  
14 this title; and

15 c. the pharmacist indicates on the label affixed to the immediate  
16 container in which the biological product is sold or distributed the  
17 name and strength of the product and its manufacturer unless the pres-  
18 criber specifically states otherwise.

19 4. a. Within five business days following the dispensing of a substi-  
20 tuted biological product, the dispensing pharmacist or the pharmacist's  
21 designee shall communicate to the prescriber the specific product  
22 provided to the patient, including the name of the product and the  
23 manufacturer. The communication shall be conveyed to the prescriber (i)  
24 by making an entry that is electronically accessible to the prescriber  
25 through an interoperable electronic medical records system, an electron-  
26 ic prescribing technology or a pharmacy record; or (ii) by using facsim-  
27 ile, electronic transmission or other electronic means. If an electronic  
28 means described in this paragraph is not available to the pharmacist at

1 the time of communication, the dispensing pharmacist or the pharmacist's  
2 designee may communicate the information by telephone.

3 b. Communication under paragraph a of this subdivision shall not be  
4 required where:

5 (i) there is no FDA-approved interchangeable biological product for  
6 the product prescribed; or

7 (ii) a refill prescription is not changed from the product dispensed  
8 on the prior filling of the prescription.

9 5. The department shall maintain a link on its web site to the current  
10 list of all biological products determined by the Federal Food and Drug  
11 Administration to be an interchangeable biological product for a specif-  
12 ic biological product.

13 § 6819. Regulations making exceptions. The board shall promulgate  
14 regulations exempting from any labeling requirement of this title drugs,  
15 devices and cosmetics which are, in accordance with the practice of the  
16 trade, to be processed, labeled, or repacked in substantial quantities  
17 at establishments other than those where originally processed or packed,  
18 on condition that such drugs, devices and cosmetics are not adulterated  
19 or misbranded under the provisions of this title upon removal from such  
20 processing, labeling, or repacking establishment.

21 § 6820. Certification of coal-tar colors for drugs and cosmetics. The  
22 board shall promulgate regulations providing for the listing of coal-tar  
23 colors which are harmless and suitable for use in drugs for purposes of  
24 coloring only and for use in cosmetics and for the certification of  
25 batches of such colors, with or without harmless diluents.

26 § 6821. Poison schedules; register. 1. The following schedules shall  
27 remain in force until revised by the board and approved by the depart-  
28 ment.

1 Schedule A. Arsenic, atropine, corrosive sublimate, potassium cyanide,  
2 chloral hydrate, hydrocyanic acid, strychnine and all other poisonous  
3 vegetable alkaloids and their salts and oil of bitter almond containing  
4 hydrocyanic acid.

5 Schedule B. Aconite, belladonna, cantharides, colchicum, conium cotton  
6 root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus,  
7 oil of savin, oil of tansy, veratrum viride and their pharmaceutical  
8 preparations, arsenical solutions, carbolic acid, chloroform, creosote,  
9 croton oil, white precipitate, methyl or wood alcohol, mineral acids,  
10 oxalic acid, paris green, salts of lead, salts of zinc, or any drug,  
11 chemical or preparation which is liable to be destructive to adult human  
12 life in quantities of sixty grains or less.

13 2. It shall be unlawful for any person to sell at retail or to furnish  
14 any of the poisons of schedules A and B without affixing or causing to  
15 be affixed to the bottle, box, vessel or package, a label with the name  
16 of the article and the word "poison" distinctly shown and with the name  
17 and place of business of the seller all printed in red ink together with  
18 the name of such poisons printed or written thereupon in plain, legible  
19 characters.

20 3. Manufacturers and wholesale dealers in drugs, medicines, pharmaceu-  
21 tical preparations, chemicals or poisons shall affix or cause to be  
22 affixed to every bottle, box, parcel or outer enclosure of any original  
23 package containing any of the articles of schedule A, a suitable label  
24 or brand in red ink with the word "poison" upon it.

25 4. Every person who disposes of or sells at retail or furnishes any  
26 poisons included in schedule A shall, before delivering the same, enter  
27 in a book kept for that purpose the date of sale, the name and address  
28 of the purchaser, the name and the quantity of the poison, the purpose

1 for which it is purchased and the name of the dispenser. The poison  
2 register shall be always open for inspection by the proper authorities  
3 and shall be preserved for at least five years after the last entry.  
4 Such person shall not deliver any of the poisons of schedule A or sched-  
5 ule B until he or she has satisfied himself or herself that the purchas-  
6 er is aware of its poisonous character and that the poison is to be used  
7 for a legitimate purpose. The provisions of this subdivision do not  
8 apply to the dispensing of drugs or poisons on a doctor's prescription.

9 5. The board may add to or may delete from any of the schedules from  
10 time to time as such action becomes necessary for the protection of the  
11 public.

12 § 6822. Examinations and investigations. The secretary is authorized  
13 to conduct examinations and investigations for the purposes of this  
14 title through officers and employees of the United States, or through  
15 any health, food, or drug officer or employee of any city, county or  
16 other political subdivision of this state, duly commissioned by the  
17 secretary as an officer of the board.

18 § 6823. Factory inspection. For purposes of enforcement of this title,  
19 officers duly designated by the secretary are authorized:

20 1. to enter, at reasonable times, any factory, warehouse or establish-  
21 ment in which drugs, devices or cosmetics are manufactured, processed,  
22 packed, or held, for introduction into commerce or are held after such  
23 introduction, or to enter any vehicle being used to transport or hold  
24 such drugs, devices or cosmetics in commerce; and

25 2. to inspect, at reasonable times, such factory, warehouse, estab-  
26 lishment or vehicle and all pertinent equipment, finished and unfinished  
27 materials, containers, and labeling therein.

1 § 6824. Injunction proceedings. In addition to the remedies hereinaft-  
2 er provided, the secretary is hereby authorized to apply to the court of  
3 the proper venue for an injunction to restrain any person from:

4 1. introducing or causing to be introduced into commerce any adulter-  
5 ated or misbranded drug, device or cosmetic; or

6 2. from introducing or causing to be introduced in commerce any new  
7 drug which does not comply with the provisions of this title; or

8 3. from disseminating or causing to be disseminated a false advertise-  
9 ment, without being compelled to allege or prove that an adequate remedy  
10 at law does not exist.

11 § 6825. Proof required in prosecution for certain violations. 1. In an  
12 action or proceeding, civil or criminal, against a person for violating  
13 such provisions of this title which relate to the possession of,  
14 compounding, retailing or dispensing of misbranded, substituted or  
15 imitated drugs, poisons or cosmetics, when it shall be necessary that an  
16 analysis be made for the purpose of establishing the quality of such  
17 drug, poison or cosmetic so as to determine the fact of misbranding,  
18 substituting or imitating, then it shall be required to prove at the  
19 trial or hearing of such action or proceeding, that the person, taking  
20 the same for analysis separated it into two representative parts,  
21 hermetically or otherwise effectively and completely sealed, delivered  
22 one such sealed part to the seller, manufacturer, wholesaler, pharma-  
23 cist, or druggist from whose premises such sample was taken and deliv-  
24 ered the other part so sealed to the chemist designated by the state  
25 board of pharmacy; and the facts herein required to be proven shall be  
26 alleged in the complaint or information by which such action or proceed-  
27 ing was begun. The rules of the board shall be proven prima facie by the  
28 certificate of the secretary.

1 2. Any person accused of violation of any of the provisions of this  
2 title relating to adulterating, misbranding, substitution or imitation  
3 shall not be prosecuted or convicted or suffer any of the penalties,  
4 finances or forfeitures for such violation, if he or she establishes upon  
5 the hearing or trial that the drug, device or cosmetic alleged to be  
6 adulterated, misbranded, substituted or imitated was purchased by him or  
7 her under a written guaranty of the manufacturer or seller to the effect  
8 that said drug, device or cosmetic was not adulterated or misbranded,  
9 within the meaning of this title and proves that he or she has not adul-  
10 terated, misbranded, substituted or imitated the same, provided the  
11 seller has taken due precaution to maintain the standard set for the  
12 drug, device or cosmetic. A guaranty, in order to be a defense to a  
13 prosecution or to prevent conviction or to afford protection, must state  
14 that the drug, device or cosmetic to which it refers is not adulterated,  
15 misbranded, substituted or imitated within the meaning of the provisions  
16 of this title and must state also the full name and place of business of  
17 the manufacturer, wholesaler, jobber or other person from whom the drug,  
18 device or cosmetic was purchased, and the date of purchase. The act,  
19 omission or failure of any officer, agent or other employee acting for  
20 or employed by any person within the scope of his or her authority or  
21 employment shall in every case be the act, omission or failure of such  
22 person as well as that of the officer, agent or other employee, and such  
23 person shall be equally liable for violations of this title by a part-  
24 nership, association or corporation, and every member of the partnership  
25 or association and the directors and general officers of the corporation  
26 and the general manager of the partnership, association or corporation  
27 shall be individually liable and any action, prosecution or proceeding  
28 authorized by this title may be brought against any or all of such

1 persons. When any prosecution under this title is made on the complaint  
2 of the board, any fines collected shall be paid into the state treasury  
3 as provided by this title.

4 3. No publisher, radio-broadcast licensee, advertising agency, or  
5 agency or medium for the dissemination of advertising, except the  
6 manufacturer, packer, distributor, or seller of the commodity to which  
7 the false advertisement relates, shall be subject to the penalties  
8 provided by this title by reason of the dissemination by him or her of  
9 any false advertisement, unless he or she has refused, on the request of  
10 the secretary, to furnish the secretary the name and post-office address  
11 of the manufacturer, packer, distributor, seller or advertising agency,  
12 who caused him or her to disseminate such advertisement.

13 § 6826. Drug retail price lists. 1. Every pharmacy shall compile a  
14 drug retail price list, which shall contain the names of the drugs on  
15 the list provided by the board, and the pharmacy's corresponding retail  
16 prices for each drug. Every pharmacy shall update its drug retail list  
17 at least weekly and provide the time and date that the list was updated.  
18 Every pharmacy shall provide the drug retail price list to any person  
19 upon request.

20 2. a. The list provided by the board shall be prepared at least annu-  
21 ally by the board and distributed to each pharmacy in the state. The  
22 list shall be a compendium of the one hundred fifty most frequently  
23 prescribed drugs together with their usual dosages for which a  
24 prescription is required by the provisions of the "Federal Food, Drug,  
25 and Cosmetic Act" (21 U.S.C. 301, et seq.; 52 Stat. 1040, et seq.), as  
26 amended, or by the commissioner. The board shall make the compendium  
27 list available to each pharmacy free of charge, both in printed form and  
28 in an electronic form that can be used to produce the pharmacy's drug

1 retail list. The board shall provide the compendium list to the depart-  
2 ment.

3 b. The drug retail price list shall contain an advisory statement by  
4 the department alerting consumers to the need to tell their health care  
5 practitioner and pharmacist about all the medications they may be taking  
6 and to ask them how to avoid harmful interactions between drugs, if any.  
7 A pharmacy may include on its drug retail price list a statement: (i)  
8 concerning discounts from its listed retail prices that may be available  
9 to consumers and (ii) any limitations that the pharmacy may have as to  
10 what group or groups of customers it serves.

11 3. The pharmacy's corresponding retail price means the actual price to  
12 be paid by a retail purchaser to the pharmacy for any listed drug at the  
13 listed dosage. However, upon implementation of the prescription drug  
14 retail price list database by the department under this section, the  
15 pharmacy's corresponding retail price shall mean the price sent to it by  
16 the department under such section.

17 4. Pharmacies shall have a sign notifying people of the availability  
18 of the drug retail price list and the availability of the department  
19 prescription drug retail price list database and the web address of that  
20 database, conspicuously posted at or adjacent to the place in the phar-  
21 macy where prescriptions are presented for compounding and dispensing,  
22 in the waiting area for customers, or in the area where prescribed drugs  
23 are delivered.

24 5. Nothing contained herein shall prevent a pharmacy from changing and  
25 charging the current retail price at any time, provided that the listed  
26 price is updated at least weekly to reflect the new retail price.

1 6. The commissioner shall make regulations necessary to implement this  
2 section, including how this section is applied to mail-order and inter-  
3 net pharmacies.

4 § 6826-a. Reducing certain copayments. 1. Where an insured's copayment  
5 for a drug exceeds the corresponding retail price for the same drug on  
6 the pharmacy's drug retail price list, the pharmacist shall notify the  
7 insured of this occurrence and charge no greater than the pharmacy's  
8 corresponding retail price.

9 2. Where the drug being purchased is not on the drug retail price  
10 list, and the copayment for the drug exceeds the pharmacy's usual and  
11 customary price for that drug, the pharmacist shall notify the insured  
12 of this occurrence and charge the lesser of the insured's copayment and  
13 the pharmacy's usual and customary price for that drug.

14 § 6827. Mandatory continuing education. 1. a. Each licensed pharmacist  
15 required under this title to register triennially with the department to  
16 practice in the state shall comply with provisions of the mandatory  
17 continuing education requirements prescribed in subdivision two of this  
18 section except as set forth in paragraphs b and c of this subdivision.  
19 Pharmacists who do not satisfy the mandatory continuing education  
20 requirements shall not practice until they have met such requirements,  
21 and they have been issued a registration certificate, except that a  
22 pharmacist may practice without having met such requirements if he or  
23 she is issued a conditional registration certificate pursuant to subdivi-  
24 vision three of this section.

25 b. In accord with the intent of this section, adjustment to the manda-  
26 tory continuing education requirement may be granted by the department  
27 for reasons of health certified by an appropriate health care profes-  
28 sional, for extended active duty with the armed forces of the United

1 States, or for other good cause acceptable to the department which may  
2 prevent compliance.

3 c. A licensed pharmacist not engaged in practice as determined by the  
4 department, shall be exempt from the mandatory continuing education  
5 requirement upon the filing of a statement with the department declaring  
6 such status. Any licensee who returns to the practice of pharmacy during  
7 the triennial registration period shall notify the department prior to  
8 reentering the profession and shall meet such mandatory education  
9 requirements as shall be prescribed by regulations of the commissioner.

10 2. During each triennial registration period an applicant for regis-  
11 tration shall complete a minimum of forty-five hours of acceptable  
12 formal continuing education, as specified in subdivision four of this  
13 section, provided that no more than twenty-two hours of such continuing  
14 education shall consist of self-study courses. Any pharmacist whose  
15 first registration date following the effective date of this section  
16 occurs less than three years from such effective date, but on or after  
17 January first, nineteen hundred ninety-eight, shall complete continuing  
18 education hours on a prorated basis at the rate of one and one-quarter  
19 hours per month for the period beginning January first, nineteen hundred  
20 ninety-seven up to the first registration date thereafter. A licensee  
21 who has not satisfied the mandatory continuing education requirements  
22 shall not be issued a triennial registration certificate by the depart-  
23 ment and shall not practice unless and until a conditional registration  
24 certificate is issued as provided for in subdivision three of this  
25 section. Continuing education hours taken during one triennium may not  
26 be transferred to a subsequent triennium.

27 3. The department, in its discretion, may issue a conditional regis-  
28 tration to a licensee who fails to meet the continuing education

1 requirements established in subdivision two of this section but who  
2 agrees to make up any deficiencies and complete any additional education  
3 which the department may require. The fee for such a conditional regis-  
4 tration shall be the same as, and in addition to, the fee for the trien-  
5 nial registration. The duration of such conditional registration shall  
6 be determined by the department but shall not exceed one year. Any  
7 licensee who is notified of the denial of registration for failure to  
8 submit evidence, satisfactory to the department, of required continuing  
9 education and who practices pharmacy without such registration, may be  
10 subject to disciplinary proceedings pursuant to section sixty-five  
11 hundred ten of this article.

12 4. As used in subdivision two of this section, "acceptable formal  
13 continuing education" shall mean formal courses of learning which  
14 contribute to professional practice in pharmacy and which meet the stan-  
15 dards prescribed by regulations of the commissioner. The department  
16 may, in its discretion and as needed to contribute to the health and  
17 welfare of the public, require the completion of continuing education  
18 courses in specific subjects. To fulfill this mandatory continuing  
19 education requirement, courses must be taken from a sponsor approved by  
20 the department, pursuant to the regulations of the commissioner.

21 5. Pharmacists shall maintain adequate documentation of completion of  
22 acceptable formal continuing education and shall provide such documenta-  
23 tion at the request of the department. Failure to provide such documen-  
24 tation upon the request of the department shall be an act of misconduct  
25 subject to disciplinary proceedings pursuant to section sixty-five  
26 hundred ten of this article.

27 6. The mandatory continuing education fee shall be forty-five dollars,  
28 shall be payable on or before the first day of each triennial registra-

1 tion period, and shall be paid in addition to the triennial registration  
2 fee required by section sixty-eight hundred five of this title.

3 § 6828. Certificates of administration. 1. No pharmacist shall admin-  
4 ister immunizing agents without a certificate of administration issued  
5 by the department pursuant to regulations of the commissioner.

6 2. The fee for a certificate of administration shall be one hundred  
7 dollars and shall be paid on a triennial basis. A certificate may be  
8 suspended or revoked in the same manner as a license to practice pharma-  
9 cy.

10 § 6829. Interpretation and translation requirements for prescription  
11 drugs and standardized medication labeling. 1. For the purposes of this  
12 section, the following terms shall have the following meanings:

13 a. "Covered pharmacy" means any pharmacy that is part of a group of  
14 eight or more pharmacies, located within New York state and owned by the  
15 same corporate entity. For purposes of this section, "corporate entity"  
16 shall include related subsidiaries, affiliates, successors, or assignees  
17 doing business as or operating under a common name or trading symbol.

18 b. "Limited English proficient individual" or "LEP individual" means  
19 an individual who identifies as being, or is evidently, unable to speak,  
20 read or write English at a level that permits such individual to under-  
21 stand health-related and pharmaceutical information communicated in  
22 English.

23 c. "Translation" shall mean the conversion of a written text from one  
24 language into an equivalent written text in another language by an indi-  
25 vidual competent to do so and utilizing all necessary pharmaceutical and  
26 health-related terminology. Such translation may occur, where appropri-  
27 ate, in a separate document provided to an LEP individual that accompa-  
28 nies his or her medication.

1 d. "Competent oral interpretation" means oral communication in which a  
2 person acting as an interpreter comprehends a message and re-expresses  
3 that message accurately in another language, utilizing all necessary  
4 pharmaceutical and health-related terminology, so as to enable an LEP  
5 individual to receive all necessary information in the LEP individual's  
6 preferred pharmacy primary language.

7 e. "Pharmacy primary languages" shall mean those languages spoken by  
8 one percent or more of the population, as determined by the U.S. Census,  
9 for each region, as established by regulations promulgated pursuant to  
10 this section, provided, however, that the regulations shall not require  
11 translation or competent oral interpretation of more than seven  
12 languages in any region.

13 f. "Mail order pharmacy" shall mean a pharmacy that dispenses most of  
14 its prescriptions through the United States postal service or other  
15 delivery system.

16 2. a. Every covered pharmacy shall provide free, competent oral inter-  
17 pretation services and translation services to each LEP individual  
18 requesting such services or filling a prescription that indicates that  
19 the individual is limited English proficient at such covered pharmacy in  
20 the LEP individual's preferred pharmacy primary language for the  
21 purposes of counseling such individual about his or her prescription  
22 medications or when soliciting information necessary to maintain a  
23 patient medication profile, unless the LEP individual is offered and  
24 refuses such services.

25 b. Every covered pharmacy shall provide free, competent oral interpre-  
26 tation services and translation services of prescription medication  
27 labels, warning labels and other written material to each LEP individual  
28 filling a prescription at such covered pharmacy, unless the LEP individ-

1 ual is offered and refuses such services or the medication label, warn-  
2 ing labels and other written materials have already been translated into  
3 the language spoken by the LEP individual.

4 c. The services required by this section may be provided by a staff  
5 member of the pharmacy or a third-party contractor. Such services must  
6 be provided on an immediate basis but need not be provided in-person or  
7 face-to-face in order to meet the requirements of this section.

8 3. Every covered pharmacy shall conspicuously post, at or adjacent to  
9 each counter over which prescription drugs are sold, a notification of  
10 the right to free, competent oral interpretation services and trans-  
11 lation services for limited English proficient individuals as provided  
12 for in subdivision two of this section. Such notifications shall be  
13 provided in the pharmacy primary languages. The size, style and place-  
14 ment of such notice shall be determined in accordance with rules promul-  
15 gated pursuant to this section.

16 4. The commissioner shall promulgate regulations requiring that mail  
17 order pharmacies conducting business in the state provide free, compe-  
18 tent oral interpretation services and translation services to persons  
19 filling a prescription through such mail order pharmacies whom are iden-  
20 tified as LEP individuals. Such regulations shall take effect one year  
21 after the effective date of this section; provided, however, that they  
22 shall be promulgated pursuant to the requirements of the state adminis-  
23 trative procedure act, address the concerns of affected stakeholders,  
24 and reflect the findings of a thorough analysis of issues including:

25 a. how persons shall be identified as an LEP individual, in light of  
26 the manner by which prescriptions are currently received by such mail  
27 order pharmacies;

28 b. which languages shall be considered;

1 c. the manner and circumstances in which competent oral interpretation  
2 services and translation services shall be provided;

3 d. the information for which competent oral interpretation services  
4 and translation services shall be provided;

5 e. anticipated utilization, available resources, and cost consider-  
6 ations; and

7 f. standards for monitoring compliance with regulations and ensuring  
8 the delivery of quality competent oral interpretation services and  
9 translation services.

10 The commissioner shall provide a report on implementation, utiliza-  
11 tion, unanticipated problems, and corrective actions undertaken and  
12 planned to the temporary president of the senate and the speaker of the  
13 assembly no later than two years after the effective date of this  
14 section.

15 5. Covered pharmacies shall not be liable for injuries resulting from  
16 the actions of third-party contractors taken pursuant to and within the  
17 scope of the contract with the covered pharmacy as long as the covered  
18 pharmacy entered into such contract reasonably and in good faith to  
19 comply with this section, and was not negligent with regard to the  
20 alleged misconduct of the third-party contractor.

21 6. The regulations promulgated pursuant to this section shall estab-  
22 lish a process by which covered pharmacies may apply and receive a waiv-  
23 er from compliance with subdivisions two and three of this section upon  
24 a showing that implementation would be unnecessarily burdensome when  
25 compared to the need for such services.

26 7. The commissioner shall promulgate regulations to effectuate the  
27 requirements of this section.

1 § 6830. Standardized patient-centered data elements. 1. The commis-  
2 sioner shall develop rules and regulations requiring standardized  
3 patient-centered data elements consistent with existing technology and  
4 equipment to be used on all prescription medicine dispensed to patients  
5 in this state.

6 2. When developing the requirements for patient-centered data elements  
7 on prescription drug labels, the commissioner shall consider:

8 a. medical literacy research that identifies factors that improve  
9 understandability of labels and promotes increased compliance with a  
10 drug's intended use;

11 b. factors that improve the clarity of directions for use;

12 c. font types and sizes;

13 d. inclusion of only patient-centered information; and

14 e. the needs of special populations. To ensure public input, the  
15 commissioner shall solicit input from the state board of pharmacy and  
16 the state board of medicine, consumer groups, advocates for special  
17 populations, pharmacists, physicians, other health care professionals  
18 authorized to prescribe, and other interested parties.

19 § 6831. Special provisions relating to outsourcing facilities. 1.  
20 Registration. Any outsourcing facility that is engaged in the compound-  
21 ing of sterile drugs in this state shall be registered as an outsourcing  
22 facility under the Federal Food, Drug and Cosmetic Act and be registered  
23 as an outsourcing facility pursuant to this title.

24 2. New drugs. Sections 502(f)(1), 505 and 582 of the Federal Food,  
25 Drug and Cosmetic Act shall not apply to a drug compounded in an  
26 outsourcing facility registered under the Federal Food, Drug and Cosmet-  
27 ic Act.

1 3. Prescriptions. Notwithstanding any other provision of law to the  
2 contrary, no outsourcing facility may distribute or dispense any drug to  
3 any person pursuant to a prescription unless it is also registered as a  
4 pharmacy in this state and meets all other applicable requirements of  
5 federal and state law.

6 4. Restrictions. Any drugs compounded in an outsourcing facility  
7 registered pursuant to this title shall be compounded in accordance with  
8 all applicable federal and state laws.

9 5. Labeling. Notwithstanding any other provision of law to the contra-  
10 ry, the label of any drug compounded by an outsourcing facility shall  
11 include, but not be limited to the following:

12 a. a statement that the drug is a compounded drug or a reasonable  
13 comparable alternative statement that prominently identifies the drug as  
14 a compounded drug;

15 b. the name, address, and phone number of the applicable outsourcing  
16 facility; and

17 c. with respect to the drug:

18 (i) the lot or batch number;

19 (ii) the established name of the drug;

20 (iii) the dosage form and strength;

21 (iv) the statement of quantity or volume, as appropriate;

22 (v) the date that the drug was compounded;

23 (vi) the expiration date;

24 (vii) storage and handling instructions;

25 (viii) the National Drug Code number, if available;

26 (ix) the statement that the drug is not for resale, and the statement

27 "Office Use Only"; and

1 (x) a list of the active and inactive ingredients, identified by  
2 established name, and the quantity or proportion of each ingredient.

3 6. Container. The container from which the individual units of the  
4 drug are removed for dispensing or for administration, such as a plastic  
5 bag containing individual product syringes, shall include:

6 a. a list of active and inactive ingredients, identified by estab-  
7 lished name, and the quantity or proportion of each ingredient; and

8 b. any other information required by regulations promulgated by the  
9 commissioner to facilitate adverse event reporting in accordance with  
10 the requirements established in section 310.305 of title 21 of the code  
11 of federal regulations.

12 7. Bulk drugs. A drug may only be compounded in an outsourcing facili-  
13 ty that does not compound using bulk drug substances as defined in  
14 section 207.3(a)(4) of title 21 of the code of federal regulations or  
15 any successor regulation unless:

16 a. the bulk drug substance appears on a list established by the secre-  
17 tary of health and human services identifying bulk drug substances for  
18 which there is a clinical need;

19 b. the drug is compounded from a bulk drug substance that appears on  
20 the federal drug shortage list in effect at the time of compounding,  
21 distributing, and dispensing;

22 c. if an applicable monograph exists under the United States Pharma-  
23 copeia, the national formulary, or another compendium or pharmacopeia  
24 recognized by the secretary of health and human services and the bulk  
25 drug substances each comply with the monograph;

26 d. the bulk drug substances are each manufactured by an establishment  
27 that is registered with the federal government.

1 8. Ingredients. If an outsourcing facility uses ingredients, other  
2 than bulk drug substances, such ingredients must comply with the stand-  
3 ards of the applicable United States pharmacopeia or national formulary  
4 monograph, if such monograph exists, or of another compendium or pharma-  
5 copeia recognized by the secretary of health and human services for  
6 purposes of this subdivision, if any.

7 9. Unsafe or ineffective drugs. No outsourcing facility may compound a  
8 drug that appears on a list published by the secretary of health and  
9 human services that has been withdrawn or removed from the market  
10 because such drugs or components of such drugs have been found to be  
11 unsafe or not effective.

12 10. Prohibition on wholesaling. No compounded drug will be sold or  
13 transferred by any entity other than the outsourcing facility that  
14 compounded such drug. This does not prohibit the administration of a  
15 drug in a health care setting or dispensing a drug pursuant to a proper-  
16 ly executed prescription.

17 11. Prohibition against copying an approved drug. No outsourcing  
18 facility may compound a drug that is essentially a copy of one or more  
19 approved drugs.

20 12. Prohibition against compounding drugs presenting demonstrable  
21 difficulties. No outsourcing facility may compound a drug:

22 a. that is identified, directly or as part of a category of drugs, on  
23 a list published by the secretary of health and human services that  
24 present demonstrable difficulties for compounding that are reasonably  
25 likely to lead to an adverse effect on the safety or effectiveness of  
26 the drug or category of drugs, taking into account the risks and bene-  
27 fits to patients; or

1 b. that is compounded in accordance with all applicable conditions  
2 identified on the drug list as conditions that are necessary to prevent  
3 the drug or category of drugs from presenting demonstrable difficulties.

4 13. Adverse event reports. Outsourcing facilities shall submit a copy  
5 of all adverse event reports submitted to the secretary of health and  
6 human services in accordance with the content and format requirements  
7 established in section 310.305 of title 21 of the code of federal regu-  
8 lations, or any successor regulation, to the executive secretary for the  
9 state board of pharmacy.

10 14. Reports. The commissioner shall prepare and submit a report to the  
11 governor and the legislature, due eighteen months from the effective  
12 date of this section, evaluating the effectiveness of the registration  
13 and oversight of outsourcing facilities related to compounding.

14 § 6832. Limitations on assistance of an unlicensed person. 1. Subject  
15 to the limitations set forth in subdivision two of this section, an  
16 unlicensed person may assist a licensed pharmacist in the dispensing of  
17 drugs by:

18 a. receiving written or electronically transmitted prescriptions,  
19 except that in the case of electronically transmitted prescriptions the  
20 licensed pharmacist or pharmacy intern shall review the prescription to  
21 determine whether in his or her professional judgment it shall be  
22 accepted by the pharmacy, and if accepted, the licensed pharmacist or  
23 pharmacy intern shall enter his or her initials into the records of the  
24 pharmacy;

25 b. typing prescription labels;

26 c. keying prescription data for entry into a computer-generated file  
27 or retrieving prescription data from the file, provided that such compu-  
28 ter-generated file shall provide for verification of all information

1 needed to fill the prescription by a licensed pharmacist prior to the  
2 dispensing of the prescription, meaning that the licensed pharmacist  
3 shall review and approve such information and enter his or her initials  
4 or other personal identifier into the recordkeeping system prior to the  
5 dispensing of the prescription or of the prescription refill;

6 d. getting drugs from stock and returning them to stock;

7 e. getting prescription files and other manual records from storage  
8 and locating prescriptions;

9 f. counting dosage units of drugs;

10 g. placing dosage units of drugs in appropriate containers;

11 h. affixing the prescription label to the containers;

12 i. preparing manual records of dispensing for the signature or  
13 initials of the licensed pharmacist;

14 j. handing or delivering completed prescriptions to the patient or the  
15 person authorized to act on behalf of the patient and, in accordance  
16 with the relevant commissioner's regulations, advising the patient or  
17 person authorized to act on behalf of the patient of the availability of  
18 counseling to be conducted by the licensed pharmacist or pharmacy  
19 intern; and

20 k. performing other functions as defined by the commissioner's regu-  
21 lations.

22 2. Except for a licensed pharmacist employed by a facility licensed in  
23 accordance with article twenty-eight of this chapter or a pharmacy owned  
24 and operated by such a facility, no licensed pharmacist shall obtain the  
25 assistance of more than four unlicensed persons, in the performance of  
26 the activities that do not require licensure, the total of such persons  
27 shall not exceed four individuals at any one time. Pharmacy interns  
28 shall be exempt from such ratios, but shall be supervised in accordance

1 with the commissioner's regulations. Individuals who are responsible for  
2 the act of placing drugs which are in unit-dose packaging into medica-  
3 tion carts as part of an approved unit-dose drug distribution system for  
4 patients in institutional settings shall be exempt from such ratio,  
5 provided that such individuals are not also engaged in performing the  
6 activities set forth in paragraph b, c, d, e, f, g, h or i of subdivi-  
7 sion one of this section. The licensed pharmacist shall provide the  
8 degree of supervision of such persons as may be appropriate to ensure  
9 compliance with the relevant provisions of regulations of the commis-  
10 sioner.

11 TITLE 11

12 REGISTERED PHARMACY TECHNICIANS

13 Section 6840. Introduction.

14 6841. Definition of the practice of registered pharmacy techni-  
15 cian.

16 6842. Definitions.

17 6843. Practice of registered pharmacy technician and use of the  
18 title "registered pharmacy technician".

19 6844. Requirements for licensure as a registered pharmacy tech-  
20 nician.

21 § 6840. Introduction. This title applies to the profession of regis-  
22 tered pharmacy technician. The general provisions for all professions  
23 contained in title one of this article shall apply to this title.

24 § 6841. Definition of the practice of registered pharmacy technician.

25 1. A registered pharmacy technician may, under the direct personal  
26 supervision of a licensed pharmacist, assist such licensed pharmacist,

1 as directed, in compounding, preparing, labeling, or dispensing of drugs  
2 used to fill valid prescriptions or medication orders or in compounding,  
3 preparing, and labeling in anticipation of a valid prescription or medi-  
4 cation order for a patient to be served by the facility, in accordance  
5 with title ten of this article where such tasks require no professional  
6 judgment. Such professional judgment shall only be exercised by a  
7 licensed pharmacist. A registered pharmacy technician may only practice  
8 in a facility licensed in accordance with article twenty-eight of the  
9 public health law, or a pharmacy owned and operated by such a facility,  
10 under the direct personal supervision of a licensed pharmacist employed  
11 in such a facility or pharmacy. Such facility shall be responsible for  
12 ensuring that the registered pharmacy technician has received appropri-  
13 ate training to ensure competence before he or she begins assisting a  
14 licensed pharmacist in compounding, preparing, labeling, or dispensing  
15 of drugs, in accordance with this title and title ten of this article.  
16 For the purposes of this title, direct personal supervision means super-  
17 vision of procedures based on instructions given directly by a supervis-  
18 ing licensed pharmacist who remains in the immediate area where the  
19 procedures are being performed, authorizes the procedures and evaluates  
20 the procedures performed by the registered pharmacy technicians and a  
21 supervising licensed pharmacist shall approve all work performed by the  
22 registered pharmacy technician prior to the actual dispensing of any  
23 drug.

24 2. In addition to the registered pharmacy technician services included  
25 in subdivision one of this section, registered pharmacy technicians may  
26 also assist a licensed pharmacist in the dispensing of drugs by perform-  
27 ing the following functions that do not require a license under this  
28 title:

- 1 a. receiving written or electronically transmitted prescriptions,  
2 except that in the case of electronically transmitted prescriptions the  
3 licensed pharmacist or pharmacy intern shall review the prescription to  
4 determine whether in his or her professional judgment it shall be  
5 accepted by the pharmacy, and if accepted, the licensed pharmacist or  
6 pharmacy intern shall enter his or her initials into the records of the  
7 pharmacy;
- 8 b. typing prescription labels;
- 9 c. keying prescription data for entry into a computer-generated file  
10 or retrieving prescription data from the file, provided that such compu-  
11 ter-generated file shall provide for verification of all information  
12 needed to fill the prescription by a licensed pharmacist prior to the  
13 dispensing of the prescription, meaning that the licensed pharmacist  
14 shall review and approve such information and enter his or her initials  
15 or other personal identifier into the recordkeeping system prior to the  
16 dispensing of the prescription or of the prescription refill;
- 17 d. getting drugs from stock and returning them to stock;
- 18 e. getting prescription files and other manual records from storage  
19 and locating prescriptions;
- 20 f. counting dosage units of drugs;
- 21 g. placing dosage units of drugs in appropriate containers;
- 22 h. affixing the prescription label to the containers;
- 23 i. preparing manual records of dispensing for the signature or  
24 initials of the licensed pharmacist;
- 25 j. handing or delivering completed prescriptions to the patient or the  
26 person authorized to act on behalf of the patient and, in accordance  
27 with the relevant commissioner's regulations, advising the patient or  
28 person authorized to act on behalf of the patient of the availability of

1 counseling to be conducted by the licensed pharmacist or pharmacy  
2 intern; or

3 k. performing other functions as defined by the commissioner's regu-  
4 lations.

5 3. Under the direct personal supervision of a licensed pharmacist,  
6 unlicensed persons who are not registered pharmacy technicians may  
7 assist licensed pharmacists in performing tasks that do not require  
8 licensure in accordance with regulations promulgated by the commissioner  
9 and are also described in subdivision two of this section. Unlicensed  
10 persons who are not registered pharmacy technicians shall not engage in  
11 or assist in compounding.

12 4. No licensed pharmacist shall obtain the assistance of more than two  
13 registered pharmacy technicians in the performance of licensed tasks  
14 within their scope of practice or four unlicensed persons, in the  
15 performance of the activities that do not require licensure, the total  
16 of such persons shall not exceed four individuals at any one time. Phar-  
17 macy interns shall be exempt from such ratios, but shall be supervised  
18 in accordance with commissioner's regulations. Individuals who are  
19 responsible for the act of placing drugs which are in unit-dose packag-  
20 ing into medication carts as part of an approved unit-dose drug distrib-  
21 ution system for patients in institutional settings shall be exempt from  
22 such ratio, provided that such individuals are not also engaged in  
23 performing the activities set forth in subdivision one or paragraph b,  
24 c, d, e, f, g, h, or i of subdivision two of this section. The licensed  
25 pharmacist shall provide the degree of supervision of such persons as  
26 may be appropriate to ensure compliance with the relevant provisions of  
27 regulations of the commissioner.

28 § 6842. Definitions. As used in this title:

1     1. "Licensed pharmacist" means a person licensed to practice pharmacy  
2 pursuant to title ten of this article.

3     2. "Pharmacy intern" means a person practicing under a limited permit  
4 pursuant to section sixty-eight hundred six of this article.

5     3. "Professional judgment" means professional decision-making by a  
6 licensed pharmacist, including, but not limited to, such activities as:

7     a. interpreting a prescription or medication order for therapeutic  
8 acceptability and appropriateness or engaging in the calculations behind  
9 any such formulations;

10    b. interpreting and evaluating a prescription or medication order for  
11 conformance with legal requirements, authenticity, accuracy and inter-  
12 action of the prescribed drug with other known prescribed and over-the  
13 -counter drugs;

14    c. receiving oral prescriptions from prescribers; or

15    d. counseling patients.

16     4. "Compounding" means the combining, admixing, mixing, diluting,  
17 pooling, reconstituting, or otherwise altering of a drug or bulk drug  
18 substance to create a drug.

19     5. "Drugs", "pharmacopeia", "labeling" and "sterile drug" shall have  
20 the same definitions as set forth in section sixty-eight hundred two of  
21 this article.

22     § 6843. Practice of registered pharmacy technician and use of the  
23 title "registered pharmacy technician". Only a person licensed to prac-  
24 tice as a registered pharmacy technician under this title or otherwise  
25 authorized shall practice as a registered pharmacy technician or use the  
26 title "registered pharmacy technician."



1           6909. Special provision.

2           6910. Certificates for nurse practitioner practice.

3           6911. Certification as a clinical nurse specialist (CNS).

4       § 6900. Introduction. This title applies to the profession of nursing.

5 The general provisions for all professions contained in title one of  
6 this article apply to this title.

7       § 6901. Definitions. As used in section sixty-nine hundred two of this  
8 title:

9       1. "Diagnosing" in the context of nursing practice means that iden-  
10 tification of and discrimination between physical and psychosocial signs  
11 and symptoms essential to effective execution and management of the  
12 nursing regimen. Such diagnostic privilege is distinct from a medical  
13 diagnosis.

14       2. "Treating" means selection and performance of those therapeutic  
15 measures essential to the effective execution and management of the  
16 nursing regimen, and execution of any prescribed medical regimen.

17       3. "Human Responses" means those signs, symptoms and processes which  
18 denote the individual's interaction with an actual or potential health  
19 problem.

20       § 6902. Definition of practice of nursing. 1. The practice of the  
21 profession of nursing as a registered professional nurse is defined as  
22 diagnosing and treating human responses to actual or potential health  
23 problems through such services as casefinding, health teaching, health  
24 counseling, and provision of care supportive to or restorative of life  
25 and well-being, and executing medical regimens prescribed by a licensed  
26 physician, dentist or other licensed health care provider legally  
27 authorized under this title and in accordance with the commissioner's

1 regulations. A nursing regimen shall be consistent with and shall not  
2 vary any existing medical regimen.

3 2. The practice of nursing as a licensed practical nurse is defined as  
4 performing tasks and responsibilities within the framework of casefind-  
5 ing, health teaching, health counseling, and provision of supportive and  
6 restorative care under the direction of a registered professional nurse  
7 or licensed physician, dentist or other licensed health care provider  
8 legally authorized under this article and in accordance with the commis-  
9 sioner's regulations.

10 3. a. (i) The practice of registered professional nursing by a nurse  
11 practitioner, certified under section six thousand nine hundred ten of  
12 this title, may include the diagnosis of illness and physical conditions  
13 and the performance of therapeutic and corrective measures within a  
14 specialty area of practice, in collaboration with a licensed physician  
15 qualified to collaborate in the specialty involved, provided such  
16 services are performed in accordance with a written practice agreement  
17 and written practice protocols except as permitted by paragraph b of  
18 this subdivision. The written practice agreement shall include explicit  
19 provisions for the resolution of any disagreement between the collab-  
20 orating physician and the nurse practitioner regarding a matter of diag-  
21 nosis or treatment that is within the scope of practice of both. To the  
22 extent the practice agreement does not so provide, then the collaborat-  
23 ing physician's diagnosis or treatment shall prevail.

24 (ii) Prescriptions for drugs, devices and immunizing agents may be  
25 issued by a nurse practitioner, under this paragraph and section six  
26 thousand nine hundred ten of this title, in accordance with the practice  
27 agreement and practice protocols except as permitted by paragraph b of  
28 this subdivision. The nurse practitioner shall obtain a certificate from

1 the department upon successfully completing a program including an  
2 appropriate pharmacology component, or its equivalent, as established by  
3 the commissioner's regulations, prior to prescribing under this para-  
4 graph. The certificate issued under section six thousand nine hundred  
5 ten of this title shall state whether the nurse practitioner has  
6 successfully completed such a program or equivalent and is authorized to  
7 prescribe under this paragraph.

8 (iii) Each practice agreement shall provide for patient records review  
9 by the collaborating physician in a timely fashion but in no event less  
10 often than every three months. The names of the nurse practitioner and  
11 the collaborating physician shall be clearly posted in the practice  
12 setting of the nurse practitioner.

13 (iv) The practice protocol shall reflect current accepted medical and  
14 nursing practice. The protocols shall be filed with the department with-  
15 in ninety days of the commencement of the practice and may be updated  
16 periodically. The commissioner shall make regulations establishing the  
17 procedure for the review of protocols and the disposition of any issues  
18 arising from such review.

19 (v) No physician shall enter into practice agreements with more than  
20 four nurse practitioners who are not located on the same physical prem-  
21 ises as the collaborating physician.

22 b. Notwithstanding subparagraph (i) of paragraph a of this subdivi-  
23 sion, a nurse practitioner, certified under section sixty-nine hundred  
24 ten of this title and practicing for more than three thousand six  
25 hundred hours may comply with this paragraph in lieu of complying with  
26 the requirements of paragraph a of this subdivision relating to collab-  
27 oration with a physician, a written practice agreement and written prac-  
28 tice protocols. A nurse practitioner complying with this paragraph shall

1 have collaborative relationships with one or more licensed physicians  
2 qualified to collaborate in the specialty involved or a hospital,  
3 licensed under article twenty-eight of this chapter, that provides  
4 services through licensed physicians qualified to collaborate in the  
5 specialty involved and having privileges at such institution. As  
6 evidence that the nurse practitioner maintains collaborative relation-  
7 ships, the nurse practitioner shall complete and maintain a form,  
8 created by the department, to which the nurse practitioner shall attest,  
9 that describes such collaborative relationships. For purposes of this  
10 paragraph, "collaborative relationships" shall mean that the nurse prac-  
11 titioner shall communicate, whether in person, by telephone or through  
12 written (including electronic) means, with a licensed physician quali-  
13 fied to collaborate in the specialty involved or, in the case of a  
14 hospital, communicate with a licensed physician qualified to collaborate  
15 in the specialty involved and having privileges at such hospital, for  
16 the purposes of exchanging information, as needed, in order to provide  
17 comprehensive patient care and to make referrals as necessary. Such  
18 form shall also reflect the nurse practitioner's acknowledgement that if  
19 reasonable efforts to resolve any dispute that may arise with the  
20 collaborating physician or, in the case of a collaboration with a hospi-  
21 tal, with a licensed physician qualified to collaborate in the specialty  
22 involved and having privileges at such hospital, about a patient's care  
23 are not successful, the recommendation of the physician shall prevail.  
24 Such form shall be updated as needed and may be subject to review by the  
25 department. The nurse practitioner shall maintain documentation that  
26 supports such collaborative relationships. Failure to comply with the  
27 requirements found in this paragraph by a nurse practitioner who is not  
28 complying with such provisions of paragraph a of this subdivision, shall

1 be subject to professional misconduct provisions as set forth in title  
2 one of this article.

3 c. Nothing in this subdivision shall be deemed to limit or diminish  
4 the practice of the profession of nursing as a registered professional  
5 nurse under this title or any other law, rule, regulation or certif-  
6 ication, nor to deny any registered professional nurse the right to do  
7 any act or engage in any practice authorized by this title or any other  
8 law, rule, regulation or certification.

9 d. The provisions of this subdivision shall not apply to any activity  
10 authorized, pursuant to statute, rule or regulation, to be performed by  
11 a registered professional nurse in a hospital as defined in article  
12 twenty-eight of this chapter.

13 § 6903. Practice of nursing and use of title "registered professional  
14 nurse" or "licensed practical nurse". Only a person licensed or other-  
15 wise authorized under this title shall practice nursing and only a  
16 person licensed under section sixty-nine hundred five of this title  
17 shall use the title "registered professional nurse" and only a person  
18 licensed under section sixty-nine hundred six of this title shall use  
19 the title "licensed practical nurse". No person shall use the title  
20 "nurse" or any other title or abbreviation that would represent to the  
21 public that the person is authorized to practice nursing unless the  
22 person is licensed or otherwise authorized under this title.

23 § 6904. State board for nursing. A state board for nursing shall be  
24 appointed by the department on recommendation of the commissioner for  
25 the purpose of assisting the department on matters of professional  
26 licensing and professional conduct in accordance with section sixty-five  
27 hundred eight of this article. The board shall be composed of not less  
28 than fifteen members, eleven of whom shall be registered professional

1 nurses and four of whom shall be licensed practical nurses all licensed  
2 and practicing in this state for at least five years. An executive  
3 secretary to the board shall be appointed by the department on recommen-  
4 dation of the commissioner and shall be a registered professional nurse  
5 registered in this state.

6 § 6905. Requirements for a license as a registered professional nurse.  
7 To qualify for a license as a registered professional nurse, an appli-  
8 cant shall fulfill the following requirements:

- 9 1. Application: file an application with the department;
- 10 2. Education: have received an education, and a diploma or degree in  
11 professional nursing, in accordance with the commissioner's regulations,  
12 and in order to continue to maintain registration as a registered  
13 professional nurse in New York state, have attained a baccalaureate  
14 degree or higher in nursing within ten years of initial licensure in  
15 accordance with the commissioner's regulations. The department, in its  
16 discretion, may issue a conditional registration to a licensee who fails  
17 to complete the baccalaureate degree but who agrees to meet the addi-  
18 tional requirement within one year. The fee for such a conditional  
19 registration shall be the same as, and in addition to, the fee for the  
20 triennial registration. The duration of such conditional registration  
21 shall be for one year and may be extended, with the payment of a fee,  
22 for no more than one additional year, unless the applicant can show good  
23 cause for non-compliance acceptable to the department. The department,  
24 in its discretion, may issue a temporary educational exemption to a  
25 licensee who is unable to complete the baccalaureate degree due to a  
26 lack of access to educational programs. Licensees seeking a temporary  
27 educational exemption shall provide evidence of applying on at least two  
28 occasions to a baccalaureate degree program or programs and subsequently

1 being denied access to such program or programs on at least two occa-  
2 sions due to there being a limited number of seats. Such denials shall  
3 also be corroborated by the higher education institution or institutions  
4 that the licensee applied to. Temporary educational exemptions issued  
5 pursuant to this subdivision shall be for a single two-year period.  
6 Licensees shall only be eligible for either a conditional registration  
7 or a temporary educational exemption. The fee for such a temporary  
8 educational exemption shall be the same as, and in addition to, the fee  
9 for the triennial registration. Any licensee who is notified of the  
10 denial of a registration for failure to complete the additional educa-  
11 tional requirements and who practices as a registered professional nurse  
12 without such registration may be subject to disciplinary proceedings  
13 pursuant to section sixty-five hundred ten of this article;

14 3. Experience: meet no requirement as to experience;

15 4. Examination: pass an examination satisfactory to the board and in  
16 accordance with the commissioner's regulations;

17 5. Age: be at least eighteen years of age;

18 6. Citizenship: meet no requirement as to United States citizenship;

19 7. Character: be of good moral character as determined by the depart-  
20 ment; and

21 8. Fees: pay a fee of one hundred fifteen dollars to the department  
22 for admission to a department conducted examination and for an initial  
23 license, a fee of forty-five dollars for each reexamination, a fee of  
24 seventy dollars for an initial license for persons not requiring admis-  
25 sion to a department conducted examination, and a fee of fifty dollars  
26 for each triennial registration period.

1 § 6906. Requirements for a license as a licensed practical nurse. To  
2 qualify for a license as a licensed practical nurse, an applicant shall  
3 fulfill these requirements:

4 1. Application: file an application with the department;

5 2. Education: have received an education including completion of high  
6 school or its equivalent, and have completed a program in practical  
7 nursing, in accordance with the commissioner's regulations, or  
8 completion of equivalent study satisfactory to the department in a  
9 program conducted by the armed forces of the United States or in an  
10 approved program in professional nursing;

11 3. Experience: meet no requirement as to experience;

12 4. Examination: pass an examination satisfactory to the board and in  
13 accordance with the commissioner's regulations, provided, however, that  
14 the educational requirements set forth in subdivision two of this  
15 section are met prior to admission for the licensing examination;

16 5. Age: be at least seventeen years of age;

17 6. Citizenship: meet no requirements as to United States citizenship;

18 7. Character: be of good moral character as determined by the depart-  
19 ment; and

20 8. Fees: pay a fee of one hundred fifteen dollars to the department  
21 for admission to a department conducted examination and for an initial  
22 license, a fee of forty-five dollars for each reexamination, a fee of  
23 seventy dollars for an initial license for persons not requiring admis-  
24 sion to a department conducted examination, and a fee of fifty dollars  
25 for each triennial registration period.

26 9. In conjunction with and as a condition of each triennial registra-  
27 tion, the department shall ask and a licensed practical nurse shall  
28 indicate whether the licensed practical nurse is or has previously been

1 authorized as an advanced home health aide pursuant to subdivision two  
2 of section sixty-nine hundred eight of this title. The department shall  
3 include such information in reports related to advanced home health  
4 aides.

5 § 6907. Limited permits. 1. A permit to practice as a registered  
6 professional nurse or a permit to practice as a licensed practical nurse  
7 may be issued by the department upon the filing of an application for a  
8 license as a registered professional nurse or as a licensed practical  
9 nurse and submission of such other information as the department may  
10 require to:

11 a. graduates of schools of nursing registered by the department;

12 b. graduates of schools of nursing approved in another state, prov-  
13 ince, or country; or

14 c. applicants for a license in practical nursing whose preparation is  
15 determined by the department to be the equivalent of that required in  
16 this state.

17 2. Such limited permit shall expire one year from the date of issuance  
18 or upon notice to the applicant by the department that the application  
19 for license has been denied, or ten days after notification to the  
20 applicant of failure on the professional licensing examination, whichever  
21 shall first occur. Notwithstanding the foregoing provisions of this  
22 subdivision, if the applicant is waiting the result of a licensing exam-  
23 ination at the time such limited permit expires, such permit shall  
24 continue to be valid until ten days after notification to the applicant  
25 of the results of such examination.

26 3. A limited permit shall entitle the holder to practice nursing only  
27 under the supervision of a nurse currently registered in this state and  
28 with the endorsement of the employing agency.

1 4. Fees. The fee for each limited permit shall be thirty-five dollars.

2 5. Graduates of schools of nursing registered by the department may be  
3 employed to practice nursing under supervision of a professional nurse  
4 currently registered in this state and with the endorsement of the  
5 employing agency for ninety days immediately following graduation from a  
6 program in nursing and pending receipt of a limited permit for which an  
7 application has been filed as provided in this section.

8 § 6908. Exempt persons. 1. This title shall not be construed:

9 a. As prohibiting (i) the domestic care of the sick, disabled or  
10 injured by any family member, household member or friend, or person  
11 employed primarily in a domestic capacity who does not hold himself or  
12 herself out, or accept employment as a person licensed to practice nurs-  
13 ing under the provision of this title; provided that if such person is  
14 remunerated, the person does not hold himself or herself out as one who  
15 accepts employment for performing such care; or the administration of  
16 medications or treatment by child day care providers or employees or  
17 caregivers of child day care programs where such providers, employees or  
18 caregivers are acting under the direction and authority of a parent of a  
19 child, legal guardian, legal custodian, or an adult in whose care a  
20 child has been entrusted and who has been authorized by the parent to  
21 consent to any health care for the child and in compliance with the  
22 regulations of the office of children and family services pertaining to  
23 the administration of medications and treatment; or

24 (ii) any person from the domestic administration of family remedies;  
25 or

26 (iii) the providing of care by a person acting in the place of a  
27 person exempt under subparagraph (i) of this paragraph, but who does  
28 hold himself or herself out as one who accepts employment for performing

1 such care, where nursing services are under the instruction of a  
2 licensed nurse, or under the instruction of a patient or family or  
3 household member determined by a registered professional nurse to be  
4 self-directing and capable of providing such instruction, and services  
5 are provided under section three hundred sixty-five-f of the social  
6 services law; or

7 (iv) the furnishing of nursing assistance in case of an emergency; or  
8 (v) tasks provided by a direct support staff in programs certified or  
9 approved by the office for people with developmental disabilities, when  
10 performed under the supervision of a registered professional nurse and  
11 pursuant to a memorandum of understanding between the office for people  
12 with developmental disabilities and the department, in accordance with  
13 and pursuant to an authorized practitioner's ordered care, provided  
14 that: (1) a registered professional nurse determines, in his or her  
15 professional judgment, which tasks are to be performed based upon the  
16 complexity of the tasks, the skill and experience of the direct support  
17 staff, and the health status of the individual being cared for; (2) only  
18 a direct support staff who has completed training as required by the  
19 commissioner of the office for people with developmental disabilities  
20 may perform tasks pursuant to this subparagraph; (3) appropriate proto-  
21 cols shall be established to ensure safe administration of medications;  
22 (4) a direct support staff shall not assess the medication needs of an  
23 individual; (5) adequate nursing supervision is provided, including  
24 training and periodic inspection of performance of the tasks. The amount  
25 and type of nursing supervision shall be determined by the registered  
26 professional nurse responsible for supervising such task based upon the  
27 complexity of the tasks, the skill and experience of the direct support  
28 staff, and the health status of the individual being cared for; (6) a

1 direct support staff shall not be authorized to perform any tasks or  
2 activities pursuant to this subparagraph that are outside the scope of  
3 practice of a licensed practical nurse; (7) a direct support staff shall  
4 not represent himself or herself, or accept employment, as a person  
5 licensed to practice nursing under the provisions of this title; (8)  
6 direct support staff providing medication administration, tube feeding,  
7 or diabetic care shall be separately certified, and shall be recertified  
8 on an annual basis; (9) the registered professional nurse shall ensure  
9 that there is a consumer specific medication sheet for each medication  
10 that is administered; and (10) appropriate staffing ratios shall be  
11 determined by the office for people with developmental disabilities and  
12 the department to ensure adequate nursing supervision. No direct support  
13 staff shall perform tasks under this subparagraph until the office for  
14 people with developmental disabilities and the department have entered  
15 into a memorandum of understanding to effectuate the provisions of this  
16 subparagraph. The office for people with developmental disabilities  
17 shall complete a criminal background check pursuant to section 16.33 of  
18 the mental hygiene law and an agency background check pursuant to  
19 section 16.34 of the mental hygiene law on the direct support staff  
20 prior to the commencement of any provision of service provided under  
21 this subparagraph if such direct support staff is a new hire. Individ-  
22 uals providing supervision or direct support tasks pursuant to this  
23 subparagraph shall have protection pursuant to sections seven hundred  
24 forty and seven hundred forty-one of the labor law, where applicable;  
25 b. As including services given by attendants in institutions under the  
26 jurisdiction of or subject to the visitation of the state department of  
27 mental hygiene if adequate medical and nursing supervision is provided;

1 c. As prohibiting such performance of nursing service by students  
2 enrolled in registered schools or programs as may be incidental to their  
3 course of study;

4 d. As prohibiting or preventing the practice of nursing in this state  
5 by any legally qualified nurse or practical nurse of another state,  
6 province, or country whose engagement requires him or her to accompany  
7 and care for a patient temporarily residing in this state during the  
8 period of such engagement provided such person does not represent or  
9 hold himself or herself out as a nurse or practical nurse registered to  
10 practice in this state;

11 e. As prohibiting or preventing the practice of nursing in this state  
12 during an emergency or disaster by any legally qualified nurse or prac-  
13 tical nurse of another state, province, or country who may be recruited  
14 by the American National Red Cross or pursuant to authority vested in  
15 the state civil defense commission for such emergency or disaster  
16 service, provided such person does not represent or hold himself or  
17 herself out as a nurse or practical nurse registered to practice in this  
18 state;

19 f. As prohibiting or preventing the practice of nursing in this state,  
20 in obedience to the requirements of the laws of the United States, by  
21 any commissioned nurse officer in the armed forces of the United States  
22 or by any nurse employed in the United States veterans administration or  
23 United States public health service while engaged in the performance of  
24 the actual duties prescribed for him or her under the United States  
25 statutes, provided such person does not represent or hold himself or  
26 herself out as a nurse registered to practice in this state;

27 g. As prohibiting the care of the sick when done in connection with  
28 the practice of the religious tenets of any church; or

1 h. As prohibiting the provision of psychotherapy as defined in subdi-  
2 vision two of section eighty-four hundred one of this article to the  
3 extent permissible within the scope of practice of nursing as defined in  
4 this title, by any not-for-profit corporation or education corporation  
5 providing services within the state and operating under a waiver pursu-  
6 ant to section sixty-five hundred three-a of this article, provided that  
7 such entities offering such psychotherapy services shall only provide  
8 such services through an individual appropriately licensed or otherwise  
9 authorized to provide such services or a professional entity authorized  
10 by law to provide such services.

11 2. This title shall not be construed as prohibiting advanced tasks  
12 provided by an advanced home health aide in accordance with regulations  
13 developed by the commissioner, in consultation with the commissioner of  
14 health. At a minimum, such regulations shall:

15 a. specify the advanced tasks that may be performed by advanced home  
16 health aides pursuant to this subdivision. Such tasks shall include the  
17 administration of medications which are routine and prefilled or other-  
18 wise packaged in a manner that promotes relative ease of administration,  
19 provided that administration of medications by injection, sterile proce-  
20 dures, and central line maintenance shall be prohibited. Provided,  
21 however, such prohibition shall not apply to injections of insulin or  
22 other injections for diabetes care, to injections of low molecular  
23 weight heparin, and to pre-filled auto-injections of naloxone and  
24 epinephrine for emergency purposes, and provided, further, that entities  
25 employing advanced home health aides pursuant to this subdivision shall  
26 establish a systematic approach to address drug diversion;

27 b. provide that advanced tasks performed by advanced home health aides  
28 may be performed only under the direct supervision of a registered

1 professional nurse licensed in New York state, as set forth in this  
2 subdivision and subdivision eight of section sixty-nine hundred nine of  
3 this title, where such nurse is employed by a home care services agency  
4 licensed or certified pursuant to article thirty-six of this chapter, a  
5 hospice program certified pursuant to article forty of this chapter, or  
6 an enhanced assisted living residence licensed pursuant to article seven  
7 of the social services law and certified pursuant to article forty-six-B  
8 of this chapter. Such nursing supervision shall:

9 (i) include training and periodic assessment of the performance of  
10 advanced tasks;

11 (ii) be determined by the registered professional nurse responsible  
12 for supervising such advanced tasks based upon the complexity of such  
13 advanced tasks, the skill and experience of the advanced home health  
14 aide, and the health status of the individual for whom such advanced  
15 tasks are being performed;

16 (iii) include a comprehensive initial and thereafter regular and ongo-  
17 ing assessment of the individual's needs;

18 (iv) include as a requirement that the supervising registered profes-  
19 sional nurse shall visit individuals receiving services for the purpose  
20 of supervising the services provided by advanced home health aides no  
21 less than once every two weeks and include as a requirement that a  
22 registered professional nurse shall be available by telephone to the  
23 advanced home health aide twenty-four hours a day, seven days a week,  
24 provided that a registered professional nurse shall be available to  
25 visit an individual receiving services as necessary to protect the  
26 health and safety of such individual; and

27 (v) as shall be specified by the commissioner, be provided in a manner  
28 that takes into account individual care needs, case mix complexity and

1 geographic considerations and provide that the number of individuals  
2 served by a supervising registered professional nurse is reasonable and  
3 prudent.

4 c. establish a process by which a registered professional nurse may  
5 assign advanced tasks to an advanced home health aide. Such process  
6 shall include, but not be limited to:

7 (i) allowing assignment of advanced tasks to an advanced home health  
8 aide only where such advanced home health aide has demonstrated to the  
9 satisfaction of the supervising registered professional nurse competency  
10 in every advanced task that such advanced home health aide is authorized  
11 to perform, a willingness to perform such advanced tasks, and the abili-  
12 ty to effectively and efficiently communicate with the individual  
13 receiving services and understand such individual's needs;

14 (ii) prohibiting assignment of advanced tasks to an advanced home  
15 health aide if the individual receiving services declines to be served  
16 by an advanced home health aide;

17 (iii) authorizing the supervising registered professional nurse to  
18 revoke any assigned advanced task from an advanced home health aide for  
19 any reason; and

20 (iv) authorizing multiple registered professional nurses to jointly  
21 agree to assign advanced tasks to an advanced home health aide, provided  
22 further that only one registered professional nurse shall be required to  
23 determine if the advanced home health aide has demonstrated competency  
24 in the advanced task to be performed;

25 d. provide that advanced tasks may be performed only in accordance  
26 with and pursuant to an authorized health practitioner's ordered care;

27 e. provide that only a certified home health aide may perform advanced  
28 tasks as an advanced home health aide when such aide has:

1 (i) at least one year of experience providing either home health or  
2 personal care services, or a combination of the same;

3 (ii) completed the requisite training and demonstrated competencies of  
4 an advanced home health aide as determined by the commissioner;

5 (iii) successfully completed competency examinations satisfactory to  
6 the commissioner; and

7 (iv) meets other appropriate qualifications as determined by the  
8 commissioner in consultation with the commissioner of health;

9 f. provide that only an individual who is listed in the home care  
10 services registry maintained by the department pursuant to section thir-  
11 ty-six hundred thirteen of this chapter as having satisfied all applica-  
12 ble training requirements and having passed the applicable competency  
13 examinations and who meets other requirements as set forth in regu-  
14 lations issued by the commissioner pursuant to subdivision seventeen of  
15 section thirty-six hundred two of this chapter may perform advanced  
16 tasks pursuant to this subdivision and may hold himself or herself out  
17 as an advanced home health aide;

18 g. establish minimum standards of training for the performance of  
19 advanced tasks by advanced home health aides, including didactic train-  
20 ing, clinical training, and a supervised clinical practicum with stand-  
21 ards set forth by the commissioner;

22 h. provide that advanced home health aides shall receive case-specific  
23 training on the advanced tasks to be assigned by the supervising nurse,  
24 provided that additional training shall take place whenever additional  
25 advanced tasks are assigned;

26 i. prohibit an advanced home health aide from holding himself or  
27 herself out, or accepting employment as, a person licensed to practice  
28 nursing under the provisions of this title;

1 j. provide that an advanced home health aide is not required nor  
2 permitted to assess the medication or medical needs of an individual;

3 k. provide that an advanced home health aide shall not be authorized  
4 to perform any advanced tasks or activities pursuant to this subdivision  
5 that are outside the scope of practice of a licensed practical nurse or  
6 any advanced tasks that have not been appropriately assigned by the  
7 supervising registered professional nurse;

8 l. provide that an advanced home health aide shall document all  
9 advanced tasks provided to an individual, including medication adminis-  
10 tration to each individual through the use of a medication adminis-  
11 tration record; and

12 m. provide that the supervising registered professional nurse shall  
13 retain the discretion to decide whether to assign advanced tasks to  
14 advanced home health aides under this program and shall not be subject  
15 to coercion, retaliation, or the threat of retaliation; in developing  
16 such regulations, the commissioner shall take into account the recommen-  
17 dations of a workgroup of stakeholders convened by the commissioner for  
18 the purpose of providing guidance on the foregoing.

19 § 6909. Special provision. 1. Notwithstanding any inconsistent  
20 provision of any general, special, or local law, any licensed registered  
21 professional nurse or licensed practical nurse who voluntarily and with-  
22 out the expectation of monetary compensation renders first aid or emer-  
23 gency treatment at the scene of an accident or other emergency, outside  
24 a hospital, doctor's office or any other place having proper and neces-  
25 sary medical equipment, to a person who is unconscious, ill or injured  
26 shall not be liable for damages for injuries alleged to have been  
27 sustained by such person or for damages for the death of such person  
28 alleged to have occurred by reason of an act or omission in the render-

1 ing of such first aid or emergency treatment unless it is established  
2 that such injuries were or such death was caused by gross negligence on  
3 the part of such registered professional nurse or licensed practical  
4 nurse. Nothing in this subdivision shall be deemed or construed to  
5 relieve a licensed registered professional nurse or licensed practical  
6 nurse from liability for damages for injuries or death caused by an act  
7 or omission on the part of such nurse while rendering professional  
8 services in the normal and ordinary course of her practice.

9 2. Nothing in this title shall be construed to confer the authority to  
10 practice medicine or dentistry.

11 3. An applicant for a license as a registered professional nurse or  
12 licensed practical nurse by endorsement of a license of another state,  
13 province or country whose application was filed with the department  
14 under the laws in effect prior to August thirty-first, nineteen hundred  
15 seventy-one shall be licensed only upon successful completion of the  
16 appropriate licensing examination unless satisfactory evidence of the  
17 completion of all educational requirements is submitted to the depart-  
18 ment prior to September one, nineteen hundred seventy-seven.

19 4. A certified nurse practitioner may prescribe and order a non-pa-  
20 tient specific regimen to a registered professional nurse, pursuant to  
21 regulations promulgated by the commissioner, consistent with subdivision  
22 three of section six thousand nine hundred two of this title, and  
23 consistent with this chapter, for:

24 a. administering immunizations;

25 b. the emergency treatment of anaphylaxis;

26 c. administering purified protein derivative (PPD) tests or other  
27 tests to detect or screen for tuberculosis infections;

1 d. administering tests to determine the presence of the human immuno-  
2 deficiency virus;

3 e. administering tests to determine the presence of the hepatitis C  
4 virus;

5 f. the urgent or emergency treatment of opioid related overdose or  
6 suspected opioid related overdose; or

7 g. screening of persons at increased risk for syphilis, gonorrhea and  
8 chlamydia.

9 5. A registered professional nurse may execute a non-patient specific  
10 regimen prescribed or ordered by a licensed physician or certified nurse  
11 practitioner, pursuant to regulations promulgated by the commissioner.

12 6. A registered professional nurse defined under subdivision one of  
13 section sixty-nine hundred two of this title may use accepted classi-  
14 fications of signs, symptoms, dysfunctions and disorders, including, but  
15 not limited to, classifications used in the practice setting for the  
16 purpose of providing mental health services.

17 7. A certified nurse practitioner may prescribe and order a patient  
18 specific order or non-patient specific regimen to a licensed pharmacist,  
19 pursuant to regulations promulgated by the commissioner, and consistent  
20 with this chapter, for:

21 a. administering immunizations to prevent influenza to patients two  
22 years of age or older;

23 b. administering immunizations to prevent pneumococcal, acute herpes  
24 zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,  
25 rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or  
26 pertussis disease and medications required for emergency treatment of  
27 anaphylaxis to patients eighteen years of age or older; and

1 c. administering other immunizations recommended by the advisory  
2 committee on immunization practices of the centers for disease control  
3 and prevention for patients eighteen years of age or older if the  
4 commissioner determines that an immunization: (i) (1) may be safely  
5 administered by a licensed pharmacist within their lawful scope of prac-  
6 tice; and (2) is needed to prevent the transmission of a reportable  
7 communicable disease that is prevalent in New York state; or (ii) is a  
8 recommended immunization for such patients who: (1) meet age require-  
9 ments, (2) lack documentation of such immunization, (3) lack evidence of  
10 past infection, or (4) have an additional risk factor or another indi-  
11 cation as recommended by the advisory committee on immunization prac-  
12 tices of the centers for disease control and prevention. Nothing in this  
13 subdivision shall authorize unlicensed persons to administer immuniza-  
14 tions, vaccines or other drugs.

15 8. A registered professional nurse, while working for a home care  
16 services agency licensed or certified pursuant to article thirty-six of  
17 this chapter, a hospice program certified pursuant to article forty of  
18 this chapter, or an enhanced assisted living residence licensed pursuant  
19 to article seven of the social services law and certified pursuant to  
20 article forty-six-B of this chapter may, in accordance with this subdi-  
21 vision, assign advanced home health aides to perform advanced tasks for  
22 individuals pursuant to the provisions of subdivision two of section  
23 sixty-nine hundred eight of this title and supervise advanced home  
24 health aides who perform assigned advanced tasks.

25 a. Prior to assigning or modifying an assignment to perform an  
26 advanced task, the registered professional nurse shall:

27 (i) complete a nursing assessment to ascertain the client's current  
28 health status and care needs; and

1 (ii) provide to the advanced home health aide written, individual-spe-  
2 cific instructions for performing the advanced task and criteria for  
3 identifying, reporting and responding to problems or complications.

4 b. The registered professional nurse shall not assign an advanced task  
5 unless:

6 (i) the advanced task to be assigned is consistent with an authorized  
7 health practitioner's ordered care;

8 (ii) the registered professional nurse provides case specific training  
9 to the advanced home health aide and personally verifies that the  
10 advanced home health aide can safely and competently perform the  
11 advanced task;

12 (iii) the registered professional nurse determines that the advanced  
13 home health aide is willing to perform such advanced task; and

14 (iv) the registered professional nurse determines that the advanced  
15 home health aide is able to effectively and efficiently communicate with  
16 the individual receiving services and understand such individual's  
17 needs.

18 c. The supervising registered professional nurse shall:

19 (i) visit individuals receiving services for the purpose of supervis-  
20 ing the services provided by advanced home health aides no less than  
21 once every two weeks; and

22 (ii) conduct regular and ongoing assessment of the individual's needs.

23 9. A certified nurse practitioner may prescribe and order a patient  
24 specific order or non-patient specific order to a licensed pharmacist,  
25 pursuant to regulations promulgated by the commissioner of health, and  
26 consistent with this chapter, for dispensing up to a seven day starter  
27 pack of HIV post-exposure prophylaxis for the purpose of preventing

1 human immunodeficiency virus infection following a potential human immu-  
2 nodeficiency virus exposure.

3 10. A registered professional nurse may execute a standing order for  
4 newborn care in a hospital established under section twenty-eight  
5 hundred three-v of this chapter, as provided in that section. The  
6 commissioner may make regulations relating to implementation of this  
7 subdivision.

8 11. A certified nurse practitioner may prescribe and order a non-pa-  
9 tient-specific regimen to a licensed pharmacist, for insulin and related  
10 supplies pursuant to section sixty-eight hundred one of this article.

11 § 6910. Certificates for nurse practitioner practice. 1. For issuance  
12 of a certificate to practice as a nurse practitioner under subdivision  
13 three of section six thousand nine hundred two of this title, the appli-  
14 cant shall fulfill the following requirements:

15 a. Application: file an application with the department;

16 b. License: be licensed as a registered professional nurse in the  
17 state;

18 c. Education: (i) have satisfactorily completed educational prepara-  
19 tion for provision of these services in a program registered by the  
20 department or in a program determined by the department to be the equiv-  
21 alent; or

22 (ii) submit evidence of current certification by a national certifying  
23 body, recognized by the department; or

24 (iii) meet such alternative criteria as established by the commission-  
25 er's regulations;

26 d. Fees: pay a fee to the department of fifty dollars for each initial  
27 certificate authorizing nurse practitioner practice in a specialty area  
28 and a triennial registration fee of thirty dollars. Registration under

1 this section shall be coterminous with the nurse practitioner's regis-  
2 tration as a professional nurse.

3 2. Only a person certified under this section shall use the title  
4 "nurse practitioner".

5 3. The provisions of this section shall not apply to any act or prac-  
6 tice authorized by any other law, rule, regulation or certification.

7 4. The provisions of this section shall not apply to any activity  
8 authorized, pursuant to statute, rule or regulation, to be performed by  
9 a registered professional nurse in a hospital as defined in article  
10 twenty-eight of this chapter.

11 5. The commissioner is authorized to promulgate regulations to imple-  
12 ment the provisions of this section.

13 § 6911. Certification as a clinical nurse specialist (CNS). 1. For  
14 issuance of a certificate to practice as a clinical nurse specialist  
15 under section six thousand nine hundred two of this title, the applicant  
16 shall fulfill the following requirements:

17 a. file an application with the department;

18 b. be licensed as a registered professional nurse in this state;

19 c. (i) have satisfactorily completed an educational program registered  
20 by the department including a master's or doctoral degree, or a post-  
21 master's certificate from a program acceptable to the department which  
22 prepares graduates to practice as CNSs and which is accredited by a  
23 national nursing accredited body acceptable to the department, and (ii)  
24 meets all other requirements established by the department to practice  
25 as a clinical nurse specialist, or (iii) have received educational prep-  
26 aration determined by the department to be the substantial equivalent of  
27 subparagraphs (i) and (ii) of this paragraph; and

1 d. pay a fee to the department of fifty dollars for each initial  
2 certificate authorizing clinical nurse specialist practice and a trien-  
3 nial registration fee of thirty dollars. Registration under this  
4 section shall be coterminous with the clinical nurse specialist's regis-  
5 tration as a professional nurse.

6 2. Only a person certified under this section shall use the title  
7 "clinical nurse specialist" or the designation "CNS".

8 TITLE 13

9 PROFESSIONAL MIDWIFERY PRACTICE ACT

10 Section 6950. Introduction.

11 6951. Definition of practice of midwifery.

12 6952. Practice of midwifery.

13 6953. Use of title "midwife".

14 6954. State board of midwifery.

15 6955. Requirements for a professional license.

16 6956. Prior nurse-midwifery certification.

17 6957. Exempt persons.

18 6958. Limited permit.

19 § 6950. Introduction. This title applies to the profession of midwif-  
20 ery. The general provisions for all professions contained in title one  
21 of this article apply to this title.

22 § 6951. Definition of practice of midwifery. 1. The practice of the  
23 profession of midwifery is defined as the management of normal pregnan-  
24 cies, child birth and postpartum care as well as primary preventive  
25 reproductive health care of essentially healthy women, and shall include  
26 newborn evaluation, resuscitation and referral for infants. A midwife

1 shall have collaborative relationships with (i) a licensed physician who  
2 is board certified as an obstetrician-gynecologist by a national certi-  
3 fying body, or (ii) a licensed physician who practices obstetrics and  
4 has obstetric privileges at a general hospital licensed under article  
5 twenty-eight of this chapter, or (iii) a hospital, licensed under arti-  
6 cle twenty-eight of this chapter, that provides obstetrics through a  
7 licensed physician having obstetrical privileges at such institution,  
8 that provide for consultation, collaborative management and referral to  
9 address the health status and risks of his or her patients and that  
10 include plans for emergency medical gynecological and/or obstetrical  
11 coverage. A midwife shall maintain documentation of such collaborative  
12 relationships and shall make information about such collaborative  
13 relationships available to his or her patients. Failure to comply with  
14 the requirements found in this subdivision shall be subject to profes-  
15 sional misconduct provisions as set forth in title one of this article.

16 2. A licensed midwife shall have the authority, as necessary, and  
17 limited to the practice of midwifery, to prescribe and administer drugs,  
18 immunizing agents, diagnostic tests and devices, and to order laboratory  
19 tests, as established by the board in accordance with the commissioner's  
20 regulations. A midwife shall obtain a certificate from the department  
21 upon successfully completing a program including a pharmacology compo-  
22 nent, or its equivalent, as established by the commissioner's regu-  
23 lations prior to prescribing under this section.

24 3. Any reference to midwifery, midwife, certified nurse-midwifery or  
25 certified nurse-midwife, nurse-midwifery or nurse-midwife under the  
26 provisions of this title, this chapter or any other law, shall refer to  
27 and include the profession of midwifery and a licensed midwife, unless  
28 the context clearly requires otherwise.

1 § 6952. Practice of midwifery. Only a person licensed or exempt under  
2 this title or authorized by any other section of law shall practice  
3 midwifery.

4 § 6953. Use of title "midwife". Only a person licensed or exempt under  
5 this title shall use the title "midwife". Only a person licensed under  
6 both this title and title twelve of this article may use the title  
7 "nurse-midwife".

8 § 6954. State board of midwifery. 1. The state board of midwifery  
9 shall be appointed by the department on recommendation of the commis-  
10 sioner for the purpose of assisting the department on matters of profes-  
11 sional licensing and professional conduct in accordance with section  
12 sixty-five hundred eight of this article. The board shall be composed of  
13 thirteen individuals. Initial appointments to the board shall be such  
14 that the terms shall be staggered. However, no members shall serve more  
15 than two terms.

16 2. a. (i) Seven members of the board shall be persons licensed or  
17 exempt under this section.

18 (ii) One member of the board shall be an educator of midwifery.

19 b. Two members of the board shall be individuals who are licensed  
20 physicians who are also certified as obstetrician/gynecologists by a  
21 national certifying body.

22 c. One member of the board shall be an individual licensed as a physi-  
23 cian who practices family medicine including obstetrics.

24 d. One member of the board shall be an individual licensed as a physi-  
25 cian who practices pediatrics.

26 e. One member of the board shall be an individual not possessing  
27 either licensure or training in medicine, midwifery, pharmacology or  
28 nursing and shall represent the public at large.

1 3. For purposes of this title, "board" means the state board of  
2 midwifery created under this section unless the context clearly indi-  
3 cates otherwise.

4 § 6955. Requirements for a professional license. To qualify for a  
5 license as a midwife, an applicant shall fulfill the following require-  
6 ments:

7 1. Application: file an application with the department.

8 2. Education: satisfactorily;

9 a. complete educational preparation (degree or diploma granting) for  
10 the practice of nursing, followed by or concurrently with educational  
11 preparation for the practice of midwifery in accordance with the commis-  
12 sioner's regulations, or

13 b. submit evidence of license or certification, the educational prepa-  
14 ration for which is determined by the department to be equivalent to the  
15 foregoing, from any state or country, satisfactory to the department and  
16 in accordance with the commissioner's regulations, or

17 c. complete a program determined by the department to be equivalent to  
18 the foregoing and in accordance with the commissioner's regulations.

19 3. Examination: pass an examination satisfactory to the department and  
20 in accordance with the commissioner's regulations.

21 4. Age: be at least twenty-one years of age.

22 5. Character: be of good moral character as determined by the depart-  
23 ment.

24 6. Citizenship or immigration status: be a United States citizen or an  
25 alien lawfully admitted for permanent residence in the United States.

26 7. Fee: pay a fee of one hundred ninety dollars to the department for  
27 admission to a department conducted examination for an initial license,  
28 a fee of one hundred dollars for each re-examination, a fee of one

1 hundred fifteen dollars for an initial license for persons not requiring  
2 admission to a department conducted examination, a fee of one hundred  
3 eighty dollars for each triennial registration period and a fee of  
4 seventy dollars for a limited permit.

5 § 6956. Prior nurse-midwifery certification. Any individual who is  
6 certified as a nurse-midwife shall not practice pursuant to this title  
7 until after receiving approval from the commissioner and submitting the  
8 fee required by subdivision seven of section sixty-nine hundred fifty-  
9 five of this title.

10 § 6957. Exempt persons. Nothing in this title shall be construed to  
11 affect, prevent or in any manner expand or limit any duty or responsi-  
12 bility of a licensed physician from practicing midwifery or affect or  
13 prevent a medical student or midwifery student in clinical practice  
14 under the supervision of a licensed physician or board certified  
15 obstetrician/gynecologist or licensed midwife practicing in pursuance of  
16 an educational program registered by the department from engaging in  
17 such practice.

18 § 6958. Limited permit. 1. A limited permit to practice midwifery may  
19 be granted for a period not to exceed twelve months to an individual who  
20 has to the satisfaction of the department met all the requirements of  
21 section sixty-nine hundred fifty-five of this title, but has not yet  
22 passed the examination required by subdivision three of such section.

23 2. A limited permit shall entitle the holder to practice midwifery  
24 only under the direct supervision of a licensed physician who is author-  
25 ized under section sixty-nine hundred fifty-one of this title or a  
26 licensed midwife.

1 TITLE 14

2 PODIATRY

3 Section 7000. Introduction.

4 7001. Definition of practice of podiatry.

5 7002. Practice of podiatry and use of title "podiatrist".

6 7003. State board for podiatry.

7 7004. Requirements for a professional license.

8 7005. Exempt persons.

9 7006. Special provision.

10 7007. Limited permits.

11 7008. Limited residency permits and limited fellowship permits.

12 7009. Podiatric ankle surgery privileges.

13 7010. Ankle surgery limited permits.

14 § 7000. Introduction. This title applies to the profession of podia-  
15 try. The general provisions for all professions contained in title one  
16 of this article apply to this title.

17 § 7001. Definition of practice of podiatry. 1. The practice of the  
18 profession of podiatry is defined as diagnosing, treating, operating and  
19 prescribing for any disease, injury, deformity or other condition of the  
20 foot, and may include performing physical evaluations in conjunction  
21 with the provision of podiatric treatment. For the purposes of wound  
22 care however, the practice of podiatry shall include the treatment of  
23 such wounds if they are contiguous with wounds relating, originating or  
24 in the course of treatment of a wound on the foot within the podiatric  
25 scope of practice. Wound care shall not, however, extend beyond the  
26 level ending at the distal tibial tuberosity. The practice of podiatry  
27 may also include diagnosing, treating, operating and prescribing for any

1 disease, injury, deformity or other condition of the ankle and soft  
2 tissue of the leg below the tibial tuberosity if the podiatrist has  
3 obtained an issuance of a privilege to perform podiatric standard ankle  
4 surgery or advanced ankle surgery in accordance with section seven thou-  
5 sand nine of this title. Podiatrists may treat traumatic open wound  
6 fractures only in hospitals, as defined in article twenty-eight of this  
7 chapter. For the purposes of this title, the term "ankle" shall be  
8 defined as the distal metaphysis and epiphysis of the tibia and fibula,  
9 the articular cartilage of the distal tibia and distal fibula, the liga-  
10 ments that connect the distal metaphysis and epiphysis of the tibia and  
11 fibula and talus, and the portions of skin, subcutaneous tissue, fascia,  
12 muscles, tendons, ligaments and nerves at or below the level of the  
13 myotendinous junction of the triceps surae.

14 2. The practice of podiatry shall not include treating any part of the  
15 human body other than the foot, nor treating fractures of the malleoli  
16 or cutting operations upon the malleoli unless the podiatrist obtains an  
17 issuance of a privilege to perform podiatric standard ankle surgery or  
18 podiatric advanced ankle surgery. Podiatrists who have obtained an issu-  
19 ance of a privilege to perform podiatric standard ankle surgery may  
20 perform surgery on the ankle which may include soft tissue and osseous  
21 procedures except those procedures specifically authorized for podia-  
22 trists who have obtained an issuance of a privilege for advanced ankle  
23 surgery. Podiatrists who have obtained an issuance of a privilege to  
24 perform podiatric advanced ankle surgery may perform surgery on the  
25 ankle which may include ankle fracture fixation, ankle fusion, ankle  
26 arthroscopy, insertion or removal of external fixation pins into or from  
27 the tibial diaphysis at or below the level of the myotendinous junction  
28 of the triceps surae, and insertion and removal of retrograde tibiotalo-

1 calcanneal intramedullary rods and locking screws up to the level of the  
2 myotendinous junction of the triceps surae, but does not include the  
3 surgical treatment of complications within the tibial diaphysis related  
4 to the use of such external fixation pins. Podiatrists licensed to prac-  
5 tice, but not authorized to prescribe or administer narcotics prior to  
6 the effective date of this subdivision, may do so only after certif-  
7 ication by the department in accordance with the qualifications estab-  
8 lished by the commissioner. The practice of podiatry shall include  
9 administering only local anesthetics for therapeutic purposes as well as  
10 for anesthesia and treatment under general anesthesia administered by  
11 authorized persons. The practice of podiatry by any licensee shall not  
12 include partial or total ankle replacements nor the treatment of pilon  
13 fractures.

14 3. a. The department shall conduct a study to determine whether to  
15 make available to the public profiles on podiatrists who have obtained  
16 an issuance of a privilege to perform podiatric standard or advanced  
17 ankle surgery pursuant to subdivisions one and two of section seven  
18 thousand nine of this title. Such study shall include consideration of  
19 whether it would be appropriate and feasible for the department to make  
20 publicly available profiles for such podiatrists in a manner similar to  
21 physician profiles made available on the department's website in accord-  
22 ance with section twenty-nine hundred ninety-five-a of this chapter. The  
23 department shall consult with other departments as necessary on matters  
24 related to the operation of the department's physician profiles estab-  
25 lished pursuant to section twenty-nine hundred ninety-five-a of this  
26 chapter in conducting its study.

27 b. If the department determines that making podiatrist profiles avail-  
28 able is appropriate and feasible, the department shall outline in such

1 study an appropriate and cost-effective method of presenting relevant  
2 and appropriate podiatric profiling information to the general public.  
3 The department shall submit such study to the governor, the temporary  
4 president of the senate, the speaker of the assembly, the minority lead-  
5 er of the senate and the minority leader of the assembly on or before  
6 November first, two thousand sixteen.

7 c. If the department makes podiatrist profiles available as set forth  
8 in paragraph b of this subdivision, the department shall include on its  
9 website containing the physician profiles established pursuant to  
10 section twenty-nine hundred ninety-five-a of this chapter a link to the  
11 website on which such podiatrist profiles may be accessed and a state-  
12 ment describing the purpose of such link.

13 § 7002. Practice of podiatry and use of title "podiatrist". Only a  
14 person licensed or exempt under this title shall practice podiatry or  
15 use the title "podiatrist" or "chiropodist".

16 § 7003. State board for podiatry. A state board for podiatry shall be  
17 appointed by the commissioner for the purpose of assisting the depart-  
18 ment on matters of professional licensing and professional conduct in  
19 accordance with section sixty-five hundred eight of this article. The  
20 board shall be composed of not less than seven podiatrists licensed in  
21 this state. An executive secretary to the board shall be appointed by  
22 the commissioner.

23 § 7004. Requirements for a professional license. To qualify for a  
24 license as a podiatrist, an applicant shall fulfill the following  
25 requirements:

- 26 1. Application: file an application with the department;
- 27 2. Education: have received an education, including a doctoral degree  
28 in podiatry, in accordance with the commissioner's regulations;

1 3. Experience: have experience satisfactory to the board and in  
2 accordance with the commissioner's regulations;

3 4. Examination: pass an examination satisfactory to the board and in  
4 accordance with the commissioner's regulations;

5 5. Age: be at least twenty-one years of age;

6 6. Citizenship: meet no requirements as to United States citizenship;

7 7. Character: be of good moral character as determined by the depart-  
8 ment; and

9 8. Fees: pay a fee of two hundred twenty dollars to the department for  
10 admission to a department conducted examination and for an initial  
11 license, a fee of one hundred fifteen dollars for each reexamination, a  
12 fee of one hundred thirty-five dollars for an initial license for  
13 persons not requiring admission to a department conducted examination,  
14 and a fee of two hundred ten dollars for each triennial registration  
15 period.

16 9. Continuing education: In accordance with the requirements of  
17 section sixty-five hundred two of this article, at the time of re-regis-  
18 tration with the department, each applicant shall present satisfactory  
19 evidence to the state board for podiatry that in the years prior to the  
20 filing for re-registration he or she attended the education programs  
21 conducted by the podiatry society of the state of New York or the equiv-  
22 alent of such educational programs as approved by the state board for  
23 podiatry in accordance with the commissioner's regulations.

24 § 7005. Exempt persons. Nothing in this title shall be construed to  
25 affect or prevent a student from engaging in clinical practice under  
26 supervision of a licensed podiatrist as part of the program of an  
27 approved school of podiatry.

1     § 7006. Special provision. 1. No corporation, except a hospital corpo-  
2 ration authorized under article forty-three of the insurance law or a  
3 corporation organized and existing under the laws of the state of New  
4 York which, on or before the first day of March, nineteen hundred  
5 forty-two, was legally incorporated to practice podiatry, shall practice  
6 podiatry, and then only through licensed podiatrists and shall conform  
7 to department rules. No corporation organized to practice podiatry shall  
8 change its name or sell its franchise or transfer its corporate rights  
9 directly or indirectly, by transfer of capital stock control or other-  
10 wise, to any person or to another corporation without permission from  
11 the department and any corporation so changing its name or so trans-  
12 ferring its franchise or corporate rights without such permission or  
13 found guilty of violating a department rule shall be deemed to have  
14 forfeited its right to exist and shall be dissolved by a proceeding  
15 brought by the attorney general.

16     2. Any manufacturer or merchant may sell, advertise, fit, or adjust  
17 proprietary foot remedies, arch supports, corrective foot appliances or  
18 shoes.

19     3. Notwithstanding any inconsistent provision of any general, special  
20 or local law, any licensed podiatrist who voluntarily and without the  
21 expectation of monetary compensation renders first aid or emergency  
22 treatment at the scene of an accident or other emergency, outside of a  
23 hospital or any other place having proper and necessary medical equip-  
24 ment, to a person who is unconscious, ill or injured shall not be liable  
25 for damages for injuries alleged to have been sustained by such person  
26 or for damages for the death of such person alleged to have occurred by  
27 reason of an act or omission in the rendering of such first aid or emer-  
28 gency treatment unless it is established that such injuries were or such

1 death was caused by gross negligence on the part of such podiatrist.  
2 Nothing in this subdivision shall be deemed or construed to relieve a  
3 licensed podiatrist from liability for damages for injuries or death  
4 caused by an act or omission on the part of a podiatrist while rendering  
5 professional services in the normal and ordinary course of practice.

6 4. An unlicensed person may provide supportive services to a podia-  
7 trist incidental to and concurrent with such podiatrist personally  
8 performing a service or procedure. Nothing in this subdivision shall be  
9 construed to allow an unlicensed person to provide any service which  
10 constitutes the practice of podiatry as defined in this title. An unli-  
11 censed person providing supportive services to a podiatrist may operate  
12 radiographic equipment under direct supervision for the sole purpose of  
13 foot radiography provided that such person completes a course of study  
14 acceptable to the department.

15 § 7007. Limited permits. 1. Limited permits to practice podiatry may  
16 be issued by the department to graduates of a program of professional  
17 education in podiatry registered by the department or accredited by an  
18 accrediting agency acceptable to the department. Such permits shall  
19 authorize the practice of podiatry only under the supervision of a  
20 licensed podiatrist and only in:

21 a. a hospital or health facility licensed pursuant to article twenty-  
22 eight of this chapter; or

23 b. a clerkship for a period of two years or less conducted by a  
24 licensed podiatrist designated as a member of the faculty of an approved  
25 school of podiatry for purposes of a preceptorship program.

26 2. Limited permits shall be issued for a period of one year, and may  
27 be renewed at the discretion of the department for one additional year.

1     3. The fee for a limited permit shall be one hundred five dollars and  
2 the fee for a renewal shall be fifty dollars.

3     § 7008. Limited residency permits and limited fellowship permits. 1.  
4 Limited residency permits and limited fellowship permits may be issued  
5 by the department to graduates of a program of professional education in  
6 podiatry registered by the department or accredited by an accrediting  
7 agency acceptable to the department.

8     2. Such permits shall allow a resident or fellow in podiatric medicine  
9 participating in an approved post-graduate residency or fellowship  
10 program to perform such duties, tasks and functions that are required  
11 for successful completion of such program under the administrative  
12 supervision of a licensed podiatrist serving as the residency or fellow-  
13 ship director, as applicable, in a hospital or health care facility  
14 licensed pursuant to article twenty-eight of this chapter. At any time  
15 during the residency or fellowship, a licensed physician or a licensed  
16 podiatrist may provide direct personal supervision of activities which  
17 he or she is authorized and competent to provide in the approved facili-  
18 ty; provided, however, when the resident's or fellow's training involves  
19 practice beyond that authorized in section seven thousand one of this  
20 title, a licensed physician shall provide direct personal supervision.  
21 For the purposes of this section, "direct personal supervision" means  
22 supervision of procedures based on instructions given directly by a  
23 licensed physician or licensed podiatrist, as applicable, who remains in  
24 the immediate area where the procedures are being performed, authorizes  
25 the procedures and evaluates the procedures performed by the podiatric  
26 resident or fellow.

27     3. Such permit shall be issued for three years and may be renewed at  
28 the discretion of the department for additional one-year periods when

1 necessary to permit the completion of an approved post-graduate residen-  
2 cy or fellowship in podiatric medicine.

3 4. The fee for a limited residency permit or a limited fellowship  
4 permit shall be one hundred five dollars and the fee for a renewal shall  
5 be fifty dollars.

6 § 7009. Podiatric ankle surgery privileges. 1. For issuance of a priv-  
7 ilege to perform podiatric standard ankle surgery, as that term is used  
8 in subdivision two of section seven thousand one of this title, the  
9 applicant shall fulfill the following requirements:

10 a. Application: file an application with the department;

11 b. License: be licensed as a podiatrist in the state;

12 c. Training and certification: either:

13 (i) have graduated on or after June first, two thousand six from a  
14 three-year residency program in podiatric medicine and surgery that was  
15 accredited by an accrediting agency acceptable to the department, and be  
16 certified in reconstructive rearfoot and ankle surgery by a national  
17 certifying board having certification standards acceptable to the  
18 department; or

19 (ii) have graduated on or after June first, two thousand six from a  
20 three-year residency program in podiatric medicine and surgery that was  
21 accredited by an accrediting agency acceptable to the department, be  
22 board qualified but not yet certified in reconstructive rearfoot and  
23 ankle surgery by a national certifying board having certification stand-  
24 ards acceptable to the department, and provide documentation that he or  
25 she has acceptable training and experience in standard or advanced  
26 midfoot, rearfoot and ankle procedures that has been approved by the  
27 department; or

1 (iii) have graduated before June first, two thousand six from a two-  
2 year residency program in podiatric medicine and surgery that was  
3 accredited by an accrediting agency acceptable to the department, be  
4 certified in reconstructive rearfoot and ankle surgery by a national  
5 certifying board having certification standards acceptable to the  
6 department, and provide documentation that he or she has acceptable  
7 training and experience in standard or advanced midfoot, rearfoot and  
8 ankle procedures that has been approved by the department;

9 d. Fees: pay a fee to the department of two hundred twenty dollars for  
10 the issuance of a privilege to perform podiatric standard ankle surgery.

11 2. For issuance of a privilege to perform podiatric advanced ankle  
12 surgery, as that term is used in subdivision two of section seven thou-  
13 sand one of this title, the applicant shall fulfill the following  
14 requirements:

15 a. Application: file an application with the department;

16 b. License: be licensed as a podiatrist in the state;

17 c. Experience and certification: either:

18 (i) have graduated on or after June first, two thousand six from a  
19 three-year residency program in podiatric medicine and surgery that was  
20 accredited by an accrediting agency acceptable to the department, be  
21 certified in reconstructive rearfoot and ankle surgery by a national  
22 certifying board having certification standards acceptable to the  
23 department, and provide documentation that he or she has acceptable  
24 training and experience in advanced midfoot, rearfoot and ankle proce-  
25 dures that has been approved by the department; or

26 (ii) have graduated before June first, two thousand six from a two-  
27 year residency program in podiatric medicine and surgery that was  
28 accredited by an accrediting agency acceptable to the department, be

1 certified in reconstructive rearfoot and ankle surgery, by a national  
2 certifying board having certification standards acceptable to the  
3 department, and provide documentation that he or she has acceptable  
4 training and experience in advanced midfoot, rearfoot and ankle proce-  
5 dures that has been approved by the department.

6 d. Fees: pay a fee to the department of two hundred twenty dollars for  
7 the issuance of a privilege to perform podiatric advanced ankle surgery.

8 3. Duration and registration of privileges. A privilege issued under  
9 this section shall be valid for the life of the holder, unless revoked,  
10 annulled, or suspended by the department. Such a privilege shall be  
11 subject to the same oversight and disciplinary provisions as licenses  
12 issued under this title. The holder of a privilege issued under this  
13 section shall register with the department as a privilege holder in the  
14 same manner and subject to the same provisions as required of a licensee  
15 pursuant to section six thousand five hundred two of this article,  
16 provided that, at the time of each registration, the privilege holder  
17 shall certify that he or she continues to meet the requirements for the  
18 privilege set forth in this section. The fee for such registration shall  
19 be two hundred ten dollars. The registration period for a privilege  
20 holder shall be coterminous with his or her registration as a podia-  
21 trist.

22 § 7010. Ankle surgery limited permits. A limited permit to perform  
23 podiatric standard ankle surgery, as described in subdivision two of  
24 section seven thousand one of this title, may be issued by the depart-  
25 ment to a podiatrist who is licensed pursuant to this title and who has  
26 met the residency and board qualification/certification requirements set  
27 forth in subdivision one of section seven thousand nine of this title in  
28 order to authorize such podiatrist to obtain the training and experience

1 required for the issuance of a podiatric standard ankle surgery privi-  
2 lege pursuant to subdivision one of section seven thousand nine of this  
3 title. Such permits shall authorize the performance of podiatric stand-  
4 ard ankle surgery only under the direct personal supervision of a  
5 licensed podiatrist holding a podiatric standard ankle surgery privilege  
6 or a podiatric advanced ankle surgery privilege issued pursuant to  
7 section seven thousand nine of this title or of a physician licensed  
8 pursuant to title two of this article and certified in orthopedic  
9 surgery by a national certifying board having certification standards  
10 acceptable to the department.

11 2. A limited permit to perform podiatric advanced ankle surgery, as  
12 described in subdivision two of section seven thousand one of this  
13 title, may be issued by the department to a podiatrist who is licensed  
14 pursuant to this title and who has met the residency and board certif-  
15 ication requirements set forth in subdivision two of section seven thou-  
16 sand nine of this title in order to authorize such podiatrist to obtain  
17 the training and experience required for the issuance of a podiatric  
18 advanced ankle surgery privilege pursuant to subdivision two of section  
19 seven thousand nine of this title. Such permits shall authorize the  
20 performance of podiatric advanced ankle surgery only under the direct  
21 personal supervision of a licensed podiatrist holding a podiatric  
22 advanced ankle surgery privilege issued pursuant to subdivision two of  
23 section seven thousand nine of this title or of a physician licensed  
24 pursuant to title two of this article and certified in orthopedic  
25 surgery by a national certifying board having certification standards  
26 acceptable to the department.

27 3. For the purposes of this section, direct personal supervision means  
28 supervision of procedures based on instructions given directly by the

1 supervising podiatrist or physician who remains in the immediate area  
2 where the procedures are being performed, authorizes the procedures and  
3 evaluates the procedures performed by the holder of the limited permit.

4 4. The holder of a limited permit issued pursuant to this section  
5 shall perform podiatric ankle surgery only in a hospital or health  
6 facility licensed pursuant to article twenty-eight of this chapter and  
7 appropriately authorized to provide such surgery.

8 5. Limited permits shall be issued for a period of one year, and may  
9 be renewed for additional one year periods when necessary to permit the  
10 completion of the training and experience required to obtain a podiatric  
11 standard ankle surgery privilege or podiatric advanced ankle surgery  
12 privilege, as applicable, provided that no permit may be renewed more  
13 than four times for each such privilege.

14 6. The fee for a limited permit shall be one hundred five dollars and  
15 the fee for a renewal shall be fifty dollars.

16 TITLE 15

17 OPTOMETRY

18 Section 7100. Introduction.

19 7101. Definition of the practice of optometry.

20 7101-a. Certification to use therapeutic drugs.

21 7102. Practice of optometry and use of title "optometrist".

22 7103. State board for optometry.

23 7104. Requirements for a professional license.

24 7105. Exempt persons.

25 7106. Special provisions.

1           7107. Advertising of non-prescription ready-to-wear magnifying  
2                           spectacles or glasses.

3       § 7100. Introduction. This title applies to the profession of optome-  
4 try. The general provisions for all professions contained in title one  
5 of this article apply to this title.

6       § 7101. Definition of the practice of optometry. The practice of the  
7 profession of optometry is defined as diagnosing and treating optical  
8 deficiency, optical deformity, visual anomaly, muscular anomaly or  
9 disease of the human eye and adjacent tissue by prescribing, providing,  
10 adapting or fitting lenses or by prescribing, providing, adapting or  
11 fitting non-corrective contact lenses, or by prescribing or providing  
12 orthoptics or vision training, or by prescribing and using drugs. The  
13 practice of optometry shall not include any injection or invasive modal-  
14 ity. For purposes of this section invasive modality means any procedure  
15 in which human tissue is cut, altered, or otherwise infiltrated by  
16 mechanical or other means. Invasive modality includes surgery, lasers,  
17 ionizing radiation, therapeutic ultrasound and the removal of foreign  
18 bodies from within the tissue of the eye. Nothing in this section or  
19 section seventy-one hundred one-a of this title shall be construed to  
20 limit the scope of optometric practice as authorized prior to January  
21 first, nineteen hundred ninety-five. The use of drugs by optometrists is  
22 authorized only in accordance with the provisions of this title and  
23 regulations promulgated by the commissioner.

24       § 7101-a. Certification to use therapeutic drugs. 1. Definitions. As  
25 used in this section, the following terms shall have the following mean-  
26 ings:

27       a. Clinical training. Clinical training shall mean the diagnosis,  
28 treatment and management of patients with ocular disease and shall be

1 comparable to that acquired by a current graduate of the State Universi-  
2 ty College of Optometry.

3 b. Consultation. Consultation shall mean a confirmation of the diagno-  
4 sis, a plan of co-management of the patient, and a periodic review of  
5 the patient's progress.

6 c. Education review committee. Education review committee shall mean  
7 the committee established pursuant to subdivision nine of this section.

8 d. Diagnostic pharmaceuticals. Diagnostic pharmaceuticals shall mean  
9 those drugs which shall be limited to topical applications to the  
10 surface of the eye for the purpose of diagnostic examination of the eye  
11 and shall be limited to:

12 (i) Anesthetic agents;

13 (ii) Mydriatics;

14 (iii) Cycloplegics;

15 (iv) Miotics;

16 (v) Disclosing agents and other substances used in conjunction with  
17 these drugs as part of a diagnostic procedure.

18 e. Topical therapeutic pharmaceutical agents. Topical therapeutic  
19 pharmaceutical agents shall mean those drugs which shall be limited to  
20 topical application to the surface of the eye for therapeutic purposes  
21 and shall be limited to:

22 (i) antibiotic/antimicrobials;

23 (ii) decongestants/anti-allergenics;

24 (iii) non-steroidal anti-inflammatory agents;

25 (iv) steroidal anti-inflammatory agents;

26 (v) antiviral agents;

27 (vi) hyperosmotic/hypertonic agents;

28 (vii) cycloplegics;

1 (viii) artificial tears and lubricants; and

2 (ix) immunosuppressive agents.

3 f. Therapeutic pharmaceutical agents for treatment of glaucoma and  
4 ocular hypertension. Therapeutic pharmaceutical agents for treatment of  
5 glaucoma and ocular hypertension shall mean those drugs which shall be  
6 limited to topical application to the surface of the eye and shall be  
7 limited to:

8 (i) beta blockers;

9 (ii) alpha agonists;

10 (iii) direct acting cholinergic agents;

11 (iv) prostaglandin analogs; and

12 (v) carbonic anhydrase inhibitors.

13 g. Oral therapeutic pharmaceutical agents. Oral therapeutic pharmaceu-  
14 tical agents shall mean those orally administered drugs used for thera-  
15 peutic purposes solely for the treatment of diseases of the eye and  
16 adnexa and shall be limited to:

17 (i) the following antibiotics:

18 (1) amoxicillin/clavulanate potassium;

19 (2) cephalexin;

20 (3) azithromycin;

21 (4) sulfamethoxazole/trimethoprim;

22 (5) doxycycline; and

23 (6) tetracycline;

24 (ii) the following antiglaucoma agents used for the management of  
25 acute increases in intraocular pressure; provided, however, an optome-  
26 trist may use or prescribe a maximum of one twenty-four hour  
27 prescription and shall immediately refer the patient to a licensed  
28 physician specializing in diseases of the eye:

1 (1) acetazolamide; and

2 (2) methazolamide; and

3 (iii) the following antiviral agents used for herpes zoster ophthalmi-  
4 cus; provided an optometrist shall use or prescribe in maximum, one  
5 seven-day prescription; provided, however, if a patient is diagnosed  
6 with herpes zoster ophthalmicus and has not already been examined by a  
7 primary care physician or other appropriate physician for such viral  
8 condition, an optometrist shall refer the patient to a licensed primary  
9 care physician, licensed physician specializing in diseases of the eye,  
10 or other appropriate physician within three days of such diagnosis:

11 (1) valacyclovir; and

12 (2) acyclovir.

13 2. Standard of care. An optometrist authorized to use pharmaceutical  
14 agents for use in the diagnosis, treatment or prevention of ocular  
15 disease shall be held to the same standard of care in diagnosis, use of  
16 such agents, and treatment as that degree of skill and proficiency  
17 commonly exercised by a physician in the same community.

18 3. Certificate. The commissioner shall issue appropriate certificates  
19 to use therapeutic pharmaceutical agents in accordance with the  
20 provisions of this section to those optometrists who have satisfactorily  
21 completed a curriculum in general and ocular pharmacology at a college  
22 of optometry with didactic and supervised clinical programs approved by  
23 the department are eligible to apply for the certificate issued pursuant  
24 to this section.

25 4. Topical therapeutic pharmaceutical agents. a. Before using or  
26 prescribing topical therapeutic pharmaceutical agents, each optometrist  
27 shall have completed at least three hundred hours of clinical training  
28 in the diagnosis, treatment and management of patients with ocular

1 disease other than glaucoma and ocular hypertension, not fewer than  
2 twenty-five hours of such training shall have been completed subsequent  
3 to June thirtieth, nineteen hundred ninety-three and additionally shall  
4 either have taken and successfully passed the treatment and management  
5 of ocular diseases portion of the National Board of Examiners in Optome-  
6 try test or have taken and successfully passed an examination acceptable  
7 to the board.

8 b. Before using or prescribing therapeutic pharmaceutical agents for  
9 treatment of glaucoma and ocular hypertension, an optometrist must be  
10 certified for diagnostic and topical therapeutic agents and have  
11 completed an additional one hundred hours of clinical training in the  
12 diagnosis, treatment and management of patients with glaucoma and ocular  
13 hypertension, not fewer than twenty-five hours of such training shall  
14 have been completed subsequent to July first, nineteen hundred ninety-  
15 four, and shall have taken and successfully passed an oral or written  
16 examination acceptable by the board.

17 c. Before using or prescribing oral therapeutic pharmaceutical agents,  
18 an optometrist must be certified to prescribe diagnostic pharmaceutical  
19 agents and topical therapeutic and therapeutic pharmaceutical agents for  
20 treatment of glaucoma and ocular hypertension, have completed an oral  
21 therapeutic pharmaceutical agent certification course and have passed an  
22 examination within five years of the department's approval of the  
23 initial certification course or the initial examination, whichever is  
24 later provided, however, an optometrist who has commenced the oral ther-  
25 apeutic pharmaceutical agent certification course within the five year  
26 time period but has not yet passed an examination shall be allowed to  
27 take such examination and become certified after the five year time  
28 period provided for in this paragraph has ended.

1 (i) The curriculum for the oral therapeutic pharmaceutical agent  
2 certification course shall include, but not be limited to, instruction  
3 in pharmacology and drug interaction in treating ocular disease and be  
4 taught through clinical case scenarios and emphasize clinical decision  
5 making and shall be no less than forty hours, of which no less than  
6 twenty-four hours shall be live instruction.

7 (ii) Such course shall qualify towards meeting the continuing educa-  
8 tion per triennial registration requirement pursuant to subdivision  
9 seven of this section.

10 (iii) The examination shall assess the knowledge of materials in the  
11 curriculum and reflect the oral therapeutic pharmaceutical agents  
12 described in paragraph g of subdivision one of this section, and shall  
13 be acceptable to the department.

14 (iv) The initial, and any subsequent, curriculum and examination shall  
15 be subject to review and approval by the department.

16 (v) The requirement for the oral therapeutic pharmaceutical agent  
17 certification course and examination shall not apply to those optome-  
18 trists who graduated from an accredited college of optometry subsequent  
19 to January first, two thousand twenty-two and have taken and successful-  
20 ly passed the National Board of Examiners in Optometry examination or an  
21 examination acceptable to the department.

22 d. The clinical training required by this section may have been  
23 acquired prior to the enactment of this section not inconsistent with  
24 paragraphs a and b of this subdivision. Approval of the pre-acquired  
25 clinical training shall be in accordance with subdivision nine-a of this  
26 section.

27 e. The provisions of paragraphs a and b of this subdivision shall not  
28 apply to (i) graduates of an appropriate program approved by the depart-

1 ment who have successfully passed the examination on the use of diagnos-  
2 tic and therapeutic drugs and who graduated subsequent to January first,  
3 nineteen hundred ninety-three; or (ii) optometrists who have been certi-  
4 fied for at least five years to use phase one and phase two drugs in  
5 another jurisdiction, have demonstrated such use in independently  
6 managed patients, and have been licensed in accordance with section  
7 seventy-one hundred four of this title. Provided, however, no optome-  
8 trist exempt under this paragraph shall be permitted to use phase one  
9 therapeutic pharmaceutical agents or phase two therapeutic pharmaceu-  
10 tical agents prior to the general authorization provided to optometrists  
11 licensed in this state.

12 5. Suspension of certification. The department shall suspend the  
13 certification for the use and prescribing of topical therapeutic agents  
14 of any optometrist who fails to receive certification for therapeutic  
15 pharmaceutical agents for treatment of glaucoma and ocular hypertension  
16 within three years of having been certified for topical therapeutic  
17 pharmaceutical agents.

18 6. Consultation with use of certain topical therapeutic pharmaceutical  
19 agents for treatment of glaucoma and ocular hypertension. a. After the  
20 initial diagnosis of glaucoma or ocular hypertension and before initiat-  
21 ing treatment of any patient, an optometrist shall engage in a written  
22 consultation with a licensed physician specializing in diseases of the  
23 eye.

24 b. A consultation shall be required for a period of three years or  
25 until the optometrist has examined and diagnosed seventy-five patients  
26 having glaucoma or ocular hypertension which examinations require a  
27 written consultation in accordance with paragraph a of this subdivision,  
28 whichever occurs later.

1 c. The consultation provisions shall not apply to a graduate of an  
2 appropriate program approved by the department who successfully passed  
3 an examination in the use of diagnostic and therapeutic pharmaceutical  
4 agents approved by the department and graduated such school subsequent  
5 to January first, nineteen hundred ninety-nine and who has had at least  
6 seventy-five documented examinations and diagnosis of patients with  
7 glaucoma or ocular hypertension which examinations were part of their  
8 training and were under physician supervision.

9 7. Continuing education. a. Each optometrist certified to use topical  
10 therapeutic pharmaceutical agents and therapeutic pharmaceutical agents  
11 for treatment of glaucoma and ocular hypertension, shall complete a  
12 minimum of thirty-six hours of continuing education in the area of  
13 ocular disease and pharmacology per triennial registration period. Each  
14 optometrist certified to use oral therapeutic pharmaceutical agents  
15 shall, in addition to the minimum thirty-six hours of continuing educa-  
16 tion provided for in this subdivision, complete an additional minimum of  
17 eighteen hours of continuing education related to systemic disease and  
18 therapeutic treatment per triennial registration period. Such educa-  
19 tional programs may include both didactic and clinical components and  
20 shall be approved in advance by the department. Beginning on January  
21 first, two thousand twenty-four, all sponsors of continuing education  
22 courses seeking advanced approval from the department shall file an  
23 application and pay a fee determined by the department in accordance  
24 with the regulations of the commissioner. An optometrist subject to the  
25 provisions of this subdivision whose first registration date following  
26 the effective date of this section occurs less than three years from  
27 such effective date, but on or after January first, two thousand twen-  
28 ty-four, shall complete continuing education hours on a prorated basis

1 at the rate of one hour per month for the period beginning January  
2 first, two thousand twenty-four up to the first registration date there-  
3 after. An optometrist who has not satisfied the mandatory continuing  
4 education requirement pursuant to this subdivision shall not be issued a  
5 triennial registration certificate by the department and shall not prac-  
6 tice unless and until a conditional registration is issued as provided  
7 for in paragraph b of this subdivision. Continuing education hours taken  
8 during one triennium may not be transferred to the subsequent triennium.

9 b. The department, in its discretion, may issue a conditional regis-  
10 tration to an optometrist who fails to meet the continuing education  
11 requirements established in paragraph a of this subdivision, but who  
12 agrees to make up any deficiencies and complete any additional education  
13 which the department may require. The fee for such a conditional regis-  
14 tration shall be the same as, and in addition to, the fee for the trien-  
15 nial registration. The duration of such conditional registration shall  
16 be determined by the department, but shall not exceed one year. Any  
17 optometrist who is notified of the denial of registration for failure to  
18 submit evidence, satisfactory to the department, of required continuing  
19 education and who practices without such registration may be subject to  
20 disciplinary proceedings pursuant to section sixty-five hundred ten of  
21 this article.

22 c. In accordance with the intent of this section, adjustment to the  
23 mandatory continuing education requirement may be granted by the depart-  
24 ment for reasons of health that are certified by an appropriate health  
25 care professional, for extended active duty with the armed forces of the  
26 United States, or for other good cause acceptable to the department  
27 which may prevent compliance.

1 d. An optometrist not engaged in practice, as determined by the  
2 department, shall be exempt from the mandatory continuing education  
3 requirement upon the filing of a statement with the department declaring  
4 such status. Any licensee who returns to the practice of optometry  
5 during the triennial registration period shall notify the department  
6 prior to reentering the profession and shall meet such continuing educa-  
7 tion requirements as shall be prescribed by regulations of the commis-  
8 sioner.

9 e. Optometrists subject to the provisions of this subdivision shall  
10 maintain adequate documentation of completion of acceptable continuing  
11 education credits and shall provide such documentation at the request of  
12 the department. Failure to provide such documentation upon the request  
13 of the department shall be an act of misconduct subject to disciplinary  
14 proceedings pursuant to section sixty-five hundred ten of this article.

15 f. The mandatory continuing education fee shall be determined by the  
16 department. Such fee shall be payable on or before the first day of each  
17 triennial registration period, and shall be paid in addition to the  
18 triennial registration fee required by subdivision eight of section  
19 seventy-one hundred four of this title.

20 8. Notice to patient with the use or prescription of topical therapeu-  
21 tic pharmaceutical agents and therapeutic pharmaceutical agents for  
22 treatment of glaucoma and ocular hypertension. a. (i) An optometrist  
23 prescribing topical steroids or antiviral medication shall inform each  
24 patient that in the event the condition does not improve within five  
25 days, a physician of the patient's choice will be notified.

26 (ii) An optometrist engaged in a written consultation with an ophthal-  
27 mologist shall inform a patient diagnosed with glaucoma that the optome-

1 trist will have the diagnosis confirmed and co-managed with an ophthal-  
2 mologist of the patient's choice, or one selected by the optometrist.

3 b. In addition, each optometrist certified to prescribe and use thera-  
4 peutic drugs shall have posted conspicuously in the office reception  
5 area the following notice:

6 "Dr. (Name), O.D. is certified by New York State to use drugs to diag-  
7 nose and treat diseases of the eye. In the event your condition requires  
8 the use of steroids or antiviral medication and your condition does not  
9 improve within five days, a physician of your choice will be notified.

10 In the event you are diagnosed with glaucoma, the optometrist will  
11 have your diagnosis confirmed and treatment co-managed with an ophthal-  
12 mologist (MD) of your choice, or if you wish, one selected by Dr.  
13 (Name)."

14 The second paragraph of such notice shall only be required to be  
15 included during the period when the optometrist is engaged in a written  
16 consultation pursuant to subdivision six of this section.

17 9. Education review committee. An education review committee is hereby  
18 created to advise and assist the commissioner in evaluating pre-acquired  
19 clinical training. The members of the committee shall be appointed by  
20 the commissioner in consultation with the chancellor of the state  
21 university of New York. The committee shall consist of five members, two  
22 of whom shall be optometrists on the faculty of the SUNY college of  
23 optometry, two of whom shall be ophthalmologists who, in addition to  
24 being members of the faculty of any approved medical school in this  
25 state and not also faculty members of SUNY college of optometry, have  
26 surgical privileges at a New York state hospital. The fifth member who  
27 shall be designated as chair shall be an expert in the field of public  
28 health and shall be neither an ophthalmologist nor an optometrist.

1 The commissioner shall submit each application to the committee for  
2 its review and recommendation. In making such recommendation, the  
3 committee shall advise as to the number of hours of pre-acquired clin-  
4 ical training, if any, to be approved, based upon the information  
5 submitted with the application. In evaluating such training, the commit-  
6 tee shall be authorized to require the submission of such reasonable  
7 documentation needed to facilitate the committee's review of the adequa-  
8 cy and relevance of such training.

9 9-a. Pre-acquired clinical training. a. Each optometrist requesting  
10 approval of pre-acquired clinical training shall submit a written appli-  
11 cation to the department. The commissioner, in consultation with the  
12 education review committee may provide credit for the following:

13 (i) clinical training acquired at an institution accredited by a  
14 regional or professional accreditation organization which is recognized  
15 or approved by the United States Department of Education and the depart-  
16 ment;

17 (ii) clinical training acquired at a facility licensed by the state of  
18 New York in accordance with article twenty-eight of this chapter or at a  
19 comparable facility located in another state or country provided the  
20 licensing requirements or accreditation requirements of such institution  
21 are comparable to those of New York state;

22 (iii) hospital affiliations, including rounds and patient management  
23 for applicants having staff privileges at such facility;

24 (iv) consultation and co-management with ophthalmologists of patients  
25 with ocular disease and post-surgery recovery;

26 (v) postdoctoral accredited residency or fellowship programs;

1 (vi) experience at an accredited educational institution as a faculty  
2 instructor in clinical practice, ocular disease management and pharma-  
3 cology;

4 (vii) experience in other states in which the applicant has been  
5 certified to use therapeutic pharmaceutical agents.

6 b. Any optometrist disagreeing with the recommendation of the educa-  
7 tion review committee shall have a right to appeal in writing to the  
8 commissioner. The decision of the commissioner shall be final and bind-  
9 ing on all parties.

10 10. Pharmaceutical agents. Optometrists who have been approved and  
11 certified by the department shall be permitted to use the following  
12 drugs:

13 a. Diagnostic pharmaceuticals.

14 b. Those optometrists having been certified for topical therapeutic  
15 pharmaceutical agents shall be authorized to use and prescribe all  
16 topical therapeutic pharmaceutical agents specified in paragraph e of  
17 subdivision one of this section, which are FDA approved and commercially  
18 available for topical use.

19 In the event an optometrist treats a patient with topical antiviral or  
20 steroidal drugs and the patient's condition either fails to improve or  
21 worsens within five days, the optometrist shall notify a physician  
22 designated by the patient or, if none, by the treating optometrist.

23 c. Those optometrists having been certified for therapeutic pharmaceu-  
24 tical agents for treatment of glaucoma and ocular hypertension shall be  
25 authorized to use and prescribe therapeutic pharmaceutical agents for  
26 treatment of glaucoma and ocular hypertension specified in paragraph f  
27 of subdivision one of this section, which are FDA approved and commer-  
28 cially available.

1 d. Those optometrists having been certified for oral therapeutic phar-  
2 maceutical agents shall be authorized to use and prescribe oral thera-  
3 peutic pharmaceutical agents specified in paragraph g of subdivision one  
4 of this section, which are FDA approved and commercially available and  
5 shall comply with all safety information and side-effect and warning  
6 advisories contained in the most current physicians' desk reference.

7 e. Those optometrists having been certified for topical therapeutic  
8 pharmaceutical agents, therapeutic pharmaceutical agents for treatment  
9 of glaucoma and ocular hypertension or oral therapeutic pharmaceutical  
10 agents shall be authorized to use and recommend all nonprescription  
11 medications, whether intended for topical or oral use, appropriate for  
12 the treatment of the eye and adnexa.

13 11. Responsibilities of the commissioner. The commissioner shall adopt  
14 regulations a. providing for the certification of graduates of an appro-  
15 priate program approved by the department who have successfully passed  
16 the examination on the use of diagnostic and therapeutic pharmaceutical  
17 agents and who have graduated subsequent to January first, nineteen  
18 hundred ninety-three; and b. providing for the certification of optome-  
19 trists who have graduated from other accredited colleges of optometry or  
20 who are licensed to practice in other jurisdictions, have demonstrated  
21 such use in independently managed patients and are seeking licensure and  
22 certification in New York.

23 12. Responsibilities of the commissioner. The commissioner may recom-  
24 mend additions or deletions to the department's regulations relating to  
25 optometric use of drugs except that such recommendations shall be limit-  
26 ed only to additions which have been determined to be equivalent to  
27 those drugs already authorized or deletions based upon a finding that

1 the drugs are no longer appropriate for their current use or for other  
2 similar reasons.

3 § 7102. Practice of optometry and use of title "optometrist". Only a  
4 person licensed or exempt under this title shall practice optometry or  
5 use the title "optometrist".

6 § 7103. State board for optometry. A state board for optometry shall  
7 be appointed by the commissioner for the purpose of assisting the  
8 department on matters of professional licensing and professional conduct  
9 in accordance with section sixty-five hundred eight of this article. The  
10 board shall be composed of not less than seven optometrists who shall  
11 have been residents of this state engaged in the practice of optometry  
12 for at least five years in this state. An executive secretary to the  
13 board shall be appointed by the commissioner.

14 § 7104. Requirements for a professional license. To qualify for a  
15 license as an optometrist, an applicant shall fulfill the following  
16 requirements:

17 (1) Application: file an application with the department;

18 (2) Education: have received an education, including a degree of  
19 doctor of optometry or equivalent degree, in accordance with the commis-  
20 sioner's regulations;

21 (3) Experience: have experience satisfactory to the board and in  
22 accordance with the commissioner's regulations;

23 (4) Examination: pass an examination satisfactory to the board and in  
24 accordance with the commissioner's regulations;

25 (5) Age: be at least twenty-one years of age;

26 (6) Citizenship: meet no requirement as to United States citizenship;

27 (7) Character: be of good moral character as determined by the depart-  
28 ment; and

1 (8) Fees: pay a fee of two hundred twenty dollars to the department  
2 for admission to a department conducted examination and for an initial  
3 license, a fee of one hundred fifteen dollars for each reexamination, a  
4 fee of one hundred thirty-five dollars for an initial license for  
5 persons not requiring admission to a department conducted examination, a  
6 fee of two hundred ten dollars for each triennial registration period,  
7 for additional authorization for the purpose of utilizing diagnostic  
8 pharmaceutical agents, a fee of sixty dollars, and for certification to  
9 use or prescribe oral therapeutic pharmaceutical agents, a fee of two  
10 hundred fifty dollars.

11 § 7105. Exempt persons. Nothing in this title shall be construed to  
12 affect or prevent:

13 1. A student from engaging in clinical practice under supervision of a  
14 licensed optometrist or physician in a school of optometry in this state  
15 registered by the department; or

16 2. A person licensed to practice optometry from using a degree  
17 conferred in course after resident study by an educational institution  
18 lawfully authorized by the state in which it is located to confer such a  
19 degree.

20 3. An optometrist licensed in another state or country who is employed  
21 on a full-time basis by a registered school of optometry as a faculty  
22 member with the rank of assistant professor or higher from conducting  
23 research and clinical demonstrations as part of such employment, under  
24 the supervision of a licensed optometrist and on the premises of the  
25 school. No fee may be charged for the practice of optometry authorized  
26 by this subdivision.

27 4. a. A person in training or appropriately trained and deemed quali-  
28 fied by the supervising licensed optometrist, to assist a licensed opto-

1 metrist in the care of a patient for the purpose of instilling mydriatic  
2 or cycloplegic eye drops and anesthetic eye drops in conjunction with  
3 such dilating drops to the surface of the eye of a patient, provided  
4 that the person instilling such eye drops is:

5 (i) under the on-site supervision of a supervising licensed optome-  
6 trist;

7 (ii) at least eighteen years of age; and

8 (iii) complies with standards issued by the department.

9 b. The supervising licensed optometrist shall submit a form prescribed  
10 by the department, detailing the identity of each person instilling  
11 mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunc-  
12 tion with such dilating drops to the surface of the eye of a patient,  
13 under his or her supervision, attesting to compliance with the above  
14 requirements.

15 c. The supervising licensed optometrist's use of any such person  
16 pursuant to the terms of this subdivision shall be undertaken with  
17 professional judgment in order to ensure the safety and well-being of  
18 the patient. Such use shall subject the licensed optometrist to the  
19 full disciplinary and regulatory authority of the department pursuant to  
20 this title. The licensed optometrist must notify the patient or the  
21 patient's designated health care surrogate that the licensed optometrist  
22 may utilize the services of an individual to administer certain eye  
23 drops and must provide the patient or the patient's designated health  
24 care surrogate the opportunity to refuse the licensed optometrist's plan  
25 to utilize such person.

26 § 7106. Special provisions. 1. The testimony and reports of a licensed  
27 optometrist shall be received by any official, board, commission or  
28 other agency of the state or of any of its subdivisions or municipi-

1 palities as qualified evidence with respect to any matter defined in  
2 section seventy-one hundred one of this title; and no official, board,  
3 commission, or other agency of the state or any of its subdivisions or  
4 municipalities shall discriminate among the practitioners of optometry  
5 and any other ocular practitioners.

6 2. Eyeglasses or lenses for the correction of vision or non-corrective  
7 contact lenses may be sold by any person, firm or corporation at retail,  
8 only on prescription of a licensed physician or licensed optometrist and  
9 only if a licensed physician, optometrist or ophthalmic dispenser is in  
10 charge of and in personal attendance at the place of sale. This title  
11 shall not apply to binoculars, telescopes, or other lenses used for  
12 simple magnification; except, that a seller of non-prescription ready-  
13 to-wear magnifying spectacles or glasses shall have the following  
14 language attached to each pair of glasses or spectacles displayed or  
15 offered for sale and in at least ten point bold type permanently affixed  
16 in plain view to the top of any point of sale display or, if there is no  
17 display, in the area of sale: "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION  
18 GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR  
19 EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE  
20 NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used  
21 in this subdivision "non-prescription, ready to wear magnifying specta-  
22 cles or glasses" means spherical convex lenses, uniform in each meridi-  
23 an, which are encased in eyeglass frames and intended to ameliorate the  
24 symptoms of presbyopia. The lenses in such glasses shall be of uniform  
25 focus power in each eye and shall not exceed 2.75 diopters.

26 3. It shall be a class A misdemeanor to practice any fraud, deceit or  
27 misrepresentation in any advertising related to optometric services.



1           7123. State board for ophthalmic dispensing.

2           7124. Requirements for a professional license.

3           7125. Exemptions.

4           7126. Special provisions.

5           7127. Advertising of non-prescription ready-to-wear magnifying  
6                   spectacles or glasses.

7           7128. Mandatory continuing education.

8       § 7120. Introduction. This title shall apply to the profession of  
9 ophthalmic dispensing. The general provisions for all professions  
10 contained in title one of this article shall apply to this title.

11       § 7121. Definition of practice of ophthalmic dispensing. The practice  
12 of the profession of "ophthalmic dispensing", for the purposes of this  
13 chapter, is defined as adapting and fitting lenses, for the correction  
14 of deficiencies, deformities, or anomalies, of the human eyes, or adapt-  
15 ing and fitting non-corrective contact lenses, on written prescriptions  
16 from a licensed physician or optometrist. Replacements or duplicates of  
17 such lenses may be adapted and dispensed without prescription. Contact  
18 lenses may be fitted by an ophthalmic dispenser only under the personal  
19 supervision of a licensed physician or optometrist.

20       § 7122. Practice of ophthalmic dispensing and use of title "ophthalmic  
21 dispenser" or "optician". Only a person licensed or exempt under this  
22 title or a corporation, partnership, or persons doing business under an  
23 assumed name and either composed of licensed ophthalmic dispensers or  
24 employing licensed ophthalmic dispensers shall practice ophthalmic  
25 dispensing or use the title "ophthalmic dispenser", "optician", "optical  
26 technician", "dispensing optician", or "optical dispenser".

27       § 7123. State board for ophthalmic dispensing. A state board for  
28 ophthalmic dispensing shall be appointed by the commissioner for the

1 purpose of assisting the department on matters of professional licensing  
2 and professional conduct in accordance with section sixty-five hundred  
3 eight of this article. Such board shall be composed of not less than  
4 seven licensed ophthalmic dispensers who shall have been residents of  
5 this state engaged in the practice of ophthalmic dispensing for at least  
6 five years in this state. An executive secretary to such board shall be  
7 appointed by the commissioner. As used in this title, the term "the  
8 board" shall mean the state board for ophthalmic dispensing appointed  
9 pursuant to this section.

10 § 7124. Requirements for a professional license. 1. To qualify for a  
11 license as an ophthalmic dispenser, an applicant shall fulfill the  
12 following requirements:

13 a. Application: file an application with the department;

14 b. Education: have received an education, including high school gradu-  
15 ation and completion, in accordance with the commissioner's regulations,  
16 of either (i) a two-year program in ophthalmic dispensing; or (ii) two  
17 years of training and experience in ophthalmic dispensing under the  
18 supervision of a licensed ophthalmic dispenser, optometrist, or physi-  
19 cian;

20 c. Experience: have experience satisfactory to the board and in  
21 accordance with the commissioner's regulations;

22 d. Examination: pass an examination satisfactory to the board and in  
23 accordance with the commissioner's regulations;

24 e. Age: be at least eighteen years of age;

25 f. Citizenship: meet no requirement as to United States citizenship;

26 g. Character: be of good moral character as determined by the depart-  
27 ment; and

1 h. Fees: pay a fee of one hundred fifteen dollars to the department  
2 for admission to a department-conducted examination and for an initial  
3 license, a fee of forty-five dollars for each reexamination, a fee of  
4 fifty dollars for an initial license for persons not requiring admission  
5 to a department conducted examination, and a fee of fifty dollars for  
6 each triennial registration period.

7 2. A person licensed after July first, nineteen hundred seventy-three  
8 shall be permitted to fit contact lenses only if the licensee, in addi-  
9 tion to the requirements of subdivision a of this section, shall (1)  
10 pass a separate examination satisfactory to the board and in accordance  
11 with the commissioner's regulations; and (2) have the requisite experi-  
12 ence in the fitting of contact lenses satisfactory to the board and in  
13 accordance with the commissioner's regulations.

14 § 7125. Exemptions. Nothing in this title shall be construed to affect  
15 or prevent:

16 1. An unlicensed person from performing merely mechanical work upon  
17 inert matter in an optical office, laboratory, or shop;

18 2. A student from engaging in clinical practice, under the supervision  
19 of a licensed ophthalmic dispenser or licensed optometrist, or licensed  
20 physician, in an ophthalmic dispensing school or college registered by  
21 the department; or

22 3. The department from issuing a limited permit to an applicant who  
23 meets all requirements for admission to the licensing examination  
24 required under section seventy-one hundred twenty-four of this title,  
25 provided, however, that:

26 a. Practice under a limited permit shall be under the supervision of a  
27 licensed physician, optometrist or ophthalmic dispenser.

1 b. A limited permit shall expire after two years, or upon notice to  
2 the applicant that the application for licensure has been denied, or ten  
3 days after notification to the applicant of failure on the professional  
4 licensing examination, whichever shall first occur. Notwithstanding the  
5 foregoing provisions of this subdivision, if the applicant is waiting  
6 for the result of a licensing examination at the time such limited  
7 permit expires, such permit shall continue to be valid until ten days  
8 after notification to the applicant of the results of such examination.  
9 A limited permit which has not expired as a result of notice of denial  
10 of licensure or of failure on the licensing examination may be renewed  
11 for a period of not more than one additional year, upon a showing satis-  
12 factory to the department that the applicant could not obtain a license  
13 within two years.

14 c. Supervision of a permittee by a licensed physician, optometrist, or  
15 ophthalmic dispenser shall be on-site supervision but not necessarily  
16 direct personal supervision.

17 d. The fee for each limited permit and for each renewal shall be thir-  
18 ty-five dollars. The fee for issuance of a training permit shall be  
19 thirty dollars.

20 § 7126. Special provisions. 1. Eyeglasses or lenses for the correction  
21 of vision or non-corrective contact lenses may be sold by any person,  
22 firm or corporation at retail, only on prescription of a licensed physi-  
23 cian or licensed optometrist and only if a licensed physician, optome-  
24 trist, or ophthalmic dispenser is in charge of and in personal attend-  
25 ance at the place of such sale. This title shall not apply to  
26 binoculars, telescopes, or other lenses used for simple magnification,  
27 except that a seller of non-prescription ready-to-wear magnifying spec-  
28 tacles or glasses shall have the following language attached to each

1 pair of glasses or spectacles displayed or offered for sale and in at  
2 least ten-point bold type permanently affixed in plain view to the top  
3 of any point of sale display, or, if there is no display, in the area of  
4 sale: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT  
5 INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN  
6 EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETER-  
7 MINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivi-  
8 sion, "non-prescription, ready-to-wear magnifying spectacles or glasses"  
9 means spherical convex lenses, uniform in each meridian, which are  
10 encased in eyeglass frames and intended to ameliorate the symptoms of  
11 presbyopia. The lenses in such glasses shall be of uniform focus power  
12 in each eye and shall not exceed 2.75 diopters.

13 2. It shall be a class A misdemeanor to practice any fraud, deceit or  
14 misrepresentation in any advertising related to ophthalmic dispensing.

15 § 7127. Advertising of non-prescription ready-to-wear magnifying spec-  
16 tacles or glasses. 1. Any printed advertising for non-prescription read-  
17 y-to-wear magnifying spectacles or glasses to be sold through the mail  
18 shall include the statement: "ATTENTION: READY-TO-WEAR NON-PRESCRIPTION  
19 GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR  
20 EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE  
21 NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used  
22 in this section, "non-prescription, ready-to-wear magnifying spectacles  
23 or glasses" means spherical convex lenses, uniform in each meridian,  
24 which are encased in eyeglass frames and intended to ameliorate the  
25 symptoms of presbyopia. The lenses in such glasses shall be of uniform  
26 focus power in each eye and shall not exceed 2.75 diopters.

27 2. Any person or his or her agent or employee who violates any  
28 provision of this section shall be subject to a civil penalty of not

1 less than twenty-five dollars nor more than two hundred fifty dollars  
2 for each such violation. For purposes of this section, the sale or offer  
3 for sale of each pair of non-prescription ready-to-wear magnifying spec-  
4 tacles or glasses that fail to meet the standards of this section shall  
5 constitute a violation of this section.

6 § 7128. Mandatory continuing education. 1. a. Each licensed ophthalmic  
7 dispenser required under this title to register triennially with the  
8 department to practice in the state shall comply with the provisions of  
9 the mandatory continuing education requirements prescribed in subdivi-  
10 sion two of this section, except as otherwise set forth in paragraphs a  
11 and c of this subdivision. Ophthalmic dispensers who do not satisfy such  
12 mandatory continuing education requirements shall not practice until  
13 they have met such requirements, and they have been issued a registra-  
14 tion certificate, except that an ophthalmic dispenser may practice with-  
15 out having met such requirements if he or she is issued a conditional  
16 registration certificate pursuant to subdivision three of this section.

17 b. Ophthalmic dispensers shall be exempt from the mandatory continuing  
18 education requirement for the triennial registration period during which  
19 they are first licensed. In accord with the intent of this section,  
20 adjustment to the mandatory continuing education requirement may be  
21 granted by the department for reasons of health certified by an appro-  
22 priate health care professional, for extended active duty with the armed  
23 forces of the United States, or for other good cause acceptable to the  
24 department which may prevent compliance.

25 c. A licensed ophthalmic dispenser not engaged in practice, as deter-  
26 mined by the department, shall be exempt from the mandatory continuing  
27 education requirement upon the filing of a statement with the department  
28 declaring such status. Any licensee who returns to the practice of

1 ophthalmic dispensing during the triennial registration period shall  
2 notify the department prior to reentering the profession and shall meet  
3 such mandatory education requirements as shall be prescribed by regu-  
4 lations of the commissioner.

5 2. During each triennial registration period an applicant for regis-  
6 tration as an ophthalmic dispenser shall complete a minimum of eighteen  
7 hours of acceptable formal continuing education, as specified in subdi-  
8 vision four of this section; provided that three hours may be in recog-  
9 nized areas of study pertinent to the dispensing and fitting of contact  
10 lenses. During each triennial registration period an applicant for  
11 registration as an ophthalmic dispenser and certified to fit contact  
12 lenses shall complete twenty hours of acceptable formal continuing  
13 education, as specified in subdivision four of this section; provided  
14 that ten hours shall be in recognized areas of study pertinent to the  
15 dispensing and fitting of contact lenses. Any ophthalmic dispenser whose  
16 first registration date following the effective date of this section  
17 occurs less than three years from such effective date, but on or after  
18 January first, nineteen hundred ninety-nine, shall complete continuing  
19 education hours on a prorated basis at the rate of one-half hour per  
20 month for the period beginning January first, nineteen hundred ninety-  
21 eight up to the first registration date thereafter. A licensee who has  
22 not satisfied the mandatory continuing education requirements shall not  
23 be issued a triennial registration certificate by the department and  
24 shall not practice unless and until a conditional registration certif-  
25 icate is issued as provided for in subdivision three of this section.  
26 Continuing education hours taken during one triennium may not be trans-  
27 ferred to a subsequent triennium.

1 3. The department, in its discretion, may issue a conditional regis-  
2 tration to a licensee who fails to meet the continuing education  
3 requirements established in subdivision two of this section but who  
4 agrees to make up any deficiencies and complete any additional education  
5 which the department may require the fee for such a conditional regis-  
6 tration shall be the same as, and in addition to, the fee for the trien-  
7 nial registration. The duration of such conditional registration shall  
8 be determined by the department but shall not exceed one year. Any  
9 licensee who is notified of the denial of registration for failure to  
10 submit evidence, satisfactory to the department, of required continuing  
11 education and who practices without such registration, may be subject to  
12 disciplinary proceedings pursuant to section sixty-five hundred ten of  
13 this article.

14 4. As used in subdivision two of this section, "acceptable formal  
15 education" shall mean formal courses of learning which contribute to  
16 professional practice in ophthalmic dispensing and which meet the stand-  
17 ards prescribed by regulations of the commissioner. Such formal courses  
18 of learning shall include, but not be limited to, collegiate level cred-  
19 it and non-credit courses. Professional development programs and techni-  
20 cal sessions offered by national, state, and local professional associ-  
21 ations and other organizations acceptable to the department, and any  
22 other organized educational and technical programs acceptable to the  
23 department. The department, in its discretion and as needed to contrib-  
24 ute to the health and welfare of the public, may require the completion  
25 of continuing education courses in specific subjects to fulfill such  
26 mandatory continuing education requirement. Courses must be taken from  
27 a sponsor approved by the department, pursuant to the regulations of the  
28 commissioner.

1 5. Ophthalmic dispensers shall maintain adequate documentation of  
2 completion of acceptable formal continuing education and shall provide  
3 such documentation at the request of the department. Failure to provide  
4 such documentation upon the request of the department shall be an act of  
5 misconduct subject to disciplinary proceedings pursuant to section  
6 sixty-five hundred ten of this article.

7 6. The mandatory continuing education fee shall be forty-five dollars,  
8 shall be payable on or before the first day of each triennial registra-  
9 tion period, and shall be paid in addition to the triennial registration  
10 fee required by section seventy-one hundred twenty-four of this title.

11 TITLE 17

12 PSYCHOLOGY

13 Section 7600. Introduction.

14 7601. Practice of psychology and use of the title "psychol-  
15 ogist".

16 7601-a. Definition of the practice of psychology.

17 7602. State board for psychology.

18 7603. Requirements for a professional license.

19 7604. Limited permits.

20 7605. Exempt persons.

21 7606. Prohibitions.

22 7607. Mandatory continuing education.

23 § 7600. Introduction. This title applies to the profession and prac-  
24 tice of psychology and to the use of the title "psychologist". The  
25 general provisions for all professions contained in title one of this  
26 article shall apply to this title.

1 § 7601. Practice of psychology and use of the title "psychologist".  
2 Only a person licensed or otherwise authorized under this title shall be  
3 authorized to practice psychology or to use the title "psychologist" or  
4 to describe his or her services by use of the words "psychologist",  
5 "psychology", or "psychological" in connection with his or her practice.

6 § 7601-a. Definition of the practice of psychology. 1. As used in this  
7 chapter, the practice of "psychology" shall mean the observation,  
8 description, evaluation, interpretation, and modification of behavior  
9 for the purpose of preventing or eliminating symptomatic, maladaptive,  
10 or undesired behavior; enhancing interpersonal relationships, personal,  
11 group, or organizational effectiveness and work and/or life adjustment;  
12 and improving behavioral health and/or mental health. The practice  
13 includes, but is not limited to psychological (including neuropsycholog-  
14 ical) testing and counseling; psychoanalysis; psychotherapy; the diagno-  
15 sis and treatment of mental, nervous, emotional, cognitive, or behav-  
16 ioral disorders, disabilities, ailments, or illnesses, alcoholism,  
17 substance use, disorders of habit or conduct, the psychological aspects  
18 of physical illness, accident, injury or disability, psychological  
19 aspects of learning (including learning disorders); and the use of  
20 accepted classification systems.

21 2. As used in this title, the term "diagnosis and treatment" means the  
22 appropriate psychological diagnosis and the ordering or providing of  
23 treatment according to need. Treatment includes, but is not limited to  
24 counseling, psychotherapy, marital or family therapy, psychoanalysis,  
25 and other psychological interventions, including verbal, behavioral, or  
26 other appropriate means as defined in regulations promulgated by the  
27 commissioner.

1    § 7602. State board for psychology. A state board for psychology shall  
2 be appointed by the commissioner for the purpose of assisting the  
3 department on matters of professional licensing and professional conduct  
4 in accordance with section sixty-five hundred eight of this article. The  
5 board shall be composed of not less than eleven psychologists licensed  
6 in this state. An executive secretary to the board shall be appointed by  
7 the commissioner and shall be a psychologist, licensed in this state. As  
8 used in this title, the term "the board" shall mean the state board for  
9 psychology appointed pursuant to this section.

10   § 7603. Requirements for a professional license. To qualify for a  
11 license as a psychologist, an applicant shall fulfill the following  
12 requirements:

13    1. Application: file an application with the department;

14    2. Education: have received an education, including a doctoral degree  
15 in psychology, granted on the basis of completion of a program of  
16 psychology registered with the department or the substantial equivalent  
17 thereof, in accordance with the commissioner's regulations;

18    3. Experience: have two years of supervised employment or engagement  
19 in appropriate psychology activities satisfactory to the board and in  
20 accordance with the commissioner's regulations. Satisfactory experience  
21 obtained in an entity operating pursuant to a waiver issued by the  
22 department pursuant to section sixty-five hundred three-a of this arti-  
23 cle may be accepted by the department, notwithstanding that such experi-  
24 ence may have been obtained prior to the effective date of such section  
25 sixty-five hundred three-a and/or prior to the entity having obtained a  
26 waiver. The department may, for good cause shown, accept satisfactory  
27 experience that was obtained in a setting that would have been eligible  
28 for a waiver but which has not obtained a waiver with the department or

1 experience that was obtained in good faith by the applicant under the  
2 belief that appropriate authorization had been obtained for the experi-  
3 ence, provided that such experience meets all other requirements for  
4 acceptable experience;

5 4. Examination: pass an examination satisfactory to the board and in  
6 accordance with the commissioner's regulations;

7 5. Age: be at least twenty-one years of age;

8 6. Citizenship: meet no requirement as to United States citizenship;

9 7. Character: be of good moral character as determined by the depart-  
10 ment; and

11 8. Fees: pay a fee of one hundred seventy dollars to the department  
12 for admission to a department-conducted examination and for an initial  
13 license, a fee of eighty-five dollars for each reexamination, a fee of  
14 one hundred fifteen dollars for an initial license for persons not  
15 requiring admission to a department-conducted examination, and a fee of  
16 one hundred fifty-five dollars for each triennial registration period.

17 § 7604. Limited permits. 1. On recommendation of the board, the  
18 department may issue a limited permit to practice as psychologist to an  
19 applicant holding a certificate or license to practice psychology issued  
20 by another state or country, and whose qualifications have been approved  
21 for admission to the examination for a license as psychologist and who  
22 has resided in this state for a period of not more than six months prior  
23 to the filing of such application. Such limited permit shall be valid  
24 for a period of not more than twelve months, or until ten days after  
25 notification to the applicant of failure of the professional licensing  
26 examination, or until the results of a licensing examination for which  
27 the applicant is eligible are officially released, whichever comes  
28 first.

1 2. On the recommendation of the board, the department may issue a  
2 limited permit valid for an aggregate of three years to a person who has  
3 completed the doctoral dissertation and other doctoral degree require-  
4 ments and is gaining supervised experience to meet the experience  
5 requirements for licensure. Such permit may be re-issued for a maximum  
6 period of one year for good cause, as determined by the department.

7 3. Fees. The fee for each limited permit shall be seventy dollars.

8 § 7605. Exempt persons. Nothing in this title shall be construed to  
9 affect or prevent:

10 1. The activities, services, and use of the title of psychologist, or  
11 any derivation thereof, on the part of a person in the employ of a  
12 federal, state, county or municipal agency, or other political subdivi-  
13 sion, or a chartered elementary or secondary school or degree-granting  
14 educational institution insofar as such activities and services are a  
15 part of the duties of his or her salaried position; or on the part of a  
16 person in the employ as a certified school psychologist on a full-time  
17 or part-time salary basis, which may include on an hourly, weekly, or  
18 monthly basis, or on a fee for evaluation services basis provided that  
19 such person employed as a certified school psychologist is employed by  
20 and under the dominion and control of a preschool special education  
21 program approved pursuant to paragraph b of subdivision nine or subdivi-  
22 sion nine-a of section forty-four hundred ten of the education law to  
23 provide activities, services and to use the title "certified school  
24 psychologist", so long as this shall not be construed to permit the use  
25 of the title "licensed psychologist", to students enrolled in such  
26 approved program or to conduct a multidisciplinary evaluation of a  
27 preschool child having or suspected of having a disability; or on the  
28 part of a person in the employ as a certified school psychologist on a

1 full-time or part-time salary basis, which may include on an hourly,  
2 weekly or monthly basis, or on a fee for evaluation services basis  
3 provided that such person employed as a certified school psychologist is  
4 employed by and under the dominion and control of an agency approved in  
5 accordance with title two-A of article twenty-five of this chapter to  
6 deliver early intervention program multidisciplinary evaluations,  
7 service coordination services and early intervention program services,  
8 each in the course of their employment. Nothing in this subdivision  
9 shall be construed to authorize a certified school psychologist or group  
10 of such school psychologists to engage in independent practice or prac-  
11 tice outside of an employment relationship.

12 2. The activities and services required of a student, intern, or resi-  
13 dent in psychology, pursuing a course of study leading to a doctoral  
14 degree in psychology in an institution approved by the department,  
15 provided that such activities and services constitute a part of his or  
16 her supervised course of study in psychology. Such persons shall be  
17 designated by the titles "psychological intern", "psychological train-  
18 ee", or other such title which clearly indicates his or her training  
19 status.

20 3. The practice, conduct, activities or services by any person  
21 licensed or otherwise authorized to practice medicine within the state  
22 pursuant to title two of this article or by any person registered to  
23 perform services as a physician assistant within the state pursuant to  
24 title three of this article.

25 4. The practice, conduct, activities, or services by any person  
26 licensed or otherwise authorized to practice nursing as a registered  
27 professional nurse or nurse practitioner within the state pursuant to  
28 title twelve of this article or by any person licensed or otherwise

1 authorized to practice social work within the state pursuant to title  
2 eighteen of this article, or by any person licensed or otherwise author-  
3 ized to practice mental health counseling, marriage and family therapy,  
4 creative arts therapy, or psychoanalysis within the state pursuant to  
5 title twenty-five of this article, or any person licensed or otherwise  
6 authorized to practice applied behavior analysis within the state pursu-  
7 ant to title twenty-nine of this article or any individual who is  
8 credentialed under any law, including attorneys, rape crisis counselors,  
9 certified alcoholism counselors, and certified substance abuse counse-  
10 lors from providing mental health services within their respective  
11 established authorities.

12 5. The conduct, activities, or services of any member of the clergy or  
13 Christian Science practitioner, in the provision of pastoral counseling  
14 services within the context of his or her ministerial charge or obli-  
15 gation.

16 6. The conduct, activities, or services of individuals, churches,  
17 schools, teachers, organizations, or not-for-profit businesses in  
18 providing instruction, advice, support, encouragement, or information to  
19 individuals, families, and relational groups.

20 7. The practice, conduct, activities, or services of an occupational  
21 therapist from performing work consistent with title twenty of this  
22 article.

23 8. The representation as a psychologist and the rendering of services  
24 as such in this state for a temporary period of a person who resides  
25 outside the state of New York and who engages in practice as a psychol-  
26 ogist and conducts the major part of his or her practice as such outside  
27 this state, provided such person has filed with the department evidence  
28 that he or she has been licensed or certified in another state or has

1 been admitted to the examination in this state pursuant to section  
2 seventy-six hundred three of this title. Such temporary period shall  
3 not exceed ten consecutive business days in any period of ninety consec-  
4 utive days or in the aggregate exceed more than fifteen business days in  
5 any such ninety-day period.

6 9. The provision of psychotherapy as defined in subdivision two of  
7 section eighty-four hundred one of this article to the extent permissi-  
8 ble within the scope of practice of psychology, by any not-for-profit  
9 corporation or education corporation providing services within the state  
10 of New York and operating under a waiver pursuant to section sixty-five  
11 hundred three-a of this article, provided that such entities offering  
12 psychology services shall only provide such services through an individ-  
13 ual appropriately licensed or otherwise authorized to provide such  
14 services or a professional entity authorized by law to provide such  
15 services.

16 10. a. A person without a license from: performing assessments includ-  
17 ing but not limited to basic information collection, gathering of demo-  
18 graphic data, and informal observations, screening and referral used for  
19 general eligibility for a program or service and determining the func-  
20 tional status of an individual for the purpose of determining need for  
21 services; advising individuals regarding the appropriateness of benefits  
22 they are eligible for; providing general advice and guidance and assist-  
23 ing individuals or groups with difficult day-to-day problems such as  
24 finding employment, locating sources of assistance, and organizing  
25 community groups to work on a specific problem; providing peer services;  
26 selecting for suitability and providing substance abuse treatment  
27 services or group re-entry services to incarcerated individuals in state  
28 correctional facilities; or providing substance abuse treatment services

1 or re-entry services to incarcerated individuals in local correctional  
2 facilities.

3 b. A person without a license from creating, developing or implement-  
4 ing a service plan or recovery plan that is not a behavioral health  
5 diagnosis or treatment plan. Such service or recovery plans shall  
6 include, but are not limited to, coordinating, evaluating or determining  
7 the need for, or the provision of the following services: job training  
8 and employability; housing; homeless services and shelters for homeless  
9 individuals and families; refugee services; residential, day or communi-  
10 ty habilitation services; general public assistance; in-home services  
11 and supports or home-delivered meals; recovery supports; adult or child  
12 protective services including investigations; detention as defined in  
13 section five hundred two of the executive law; prevention and residen-  
14 tial services for victims of domestic violence; services for runaway and  
15 homeless youth; foster care, adoption, preventive services or services  
16 in accordance with an approved plan pursuant to section four hundred  
17 four of the social services law, including, adoption and foster home  
18 studies and assessments, family service plans, transition plans, perman-  
19 ency planning activities, and case planning or case management as such  
20 terms are defined in the regulations of the office of children and fami-  
21 ly services; residential rehabilitation; home and community based  
22 services; and de-escalation techniques, peer services or skill develop-  
23 ment.

24 c. (i) A person without a license from participating as a member of a  
25 multi-disciplinary team to assist in the development of or implementa-  
26 tion of a behavioral health services or treatment plan; provided that  
27 such team shall include one or more professionals licensed under this  
28 title or titles two, twelve, eighteen or twenty-five of this article;

1 and provided, further, that the activities performed by members of the  
2 team shall be consistent with the scope of practice for each team member  
3 licensed or authorized under title eight of this article, and those who  
4 are not so authorized may not engage in the following restricted prac-  
5 tices: the diagnosis of mental, emotional, behavioral, addictive and  
6 developmental disorders and disabilities; patient assessment and evalu-  
7 ating; the provision of psychotherapeutic treatment; the provision of  
8 treatment other than psychotherapeutic treatment; or independently  
9 developing and implementing assessment-based treatment plans as defined  
10 in section seventy-seven hundred one of this article.

11 (ii) For the purposes of this paragraph, "assist" shall include, but  
12 not be limited to, the provision or performance of the following tasks,  
13 services, or functions by an individual who has obtained the training  
14 and experience required by the applicable state oversight agency to  
15 perform such task, service or function in facilities or programs operat-  
16 ing pursuant to article nineteen-G of the executive law; articles seven,  
17 sixteen, thirty-one or thirty-two of the mental hygiene law; or title  
18 three of article seven of the social services law:

19 (1) helping an individual with the completion of forms or question-  
20 naires;

21 (2) reviewing existing case records and collecting background informa-  
22 tion about an individual which may be used by the licensed professional  
23 or multi-disciplinary team;

24 (3) gathering and reporting information about previous behavioral  
25 health interventions, hospitalizations, documented diagnosis, or prior  
26 treatment for review by the licensed professional and multi-disciplinary  
27 team;

1 (4) discussing with the individual his or her situation, needs,  
2 concerns, and thoughts in order to help identify services that support  
3 the individual's goals, independence, and quality of life;

4 (5) providing advice, information, and assistance to individuals and  
5 family members to identify needs and available resources in the communi-  
6 ty to help meet the needs of the individual or family member;

7 (6) engaging in immediate and long-term problem solving, engaging in  
8 the development of social skills, or providing general help in areas  
9 including, but not limited to, housing, employment, child care, parent-  
10 ing, community-based services, and finances;

11 (7) distributing paper copies of self-administered tests for the indi-  
12 vidual to complete when such tests do not require the observation and  
13 judgment of a licensed professional;

14 (8) monitoring treatment by the collection of written and/or observa-  
15 tional data in accordance with the treatment plan and providing verbal  
16 or written reports to the multi-disciplinary team;

17 (9) identifying gaps in services and coordinating access to or arrang-  
18 ing services for individuals such as home care, community-based  
19 services, housing, employment, transportation, child care, vocational  
20 training, or health care;

21 (10) offering education programs that provide information about  
22 disease identification and recommended treatments that may be provided,  
23 and how to access such treatment;

24 (11) reporting on behavior, actions, and responses to treatment by  
25 collecting written and/or observational data as part of a multi-disci-  
26 plinary team;

27 (12) using de-escalation techniques consistent with appropriate train-  
28 ing;

1 (13) performing assessments using standardized, structured interview  
2 tools or instruments;

3 (14) directly delivering services outlined in the service plan that  
4 are not clinical in nature but have been tailored to an individual based  
5 on any diagnoses such individual may have received from a licensed  
6 professional; and

7 (15) advocating with educational, judicial or other systems to protect  
8 an individual's rights and access to appropriate services.

9 d. Provided, further, that nothing in this subdivision shall be  
10 construed as requiring a license for any particular activity or function  
11 based solely on the fact that the activity or function is not listed in  
12 this subdivision.

13 11. a. The conduct, activities, or services of a technician to admin-  
14 ister and score standardized objective (non-projective) psychological or  
15 neuropsychological tests that have specific predetermined and manualized  
16 administrative procedures which entail observing and describing test  
17 behavior and test responses, and which do not require evaluation, inter-  
18 pretation or other judgments; provided, however, that such technician  
19 shall:

20 (i) hold no less than a bachelor's degree in psychology or a related  
21 field;

22 (ii) undergo a process of regular training by a licensed psychologist,  
23 which shall include, but not be limited to a minimum of eighty total  
24 hours of (1) professional ethics, (2) studying and mastering information  
25 from test manuals, and (3) direct observation of a licensed psychologist  
26 or trained technician administering and scoring tests, in addition to a  
27 minimum of forty total hours of administering and scoring tests in the  
28 presence of a licensed psychologist or trained technician, provided such

1 interaction with the licensed psychologist equals or exceeds fifty  
2 percent of the total training time;

3 (iii) be under the direct and ongoing supervision of a licensed  
4 psychologist in no greater than a three-to-one ratio or the part time  
5 equivalent thereto;

6 (iv) not be employed within a school setting; and

7 (v) not select tests, analyze patient data, or communicate results to  
8 patients.

9 b. The supervising licensed psychologist must submit, pursuant to a  
10 form to be prescribed and developed within ninety days of the effective  
11 date of this subdivision by the department, a sworn statement detailing  
12 compliance with the above requirements. The licensed psychologist's use  
13 of such individual pursuant to the terms of this subdivision shall be  
14 undertaken only with special care and professional judgment in order to  
15 ensure the safety and well-being of the patient considering the severity  
16 of the symptoms, the age of the patient and the length of the examina-  
17 tion process, and shall include appropriate ongoing contact with the  
18 licensed psychologist at appropriate intervals. Such use shall be  
19 subject to the full disciplinary and regulatory authority of the depart-  
20 ment pursuant to this title. The licensed psychologist shall notify the  
21 patient or designated health care surrogate that the licensed psychol-  
22 ogist may utilize the services of a technician to administer certain  
23 exams, and shall provide the patient or designated health care surrogate  
24 the opportunity to object to the licensed psychologist's plan to utilize  
25 a technician.

26 12. Notwithstanding any other provision of law to the contrary, noth-  
27 ing in this title shall be construed to prohibit or limit the activities  
28 or services provided under this title by any person who is employed or

1 who commences employment in a program or service operated, regulated,  
2 funded, or approved by the department of mental hygiene, the office of  
3 children and family services, or a local governmental unit as that term  
4 is defined in section 41.03 of the mental hygiene law or a social  
5 services district as defined in section sixty-one of the social services  
6 law on or before two years from the date that the regulations issued in  
7 accordance with section six of part Y of chapter fifty-seven of the laws  
8 of two thousand eighteen appear in the state register or are adopted,  
9 whichever is later. Such prohibitions or limitations shall not apply to  
10 such employees for as long as they remain employed by such programs or  
11 services and whether they remain employed by the same or other employers  
12 providing such programs or services. Provided, however, that any person  
13 who commences employment in such program or service after such date and  
14 performs services that are restricted under this title shall be appro-  
15 priately licensed or authorized under this title. Each state oversight  
16 agency shall create and maintain a process to verify employment history  
17 of individuals exempt under this subdivision.

18 13. The activities or services provided by a person with a master's  
19 level degree in psychology or its equivalent, working under the super-  
20 vision of a licensed psychologist in a program or service operated,  
21 regulated, funded, or approved by the department of mental hygiene, the  
22 office of children and family services, or a local government unit as  
23 such term is defined in section 41.03 of the mental hygiene law or a  
24 social services district as defined in section sixty-one of the social  
25 services law.

26 § 7606. Prohibitions. Any individual whose license or authority to  
27 practice derives from the provisions of this title shall be prohibited  
28 from:

1 1. prescribing or administering drugs as defined in this chapter as a  
2 treatment, therapy, or professional service in the practice of his or  
3 her profession; or

4 2. using invasive procedures as a treatment, therapy, or professional  
5 service in the practice of his or her profession. For purposes of this  
6 subdivision, "invasive procedure" means any procedure in which human  
7 tissue is cut, altered, or otherwise infiltrated by mechanical or other  
8 means. Invasive procedure includes surgery, lasers, ionizing radiation,  
9 therapeutic ultrasound, or electroconvulsive therapy.

10 § 7607. Mandatory continuing education. 1. a. Each psychologist  
11 required under this title to register triennially with the department to  
12 practice in this state, shall comply with the provisions for mandatory  
13 continuing education prescribed in subdivision two of this section,  
14 except as set forth in paragraphs b and c of this subdivision. Psychol-  
15 ogists who do not satisfy the mandatory continuing education require-  
16 ments shall not practice until they have met such requirements and they  
17 have been issued a registration certificate, except that a psychologist  
18 may practice without having met such requirements if he or she is issued  
19 a conditional registration certificate pursuant to subdivision three of  
20 this section.

21 b. Each psychologist shall be exempt from the mandatory continuing  
22 education requirements for the triennial registration period during  
23 which they are first licensed. In accordance with the intent of this  
24 section, adjustment to the mandatory continuing education requirement  
25 may be granted by the department for reasons of health that are certi-  
26 fied by an appropriate health care professional, for extended active  
27 duty with the armed forces of the United States, or for other good cause  
28 acceptable to the department which may prevent compliance.

1 c. A psychologist not engaged in practice, as determined by the  
2 department, shall be exempt from the mandatory continuing education  
3 requirement upon the filing of a statement with the department declaring  
4 such status. Any licensee who returns to the practice of psychology  
5 during the triennial registration period shall notify the department  
6 prior to reentering the profession and shall meet such continuing educa-  
7 tion requirements as shall be prescribed by regulations of the commis-  
8 sioner.

9 2. During each triennial registration period, an applicant for regis-  
10 tration as a psychologist shall complete a minimum of thirty-six hours  
11 of acceptable learning activities, a minimum of three hours of which  
12 shall be course work in the area of professional ethics, including the  
13 laws, rules and regulations for practice in New York. Any psychologist  
14 whose first registration date following the effective date of this  
15 section occurs less than three years from such effective date, but on or  
16 after January first, two thousand twenty-one, shall complete continuing  
17 education hours on a prorated basis at the rate of one hour per month  
18 for the period beginning January first, two thousand twenty-one up to  
19 the first registration date thereafter. A psychologist who has not  
20 satisfied the mandatory continuing education requirement shall not be  
21 issued a triennial registration certificate by the department and shall  
22 not practice unless and until a conditional registration is issued as  
23 provided for in subdivision three of this section. Continuing education  
24 hours taken during one triennium shall not be transferred to the subse-  
25 quent triennium.

26 3. a. The department, in its discretion, may issue a conditional  
27 registration to a psychologist who fails to meet the continuing educa-  
28 tion requirements established in subdivision two of this section, but

1 who agrees to make up any deficiencies and complete any additional  
2 education which the department may require. The fee for such a condi-  
3 tional registration shall be the same as, and in addition to, the fee  
4 for the triennial registration. The duration of such conditional regis-  
5 tration shall be determined by the department, but shall not exceed one  
6 year. Any psychologist who is notified of the denial of registration for  
7 failure to submit evidence, satisfactory to the department, of required  
8 continuing education and who practices without such registration may be  
9 subject to disciplinary proceedings pursuant to section sixty-five  
10 hundred ten of this article.

11 b. For purposes of this section:

12 (i) "acceptable learning activities" shall include, but not be limited  
13 to, formal courses of learning which contribute to professional practice  
14 in psychology and/or self-study activities; independent study; formal  
15 mentoring activities; publication in professional journals; or lectures,  
16 which meet the standards prescribed by regulations of the commissioner;  
17 and

18 (ii) "formal courses of learning" shall include, but not be limited  
19 to, collegiate level credit and non-credit courses, professional devel-  
20 opment programs and technical sessions offered by national, state, and  
21 local professional associations and other organizations acceptable to  
22 the department, and any other organized educational and technical  
23 programs acceptable to the department. Formal courses shall be taken  
24 from a sponsor approved by the department, based upon an application and  
25 fee, pursuant to the regulations of the commissioner.

26 c. The department may, in its discretion and as needed to contribute  
27 to the health and welfare of the public, require the completion of

1 continuing education credits in specific subjects to fulfill this manda-  
2 tory continuing education requirement.

3 d. Psychologists shall maintain adequate documentation of completion  
4 of acceptable continuing education credits and shall provide such  
5 documentation at the request of the department. Failure to provide such  
6 documentation upon the request of the department shall be an act of  
7 misconduct subject to disciplinary proceedings pursuant to section  
8 sixty-five hundred ten of this article.

9 e. The mandatory continuing education fee shall be determined by the  
10 department. Such fee shall be payable on or before the first day of  
11 each triennial registration period, and shall be paid in addition to the  
12 triennial registration fee required by subdivision eight of section  
13 seventy-six hundred three of this title.

14 TITLE 18

15 SOCIAL WORK

16 Section 7700. Introduction.

17 7701. Definitions.

18 7702. Authorized practice and the use of the titles "licensed  
19 master social worker" and "licensed clinical social  
20 worker".

21 7703. State board for social work.

22 7704. Requirements for a license.

23 7705. Limited permits.

24 7706. Exempt persons.

25 7707. Special provisions.

26 7708. Boundaries of professional practice.

27 7709. Hospital privileges.

1           7710. Mandatory continuing education.

2       § 7700. Introduction. This title applies to the profession and prac-  
3 tice of social work, the practice of licensed master social work, and  
4 the practice of clinical social work, and to the use of the titles  
5 "licensed master social worker", and "licensed clinical social worker".  
6 The general provisions for all professions contained in title one of  
7 this article shall apply to this title.

8       § 7701. Definitions. 1. Practice of licensed master social work.

9       a. The practice of licensed master social work shall mean the profes-  
10 sional application of social work theory, principles, and the methods to  
11 prevent, assess, evaluate, formulate and implement a plan of action  
12 based on client needs and strengths, and intervene to address mental,  
13 social, emotional, behavioral, developmental, and addictive disorders,  
14 conditions and disabilities, and of the psychosocial aspects of illness  
15 and injury experienced by individuals, couples, families, groups, commu-  
16 nities, organizations, and society.

17       b. Licensed master social workers engage in the administration of  
18 tests and measures of psychosocial functioning, social work advocacy,  
19 case management, counseling, consultation, research, administration and  
20 management, and teaching.

21       c. Licensed master social workers provide all forms of supervision  
22 other than supervision of the practice of licensed clinical social work  
23 as defined in subdivision two of this section.

24       d. Licensed master social workers practice licensed clinical social  
25 work in facility settings or other supervised settings approved by the  
26 department under supervision in accordance with the commissioner's regu-  
27 lations.

1 2. Practice of clinical social work. a. The practice of clinical  
2 social work encompasses the scope of practice of licensed master social  
3 work and, in addition, includes the diagnosis of mental, emotional,  
4 behavioral, addictive and developmental disorders and disabilities and  
5 of the psychosocial aspects of illness, injury, disability and impair-  
6 ment undertaken within a psychosocial framework; administration and  
7 interpretation of tests and measures of psychosocial functioning; devel-  
8 opment and implementation of appropriate assessment-based treatment  
9 plans; and the provision of crisis oriented psychotherapy and brief,  
10 short-term and long-term psychotherapy and psychotherapeutic treatment  
11 to individuals, couples, families and groups, habilitation, psychoanal-  
12 ysis and behavior therapy; all undertaken for the purpose of preventing,  
13 assessing, treating, ameliorating and resolving psychosocial dysfunction  
14 with the goal of maintaining and enhancing the mental, emotional, behav-  
15 ioral, and social functioning and well-being of individuals, couples,  
16 families, small groups, organizations, communities and society.

17 b. Diagnosis in the context of licensed clinical social work practice  
18 is the process of distinguishing, beyond general social work assessment,  
19 between similar mental, emotional, behavioral, developmental and addic-  
20 tive disorders, impairments and disabilities within a psychosocial  
21 framework on the basis of their similar and unique characteristics  
22 consistent with accepted classification systems.

23 c. Psychotherapy in the context of licensed clinical social work prac-  
24 tice is the use of verbal methods in interpersonal relationships with  
25 the intent of assisting a person or persons to modify attitudes and  
26 behavior which are intellectually, socially, or emotionally maladaptive.

27 d. Development of assessment-based treatment plans in the context of  
28 licensed clinical social work practice refers to the development of an

1 integrated plan of prioritized interventions, that is based on the diag-  
2 nosis and psychosocial assessment of the client, to address mental,  
3 emotional, behavioral, developmental and addictive disorders, impair-  
4 ments and disabilities, reactions to illnesses, injuries, disabilities  
5 and impairments, and social problems.

6 § 7702. Authorized practice and the use of the titles "licensed master  
7 social worker" and "licensed clinical social worker". 1. In addition to  
8 the licensed social work services included in subdivisions one and two  
9 of section seventy-seven hundred one of this title, licensed master  
10 social workers and licensed clinical social workers may perform the  
11 following social work functions that do not require a license under this  
12 title, including but not limited to:

13 a. Serve as a community organizer, planner, or administrator for  
14 social service programs in any setting.

15 b. Provide supervision and/or consultation to individuals, groups,  
16 institutions and agencies.

17 c. Serve as a faculty member or instructor in an educational setting.

18 d. Plan and/or conduct research projects and program evaluation  
19 studies.

20 e. Maintain familiarity with both professional and self-help systems  
21 in the community in order to assist the client in such services when  
22 necessary.

23 f. Provide advice and guidance and assist individuals or groups with  
24 difficult day-to-day problems such as finding employment, locating  
25 sources of assistance, and organizing community groups to work on a  
26 specific problem.

27 g. Consult with other agencies on problems and cases served in common  
28 and coordinating services among agencies or providing case management.

- 1 h. Conduct data gathering on social problems.
- 2 i. Serve as an advocate for clients or groups of clients whose needs  
3 are not being met by available programs or by a specific agency.
- 4 j. Assess, evaluate, and formulate a plan of action based on client  
5 need.
- 6 k. Provide training to community groups, agencies, and other profes-  
7 sionals.
- 8 l. Provide administrative supervision.
- 9 m. Provide peer services.
- 10 n. Collect basic information, gathering of demographic data, and  
11 informal observations, screening and referral used for general eligibil-  
12 ity for a program or service and determining the functional status of an  
13 individual for the purpose of determining the need for services.
- 14 2. a. Only a person licensed or exempt under this title shall practice  
15 "licensed master social work" as defined in subdivision one of section  
16 seventy-seven hundred one of this title.
- 17 b. Only a person licensed pursuant to subdivision one of section  
18 seventy-seven hundred four of this title shall use the title "licensed  
19 master social worker" or the designation "LMSW".
- 20 3. a. Only a person licensed or exempt under this title shall practice  
21 "licensed clinical social work" as defined in subdivision two of section  
22 seventy-seven hundred one of this title.
- 23 b. Only a person licensed pursuant to subdivision two of section  
24 seventy-seven hundred four of this title shall use the title "licensed  
25 clinical social worker" or the designation "LCSW".
- 26 § 7703. State board for social work. A state board for social work  
27 shall be appointed by the commissioner for the purpose of assisting the  
28 department on matters of professional licensing, practice, and conduct

1 in accordance with section sixty-five hundred eight of this article. The  
2 board shall be composed of not less than twelve members, of which five  
3 shall be licensed clinical social workers, five shall be licensed master  
4 social workers and two members of the public. Members of the first board  
5 need not be licensed prior to their appointment to the board. The terms  
6 of the first appointed members shall be staggered so that four are  
7 appointed for three years, four are appointed for four years, and four  
8 are appointed for five years. An executive secretary to the board shall  
9 be appointed by the commissioner and shall be licensed pursuant to this  
10 title. As used in this title, "the board" shall mean the state board for  
11 social work as appointed pursuant to this section.

12 § 7704. Requirements for a license. 1. To qualify for a license as a  
13 "licensed master social worker" an applicant shall fulfill the following  
14 requirements:

15 a. Application: file an application with the department;

16 b. Education: have received an education, including a master's of  
17 social work degree from a program registered by the department, or  
18 determined by the department to be the substantial equivalent, in  
19 accordance with the commissioner's regulations;

20 c. Experience: meet no requirement as to experience;

21 d. Examination: pass an examination satisfactory to the board and in  
22 accordance with the commissioner's regulations;

23 e. Age: be at least twenty-one years of age;

24 f. Character: be of good moral character as determined by the depart-  
25 ment; and

26 g. Fees: pay a fee of one hundred fifteen dollars to the department  
27 for an initial license, and a fee of one hundred fifty-five dollars for  
28 each triennial registration period. An additional surcharge in the

1 amount of five dollars shall be paid with each triennial registration  
2 fee and shall be used for the marketing and evaluation of the regents  
3 licensed social worker loan forgiveness program established by section  
4 six hundred five of the education law.

5 2. To qualify for a license as a "licensed clinical social worker", an  
6 applicant shall fulfill the following requirements:

7 a. Application: file an application with the department;

8 b. Education: have received an education, including a master's of  
9 social work degree from a program registered by the department, or  
10 determined by the department to be the substantial equivalent, that  
11 includes completion of a core curriculum which includes at least twelve  
12 credit hours of clinical courses, in accordance with the commissioner's  
13 regulations; a person who has received a master's, or equivalent degree  
14 in social work, during which they did not complete a core curriculum  
15 which includes clinical courses, may satisfy this requirement by  
16 completing equivalent post-graduate clinical coursework, in accordance  
17 with the commissioner's regulations;

18 c. Experience: have at least three years full-time supervised post-  
19 graduate clinical social work experience in diagnosis, psychotherapy,  
20 and assessment-based treatment plans, or its part-time equivalent,  
21 obtained over a continuous period not to exceed six years, under the  
22 supervision, satisfactory to the department, of a psychiatrist, a  
23 licensed psychologist, or a licensed clinical social worker in a facili-  
24 ty setting or other supervised settings approved by the department.  
25 Satisfactory experience obtained in an entity operating under a waiver  
26 issued by the department pursuant to section sixty-five hundred three-a  
27 of this article may be accepted by the department, notwithstanding that  
28 such experience may have been obtained prior to the effective date of

1 such section sixty-five hundred three-a and/or prior to the entity  
2 having obtained a waiver. The department may, for good cause shown,  
3 accept satisfactory experience that was obtained in a setting that would  
4 have been eligible for a waiver but which has not obtained a waiver from  
5 the department or experience that was obtained in good faith by the  
6 applicant under the belief that appropriate authorization had been  
7 obtained for the experience, provided that such experience meets all  
8 other requirements for acceptable experience;

9 d. Examination: pass an examination satisfactory to the board and in  
10 accordance with the commissioner's regulations;

11 e. Age: be at least twenty-one years of age;

12 f. Character: be of good moral character as determined by the depart-  
13 ment; and

14 g. Fees: pay a fee of one hundred fifteen dollars to the department  
15 for an initial license and a fee of one hundred fifty-five dollars for  
16 each triennial registration period.

17 § 7705. Limited permits. 1. On recommendation of the board, the  
18 department may issue a limited permit to practice licensed clinical  
19 social work and use the title licensed clinical social worker, or to  
20 practice licensed master social work and use the title licensed master  
21 social worker to an applicant who has met all requirements for licensure  
22 as a licensed master social worker or a licensed clinical social worker  
23 except those relating to the examination and provided that the individ-  
24 ual is under the general supervision of a licensed master social worker  
25 or a licensed clinical social worker, as determined by the department.  
26 This limited permit shall be valid for a period of not more than twelve  
27 months.

28 2. The fee for each limited permit shall be seventy dollars.

1 § 7706. Exempt persons. Nothing contained in this title shall be  
2 construed to:

3 1. Apply to the practice, conduct, activities, services or use of any  
4 title by any person licensed or otherwise authorized to practice medi-  
5 cine within the state pursuant to title two of this article or by any  
6 person registered to perform services as a physician assistant within  
7 the state pursuant to title four of this article or by any person  
8 licensed or otherwise authorized to practice psychology within this  
9 state pursuant to title seventeen of this article or by any person  
10 licensed or otherwise authorized to practice nursing as a registered  
11 professional nurse or nurse practitioner within this state pursuant to  
12 title twelve of this article or by any person licensed or otherwise  
13 authorized to practice occupational therapy within this state pursuant  
14 to title twenty of this article or by any person licensed or otherwise  
15 authorized to practice mental health counseling, marriage and family  
16 therapy, creative arts therapy, or psychoanalysis within the state  
17 pursuant to title twenty-five of this article or by any person licensed  
18 or otherwise authorized to practice applied behavior analysis within the  
19 state pursuant to title twenty-nine of this article; provided, however,  
20 that no physician, physician assistant, registered professional nurse,  
21 nurse practitioner, psychologist, occupational therapist, licensed  
22 mental health counselor, licensed marriage and family therapist,  
23 licensed creative arts therapist, licensed psychoanalyst, licensed  
24 behavior analyst or certified behavior analyst assistant may use the  
25 titles "licensed clinical social worker" or "licensed master social  
26 worker", unless licensed under this title.

27 2. Prevent or prohibit an individual possessing a baccalaureate of  
28 social work degree or its equivalent from the performance of activities

1 and services within the scope of practice of licensed master social work  
2 as defined in paragraphs a and b of subdivision one of section seventy-  
3 seven hundred one of this title under supervision by a licensed master  
4 social worker, a licensed clinical social worker or in accordance with  
5 the commissioner's regulations.

6 3. Prevent or prohibit a licensed master social worker from the  
7 performance of activities and services within the scope of practice of  
8 licensed clinical social work as defined in subdivision two of section  
9 seventy-seven hundred one of this title in a facility setting and under  
10 supervision in accordance with the commissioner's regulations.

11 4. Prevent or prohibit the performance of activities and services  
12 within the scope of practice of licensed master social work as defined  
13 in subdivision one of section seventy-seven hundred one of this title by  
14 individuals, churches, schools, teachers, organizations, or not-for-pro-  
15 fit businesses which are providing instruction, advice, support, encour-  
16 agement or information to individuals, families, and relational groups.

17 5. Prevent or prohibit the performance of activities and services  
18 within the scope of practice of licensed master social work or licensed  
19 clinical social work as defined in section seventy-seven hundred one of  
20 this title by the following:

21 a. any individual who is credentialed under any law, including attor-  
22 neys, rape crisis counselors, credentialed alcoholism and substance  
23 abuse counselors whose scope of practice includes the practices defined  
24 in section seventy-seven hundred one of this title from performing or  
25 claiming to perform work authorized by applicable provisions of this  
26 chapter and the mental hygiene law;

27 b. provision of pastoral counseling services by any member of the  
28 clergy or Christian science practitioner, from providing pastoral coun-

1 seling services within the context of his or her ministerial charge or  
2 obligation;

3 c. students who are enrolled in a baccalaureate of social work or  
4 professional graduate level social work program of study, and which are  
5 required to perform as part of the field work component of such program,  
6 services provided under the supervision of a field work supervisor  
7 approved by the program;

8 d. on the part of a student or trainee who is enrolled in an institu-  
9 tion or program registered by the department or accredited by an accred-  
10 iting organization acceptable to the department to provide training in a  
11 discipline or profession, other than social work or clinical social  
12 work, that is licensed pursuant to this title, where such activities and  
13 services are authorized within the definition of the scope of practice  
14 of the profession, or discipline in which he or she is being trained as  
15 set forth in the education law or the commissioner's regulations,  
16 provided that such services are performed under the regular and ongoing  
17 supervision of a licensee in the profession or discipline in which he or  
18 she is being trained who assumes professional responsibility for the  
19 services performed under his or her supervision and that such activities  
20 and the provision of such services are a formal part of the professional  
21 training program in which he or she is enrolled;

22 e. any federal, state, county or municipal employee performing clin-  
23 ical social work services upon the effective date of this section for  
24 the period during which they maintain such employment with such govern-  
25 mental unit within the context of such employment and shall be limited  
26 to the services provided upon such effective date; and

27 f. any employee performing clinical social work services on the effec-  
28 tive date of this section for the period during which they maintain such

1 employment with such entity within the context of such employment, and  
2 shall be limited to the services provided prior to such effective date.

3 6. Prohibit the practice of licensed master social work or licensed  
4 clinical social work, to the extent permissible within the scope of  
5 practice of such professions, by any not-for-profit corporation or  
6 education corporation providing services within the state of New York  
7 and operating under a waiver pursuant to section sixty-five hundred  
8 three-a of this article, provided that such entities offering licensed  
9 master social work or licensed clinical social work services shall only  
10 provide such services through an individual appropriately licensed or  
11 otherwise authorized to provide such services or a professional entity  
12 authorized by law to provide such services.

13 7. a. Prevent a person without a license from: performing assessments  
14 including but not limited to basic information collection, gathering of  
15 demographic data, and informal observations, screening and referral used  
16 for general eligibility for a program or service and determining the  
17 functional status of an individual for the purpose of determining need  
18 for services; advising individuals regarding the appropriateness of  
19 benefits they are eligible for; providing general advice and guidance  
20 and assisting individuals or groups with difficult day to day problems  
21 such as finding employment, locating sources of assistance, and organiz-  
22 ing community groups to work on a specific problem; providing peer  
23 services; selecting for suitability and providing substance abuse treat-  
24 ment services or group re-entry services to incarcerated individuals in  
25 state correctional facilities; or providing substance abuse treatment  
26 services or re-entry services to incarcerated individuals in local  
27 correctional facilities.

1 b. Prevent a person without a license from creating, developing or  
2 implementing a service plan or recovery plan that is not a behavioral  
3 health diagnosis or treatment plan. Such service or recovery plans  
4 shall include, but are not limited to, coordinating, evaluating or  
5 determining the need for, or the provision of the following services:  
6 job training and employability; housing; homeless services and shelters  
7 for homeless individuals and families; refugee services; residential,  
8 day or community habilitation services; general public assistance;  
9 in-home services and supports or home-delivered meals; recovery  
10 supports; adult or child protective services including investigations;  
11 detention as defined in section five hundred two of the executive law;  
12 prevention and residential services for victims of domestic violence;  
13 services for runaway and homeless youth; foster care, adoption, preven-  
14 tive services or services in accordance with an approved plan pursuant  
15 to section four hundred four of the social services law, including,  
16 adoption and foster home studies and assessments, family service plans,  
17 transition plans, permanency planning activities, and case planning or  
18 case management as such terms are defined in the regulations of the  
19 office of children and family services; residential rehabilitation; home  
20 and community based services; and de-escalation techniques, peer  
21 services or skill development.

22 c. (i) Prevent a person without a license from participating as a  
23 member of a multi-disciplinary team to assist in the development of or  
24 implementation of a behavioral health services or treatment plan;  
25 provided that such team shall include one or more professionals licensed  
26 under this title or titles two, twelve, seventeen or twenty-five of this  
27 article; and provided, further, that the activities performed by members  
28 of the team shall be consistent with the scope of practice for each team

1 member licensed or authorized under title eight of this article, and  
2 those who are not so authorized may not engage in the following  
3 restricted practices: the diagnosis of mental, emotional, behavioral,  
4 addictive and developmental disorders and disabilities; patient assess-  
5 ment and evaluating; the provision of psychotherapeutic treatment; the  
6 provision of treatment other than psychotherapeutic treatment; or inde-  
7 pendently developing and implementing assessment-based treatment plans  
8 as defined in section seventy-seven hundred one of this title.

9 (ii) For the purposes of this paragraph, "assist" shall include, but  
10 not be limited to, the provision or performance of the following tasks,  
11 services, or functions by an individual who has obtained the training  
12 and experience required by the applicable state oversight agency to  
13 perform such task, service or function in facilities or programs operat-  
14 ing pursuant to article nineteen-G of the executive law; articles seven,  
15 sixteen, thirty-one or thirty-two of the mental hygiene law; or title  
16 three of article seven of the social services law:

17 (1) helping an individual with the completion of forms or question-  
18 naires;

19 (2) reviewing existing case records and collecting background informa-  
20 tion about an individual which may be used by the licensed professional  
21 or multi-disciplinary team;

22 (3) gathering and reporting information about previous behavioral  
23 health interventions, hospitalizations, documented diagnosis, or prior  
24 treatment for review by the licensed professional and multi-disciplinary  
25 team;

26 (4) discussing with the individual his or her situation, needs,  
27 concerns, and thoughts in order to help identify services that support  
28 the individual's goals, independence, and quality of life;

1 (5) providing advice, information, and assistance to individuals and  
2 family members to identify needs and available resources in the communi-  
3 ty to help meet the needs of the individual or family member;

4 (6) engaging in immediate and long-term problem solving, engaging in  
5 the development of social skills, or providing general help in areas  
6 including, but not limited to, housing, employment, child care, parent-  
7 ing, community-based services, and finances;

8 (7) distributing paper copies of self-administered tests for the indi-  
9 vidual to complete when such tests do not require the observation and  
10 judgment of a licensed professional;

11 (8) monitoring treatment by the collection of written and/or observa-  
12 tional data in accordance with the treatment plan and providing verbal  
13 or written reports to the multi-disciplinary team;

14 (9) identifying gaps in services and coordinating access to or arrang-  
15 ing services for individuals such as home care, community-based  
16 services, housing, employment, transportation, child care, vocational  
17 training, or health care;

18 (10) offering education programs that provide information about  
19 disease identification and recommended treatments that may be provided,  
20 and how to access such treatment;

21 (11) reporting on behavior, actions, and responses to treatment by  
22 collecting written and/or observational data as part of a multi-disci-  
23 plinary team;

24 (12) using de-escalation techniques consistent with appropriate train-  
25 ing;

26 (13) performing assessments using standardized, structured interview  
27 tools or instruments;

1 (14) directly delivering services outlined in the service plan that  
2 are not clinical in nature but have been tailored to an individual based  
3 on any diagnoses such individual may have received from a licensed  
4 professional; and

5 (15) advocating with educational, judicial or other systems to protect  
6 an individual's rights and access to appropriate services.

7 d. Provided, further, that nothing in this subdivision shall be  
8 construed as requiring a license for any particular activity or function  
9 based solely on the fact that the activity or function is not listed in  
10 this subdivision.

11 8. Notwithstanding any other provision of law to the contrary, nothing  
12 in this title shall be construed to prohibit or limit the activities or  
13 services provided under this title by any person who is employed or who  
14 commences employment in a program or service operated, regulated, fund-  
15 ed, or approved by the department of mental hygiene, the office of chil-  
16 dren and family services, the department of corrections and community  
17 supervision, the office of temporary and disability assistance, the  
18 state office for the aging and the department of health or a local  
19 governmental unit as that term is defined in section 41.03 of the mental  
20 hygiene law or a social services district as defined in section sixty-  
21 one of the social services law on or before two years from the date that  
22 the regulations issued in accordance with section six of part Y of chap-  
23 ter fifty-seven of the laws of two thousand eighteen appear in the state  
24 register or are adopted, whichever is later. Such prohibitions or limi-  
25 tations shall not apply to such employees for as long as they remain  
26 employed by such programs or services and whether they remain employed  
27 by the same or other employers providing such programs or services.  
28 Provided however, that any person who commences employment in such

1 program or service after such date and performs services that are  
2 restricted under this title shall be appropriately licensed or author-  
3 ized under this title. Each state oversight agency shall create and  
4 maintain a process to verify employment history of individuals exempt  
5 under this subdivision.

6 § 7707. Special provisions. 1. Any person who is licensed as a certi-  
7 fied social worker on the effective date of this title shall be licensed  
8 as a licensed master social worker without meeting any additional  
9 requirements.

10 2. Any person who possesses a master's of social work degree on the  
11 effective date of this section, who has five years of post-graduate  
12 social work employment and meets the requirements for a license pursuant  
13 to this title, except for examination, and who files with the department  
14 within one year of the effective date of this section shall be licensed  
15 as a licensed master social worker.

16 3. Any person who is licensed as a certified social worker on the  
17 effective date of this section and who has been authorized pursuant to  
18 section three thousand two hundred twenty-one or section four thousand  
19 three hundred three of the insurance law shall be licensed as a licensed  
20 clinical social worker without meeting any additional requirements.

21 4. Any person who is licensed as a certified social worker on the  
22 effective date of this section, but who has not received authorization  
23 pursuant to section three thousand two hundred twenty-one or four thou-  
24 sand three hundred three of the insurance law, who files with the  
25 department within one year of the effective date of this section an  
26 application pursuant to subdivision two of section seventy-seven hundred  
27 four of this title, who demonstrates to the satisfaction of the depart-  
28 ment that they meet the experience requirements for authorization pursu-

1 ant to section three thousand two hundred twenty-one or four thousand  
2 three hundred three of the insurance law, shall be licensed as a  
3 licensed clinical social worker without meeting any further require-  
4 ments.

5 5. Licensed master social workers and licensed clinical social workers  
6 may use accepted classifications of signs, symptoms, dysfunctions and  
7 disorders, including, but not limited to, classifications used in the  
8 practice setting for the purpose of providing mental health services.

9 § 7708. Boundaries of professional practice. Any individual whose  
10 license or authority to practice derives from the provisions of this  
11 title shall be prohibited from:

12 1. Prescribing or administering drugs as defined in this chapter or as  
13 a treatment, therapy, or professional service in the practice of his or  
14 her profession; or

15 2. Using invasive procedures as a treatment, therapy, or professional  
16 service in the practice of his or her profession. For purposes of this  
17 subdivision, "invasive procedure" means any procedure in which human  
18 tissue is cut, altered, or otherwise infiltrated by mechanical or other  
19 means. Invasive procedure includes surgery, lasers, ionizing radiation,  
20 therapeutic ultrasound, or electroconvulsive therapy.

21 § 7709. Hospital privileges. Nothing in this title shall be deemed to  
22 authorize, grant, or extend hospital privileges to individuals licensed  
23 under this title.

24 § 7710. Mandatory continuing education. 1. a. Each licensed master  
25 social worker or licensed clinical social worker required under this  
26 title to register triennially with the department to practice in this  
27 state, shall comply with the provisions of mandatory continuing educa-  
28 tion requirements prescribed in subdivision two of this section, except

1 as set forth in paragraphs b and c of this subdivision. Licensed master  
2 social workers or licensed clinical social workers who do not satisfy  
3 the mandatory continuing education requirements shall not practice until  
4 they have met such requirements and they have been issued a registration  
5 certificate, except that a licensed master social worker or licensed  
6 clinical social worker may practice without having met such requirements  
7 if he or she is issued a conditional registration certificate pursuant  
8 to subdivision three of this section.

9 b. Each licensed master social worker or licensed clinical social  
10 worker shall be exempt from the mandatory continuing education require-  
11 ments for the triennial registration period during which they are first  
12 licensed. In accordance with the intent of this section, adjustment to  
13 the mandatory continuing education requirement may be granted by the  
14 department for reasons of health that are certified by an appropriate  
15 health care professional, for extended active duty with the armed forces  
16 of the United States, or for other good cause acceptable to the depart-  
17 ment which may prevent compliance.

18 c. A licensed master social worker or a licensed clinical social work-  
19 er not engaged in practice, as determined by the department, shall be  
20 exempt from the mandatory continuing education requirement upon the  
21 filing of a statement with the department declaring such status. Any  
22 licensee who returns to the practice of social work during the triennial  
23 registration period shall notify the department prior to reentering the  
24 profession and shall meet such mandatory education requirements as shall  
25 be prescribed by regulations of the commissioner.

26 d. A licensed clinical social worker who is also licensed and regis-  
27 tered to practice as a licensed master social worker in the same trien-  
28 nial registration period, shall not be required to complete more than

1 thirty-six hours of continuing education in the triennial registration  
2 period, or one hour per month for a registration period other than thir-  
3 ty-six months.

4 2. During each triennial registration period an applicant for regis-  
5 tration as a licensed master social worker or licensed clinical social  
6 worker shall complete a minimum of thirty-six hours of acceptable formal  
7 continuing education. Any licensed master social worker or licensed  
8 clinical social worker whose first registration date following the  
9 effective date of this section occurs less than three years from such  
10 effective date, but on or after January first, two thousand fifteen,  
11 shall complete continuing education hours on a prorated basis at the  
12 rate of one hour per month for the period beginning January first, two  
13 thousand fifteen up to the first registration date thereafter. A licen-  
14 see who has not satisfied the mandatory continuing education requirement  
15 shall not be issued a triennial registration certificate by the depart-  
16 ment and shall not practice unless and until a conditional registration  
17 is issued as provided for in subdivision three of this section. Contin-  
18 uing education hours taken during one triennium shall not be transferred  
19 to the subsequent triennium.

20 3. a. The department, in its discretion, may issue a conditional  
21 registration to a licensee who fails to meet the continuing education  
22 requirements established in subdivision two of this section but who  
23 agrees to make up any deficiencies and complete any additional education  
24 which the department may require. The fee for such a conditional regis-  
25 tration shall be the same as, and in addition to, the fee for the trien-  
26 nial registration. The duration of such conditional registration shall  
27 be determined by the department but shall not exceed one year. Any  
28 licensee who is notified of the denial of registration for failure to

1 submit evidence, satisfactory to the department, of required continuing  
2 education and who practices without such registration may be subject to  
3 disciplinary proceedings pursuant to section sixty-five hundred ten of  
4 this article.

5 b. For purposes of this section "acceptable formal education" shall  
6 mean formal courses of learning which contribute to professional prac-  
7 tice in social work and which meet the standards prescribed by regu-  
8 lations of the commissioner. Such formal courses of learning shall  
9 include, but not be limited to, collegiate level credit and non-credit  
10 courses, professional development programs and technical sessions  
11 offered by national, state and local professional associations and other  
12 organizations acceptable to the department, and any other organized  
13 educational and technical programs acceptable to the department.  
14 Continuing education courses shall be taken from a provider who has been  
15 approved by the department, based upon an application and fee, pursuant  
16 to the regulations of the commissioner. The department may, in its  
17 discretion and as needed to contribute to the health and welfare of the  
18 public, require the completion of continuing education courses in  
19 specific subjects to fulfill this mandatory continuing education  
20 requirement. Licensed master social workers or licensed clinical social  
21 workers shall maintain adequate documentation of completion of accepta-  
22 ble formal continuing education and shall provide such documentation at  
23 the request of the department. Failure to provide such documentation  
24 upon the request of the department shall be an act of misconduct subject  
25 to disciplinary proceedings pursuant to section sixty-five hundred ten  
26 of this article.

27 c. The mandatory continuing education fee shall be determined by the  
28 department. Such fee shall be payable on or before the first day of

1 each triennial registration period and shall be paid in addition to the  
2 triennial registration fee required by paragraph g of subdivision one  
3 and paragraph g of subdivision two of section seventy-seven hundred four  
4 of this title.

5 TITLE 19

6 MESSAGE THERAPY

7 Section 7800. Introduction.

8 7801. Definition of practice of massage therapy.

9 7802. Practice of massage therapy and use of title "masseur",  
10 "masseuse" or "massage therapist" or the term "massage"  
11 or "massage therapy".

12 7803. State board for massage therapy.

13 7804. Requirements for a professional license.

14 7805. Exempt persons.

15 7806. Limited permits.

16 7807. Mandatory continuing education.

17 § 7800. Introduction. This title applies to the profession of massage  
18 therapy. The general provisions for all professions contained in title  
19 one of this article shall apply to this title.

20 § 7801. Definition of practice of massage therapy. As used in this  
21 chapter, the practice of the profession of massage therapy is defined as  
22 engaging in applying a scientific system of activity to the muscular  
23 structure of the human body by means of stroking, kneading, tapping and  
24 vibrating with the hands or vibrators for the purpose of improving  
25 muscle tone and circulation.

26 § 7802. Practice of massage therapy and use of title "masseur",  
27 "masseuse" or "massage therapist" or the term "massage" or "massage

1 therapy". Only a person licensed or authorized pursuant to this title  
2 shall practice massage therapy and only a person licensed under this  
3 title shall use the title "masseur", "masseuse" or "massage therapist".  
4 No person, firm, partnership or corporation claiming to be engaged in  
5 the practice of massage or massage therapy shall in any manner describe,  
6 advertise, or place any advertisement for services as defined in section  
7 seventy-eight hundred one of this title unless such services are  
8 performed by a person licensed or authorized pursuant to this chapter.

9 § 7803. State board for massage therapy. A state board for massage  
10 therapy shall be appointed by the commissioner for the purpose of  
11 assisting the department on matters of professional licensing and  
12 professional conduct in accordance with section sixty-five hundred eight  
13 of this title. The board shall be composed of not less than seven  
14 persons, four of whom shall have been engaged in the teaching, research,  
15 or practice of massage therapy for at least three years. The remaining  
16 three members of the board shall be physicians licensed in this state.  
17 An executive secretary to the board shall be appointed by the commis-  
18 sioner. As used in this title, "the board" shall mean the state board  
19 for massage therapy as appointed pursuant to this section.

20 § 7804. Requirements for a professional license. To qualify for a  
21 license as a massage therapist, masseur or masseuse, an applicant shall  
22 fulfill the following requirements:

- 23 1. Application: file an application with the department;
- 24 2. Education: have received an education, including high school gradu-  
25 ation and graduation from a school or institute of massage therapy with  
26 a program registered by the department, or its substantial equivalent in  
27 both subject matter and extent of training, provided that the program in  
28 such school or institute shall consist of classroom instruction of a

1 total of not less than five hundred hours in subjects satisfactory to  
2 the department;

3 3. Examination: pass an examination satisfactory to the board and in  
4 accordance with the commissioner's regulations;

5 4. Age: be at least eighteen years of age;

6 5. Citizenship or immigration status: be a United States citizen or an  
7 alien lawfully admitted for permanent residence in the United States;

8 6. Character: be of good moral character as determined by the depart-  
9 ment; and

10 7. Fees: pay a fee of one hundred fifteen dollars to the department  
11 for admission to a department-conducted examination and for an initial  
12 license, a fee of forty-five dollars for each reexamination, a fee of  
13 fifty dollars for an initial license for persons not requiring admission  
14 to a department-conducted examination, and a fee of fifty dollars for  
15 each triennial registration period.

16 § 7805. Exempt persons. Nothing contained in this title shall be  
17 construed to prohibit:

18 1. The practice of massage therapy by any person who is authorized to  
19 practice medicine, nursing, osteopathy, physiotherapy, chiropractic, or  
20 podiatry in accordance with the provisions of this article.

21 2. The practice of a massage which is customarily given in barber  
22 shops or beauty parlors for the purpose of beautification by any  
23 licensed barber or beauty culturist.

24 3. The practice of massage therapy by any person employed in a medical  
25 institution licensed or chartered by the state of New York, provided  
26 that such person is under the on-site supervision of a person licensed  
27 to practice massage therapy or authorized to practice massage therapy by  
28 subdivision one of this section, or by any person enrolled in a program

1 of a school or institute of massage therapy registered by the depart-  
2 ment, or enrolled in a program which satisfies the requirements of  
3 section seventy-eight hundred four of this title, provided that such  
4 person is under the on-site supervision of a person licensed to practice  
5 massage therapy or authorized to practice massage therapy by subdivision  
6 one of this section.

7 4. The practice of massage therapy by any person duly employed as a  
8 trainer by a professional athletic association, club or team, or as a  
9 member of the physical education department of an accredited university,  
10 college or high school.

11 5. The practice of massage therapy by any person employed by a corpo-  
12 ration or association organized exclusively for the moral or mental  
13 improvement of men, women, or children.

14 6. A massage therapist licensed and in good standing in another state  
15 or country from conducting a teaching demonstration of modalities and  
16 techniques that are within the practice of massage therapy in connection  
17 with a program of continuing education that is conducted by approved  
18 sponsors of continuing education by the department. Any massage thera-  
19 pist conducting a teaching demonstration of modalities and techniques in  
20 New York state pursuant to this subdivision shall be subject to the  
21 personal and subject matter jurisdiction and disciplinary and regulatory  
22 authority of the department as if he or she is a licensee and as if the  
23 exemption pursuant to this subdivision is a license. Such massage thera-  
24 pist shall comply with the provisions of this title, the rules of the  
25 department, and the regulations of the commissioner, relating to profes-  
26 sional misconduct, disciplinary proceedings and penalties for profes-  
27 sional misconduct.

1     § 7806. Limited permits. 1. The department may issue a limited permit  
2 to practice massage therapy as a licensed massage therapist, masseur or  
3 masseuse to a person who has not previously held such a permit and who  
4 fulfills all except the examination and citizenship requirements for a  
5 license, provided however that a permit shall not be issued to a person  
6 who has failed the state licensing examination.

7     2. The limited permit shall be valid for a period of not more than  
8 twelve months or until the results of the next licensing examination for  
9 which the person is eligible are officially available, whichever comes  
10 first.

11     3. A limited permit shall entitle the holder to practice massage ther-  
12 apy only under the personal supervision of a person currently licensed  
13 and registered to practice massage therapy in this state.

14     4. The fee for a limited permit shall be thirty-five dollars.

15     § 7807. Mandatory continuing education. 1. a. Each massage therapist  
16 licensed pursuant to this title required to register triennially with  
17 the department to practice in the state shall comply with the provisions  
18 of the mandatory continuing education requirements prescribed in subdi-  
19 vision two of this section except as set forth in paragraphs b and c of  
20 this subdivision. Massage therapists who do not satisfy the mandatory  
21 continuing education requirements shall not practice until they have met  
22 such requirements, and they have been issued a registration certificate,  
23 except that a massage therapist may practice without having met such  
24 requirements if he or she is issued a conditional registration certif-  
25 icate pursuant to subdivision three of this section.

26     b. Massage therapists shall be exempt from the mandatory continuing  
27 education requirement for the triennial registration period during which  
28 they are first licensed. In accordance with the intent of this section,

1 adjustments to the mandatory continuing education requirement may be  
2 granted by the department for reasons of health certified by an appro-  
3 priate health care professional, for extended active duty with the armed  
4 forces of the United States, or for other good cause acceptable to the  
5 department which may prevent compliance.

6 c. A licensed massage therapist not engaged in professional practice,  
7 as determined by the department, shall be exempt from the mandatory  
8 continuing education requirement upon the filing of a statement with the  
9 department declaring such status. Any licensee who returns to the prac-  
10 tice of massage therapy during the triennial registration period shall  
11 notify the department prior to reentering the profession and shall meet  
12 such mandatory education requirements as shall be prescribed by regu-  
13 lations of the commissioner.

14 2. During each triennial registration period an applicant for regis-  
15 tration as a massage therapist shall complete a minimum of thirty-six  
16 hours of acceptable formal continuing education, a maximum of twelve  
17 hours of which may be self-instructional course work acceptable to the  
18 department. Any massage therapist whose first registration date follow-  
19 ing the effective date of this section occurs less than three years from  
20 such effective date, shall complete continuing education hours on a  
21 prorated basis at the rate of one hour per month for the period begin-  
22 ning January first, two thousand twelve up to the first registration  
23 date thereafter. A licensee who has not satisfied the mandatory continu-  
24 ing education requirements shall not be issued a triennial registration  
25 certificate by the department and shall not practice unless and until a  
26 conditional registration certificate is issued as provided for in subdi-  
27 vision three of this section, or until he or she has otherwise met the  
28 requirements of this section.

1     3. The department, in its discretion, may issue a conditional regis-  
2 tration to a licensee who fails to meet the continuing education  
3 requirements established in subdivision two of this section but who  
4 agrees to make up any deficiencies and complete any additional education  
5 which the department may require. The fee for such a conditional regis-  
6 tration shall be the same as, and in addition to, the fee for the trien-  
7 nial registration. The duration of such conditional registration shall  
8 be determined by the department but shall not exceed one year. Any  
9 licensee who is notified of the denial of registration for failure to  
10 submit evidence, satisfactory to the department, of required continuing  
11 education and who practices without such registration, may be subject to  
12 disciplinary proceedings pursuant to section sixty-five hundred ten of  
13 this article.

14     4. As used in subdivision two of this section, "acceptable formal  
15 continuing education" shall mean formal programs of learning which  
16 contribute to professional practice in massage therapy which are offered  
17 by sponsors of massage therapy continuing education approved by the  
18 department in consultation with the state board for massage therapy, to  
19 fulfill the mandatory continuing education requirement. Sponsors of  
20 massage therapy continuing education may include, but are not limited  
21 to, state or national professional associations established to further  
22 the massage therapy profession, and may include any affiliates of inter-  
23 national massage therapy conferences at which professional continuing  
24 education is a major component of such conferences, as well as programs  
25 registered as licensure-qualifying for the profession of massage therapy  
26 by the department. Sponsors of massage therapy shall file an applica-  
27 tion with the department and pay a fee of nine hundred dollars. While  
28 presenters of didactic instruction may be provided by persons who are

1 not licensed by the state of New York as massage therapists, the practi-  
2 cal application of such modalities and techniques shall be done by  
3 licensed massage therapists, or those otherwise authorized, when such  
4 continuing education occurs in the state of New York.

5 5. Massage therapists shall maintain adequate documentation of  
6 completion of acceptable formal continuing education and shall provide  
7 such documentation at the request of the department. Failure to provide  
8 such documentation upon the request of the department shall be an act of  
9 misconduct subject to disciplinary proceedings pursuant to section  
10 sixty-five hundred ten of this article.

11 6. The mandatory continuing education fee shall be forty-five dollars,  
12 shall be payable on or before the first day of each triennial registra-  
13 tion period, and shall be paid in addition to the triennial registration  
14 fee required by section seventy-one hundred twenty-four of this article.

15 TITLE 20

16 OCCUPATIONAL THERAPY

17 Section 7900. Introduction.

18 7901. Definition.

19 7902. Practice of occupational therapy and use of title "occu-  
20 pational therapist".

21 7902-a. Practice of occupational therapy assistant and use of  
22 the title "occupational therapy assistant".

23 7903. State board for occupational therapy.

24 7904. Requirements for a professional license.

25 7904-a. Requirements for license as an occupational therapy  
26 assistant.

27 7905. Limited permits.

1           7906. Exempt persons.

2           7907. Special conditions.

3           7908. Mandatory continuing competency.

4    § 7900. Introduction. This title applies to the profession of occupa-  
5 tional therapy. The general provisions for all professions contained in  
6 title one of this article shall apply to this title.

7    § 7901. Definition. The practice of the profession of occupational  
8 therapy is defined as the functional evaluation of the client, the plan-  
9 ning and utilization of a program of purposeful activities, the develop-  
10 ment and utilization of a treatment program, and/or consultation with  
11 the client, family, caregiver or organization in order to restore,  
12 develop or maintain adaptive skills, and/or performance abilities  
13 designed to achieve maximal physical, cognitive and mental functioning  
14 of the client associated with his or her activities of daily living and  
15 daily life tasks. A treatment program designed to restore function,  
16 shall be rendered on the prescription or referral of a physician, nurse  
17 practitioner, or other health care provider acting within his or her  
18 scope of practice pursuant to this title. However, nothing contained in  
19 this title shall be construed to permit any licensee under this title to  
20 practice medicine or psychology, including psychotherapy, or to other-  
21 wise expand such licensee's scope of practice beyond what is authorized  
22 by this article.

23    § 7902. Practice of occupational therapy and use of title "occupa-  
24 tional therapist". Only a person licensed or otherwise authorized to  
25 practice under this title shall practice occupational therapy or use the  
26 title "occupational therapist".

27    § 7902-a. Practice of occupational therapy assistant and use of the  
28 title "occupational therapy assistant". Only a person licensed or other-

1 wise authorized under this title shall participate in the practice of  
2 occupational therapy as an occupational therapy assistant or use the  
3 title "occupational therapy assistant". Practice as an occupational  
4 therapy assistant shall include the providing of occupational therapy  
5 and client-related services under the direction and supervision of an  
6 occupational therapist or licensed physician in accordance with the  
7 commissioner's regulations.

8 § 7903. State board for occupational therapy. A state board for occu-  
9 pational therapy shall be appointed by the board of regents on the  
10 recommendation of the commissioner for the purpose of assisting the  
11 board of regents and the department on matters of professional licensing  
12 and professional conduct in accordance with section sixty-five hundred  
13 eight of this article. The board shall be composed of not less than six  
14 licensed occupational therapists, one licensed occupational therapy  
15 assistant, one physician, and two members of the public who are not  
16 licensed under this title. An executive secretary to the board shall be  
17 appointed by the board of regents on recommendation of the commissioner.  
18 As used in this title, "the board" shall mean the state board for occu-  
19 pational therapy appointed pursuant to this section.

20 § 7904. Requirements for a professional license. To qualify for a  
21 license as an occupational therapist, an applicant shall fulfill the  
22 following requirements:

- 23 1. File an application with the department.
- 24 2. Have satisfactorily completed an approved occupational therapy  
25 curriculum in at least a baccalaureate or masters program, or its equiv-  
26 alent, as determined by the department in accordance with the commis-  
27 sioner's regulations.

1 3. Have a minimum of six months of supervised occupational therapy  
2 experience which supervision and experience shall be satisfactory to the  
3 board and in accordance with the commissioner's regulations.

4 4. Pass an examination satisfactory to the board and in accordance  
5 with the commissioner's regulations.

6 5. Be at least twenty-one years of age.

7 6. Meet no requirements as to United States citizenship.

8 7. Be of good moral character as determined by the department.

9 8. Pay a fee of one hundred forty dollars to the department for admis-  
10 sion to a department-conducted examination and for an initial license, a  
11 fee of seventy dollars for each re-examination, a fee of one hundred  
12 fifteen dollars for an initial license for persons not requiring admis-  
13 sion to a department-conducted examination, and a fee of one hundred  
14 fifty-five dollars for each triennial registration period.

15 § 7904-a. Requirements for license as an occupational therapy assist-  
16 ant. To qualify for a license as an occupational therapy assistant an  
17 applicant shall fulfill the following requirements:

18 1. file an application with the department;

19 2. have received an education as follows: completion of at least a  
20 two-year associate degree program for occupational therapy assistants  
21 registered by the department or accredited by a national accreditation  
22 agency which is satisfactory to the department, or its equivalent, as  
23 determined by the department in accordance with the commissioner's regu-  
24 lations;

25 3. have a minimum of sixteen weeks of clinical experience satisfactory  
26 to the board and in accordance with standards established by a national  
27 accreditation agency which is satisfactory to the department;

28 4. be at least eighteen years of age;

1 5. be of good moral character as determined by the department;

2 6. pay a fee for an initial license and a fee for each triennial  
3 registration period that shall be one-half of the fee for initial  
4 license and for each triennial registration period established for occu-  
5 pational therapists; and

6 7. except as otherwise provided by subdivision two of section seven-  
7 ty-nine hundred seven of this title, pass an examination acceptable to  
8 the department.

9 § 7905. Limited permits. Permits limited as to eligibility, practice,  
10 and duration, shall be issued by the department to eligible applicants,  
11 as follows:

12 1. The following persons shall be eligible for a limited permit:

13 a. An occupational therapist who has graduated from an occupational  
14 therapy curriculum with a baccalaureate degree or certificate in occupa-  
15 tional therapy which is substantially equivalent to a baccalaureate  
16 degree satisfactory to the board and in accordance with the commission-  
17 er's regulations; or

18 b. A foreign occupational therapist who is in this country on a non-  
19 immigration visa for the continuation of occupational therapy study,  
20 pursuant to the exchange student program of the United States department  
21 of state.

22 c. An occupational therapy assistant who has graduated from an accred-  
23 ited occupational therapy assistant curriculum with an associate's  
24 degree satisfactory to the board of occupational therapy and in accord-  
25 ance with the commissioner's regulations.

26 2. A limited permittee shall be authorized to practice occupational  
27 therapy, or in the case of a limited permit issued pursuant to paragraph  
28 c of subdivision one of this section, only under the direct supervision

1 of a licensed occupational therapist or a licensed physician and shall  
2 practice only in a public, voluntary, or proprietary hospital, health  
3 care agency or in a preschool or an elementary or secondary school for  
4 the purpose of providing occupational therapy as a related service for a  
5 handicapped child. For purposes of this subdivision, supervision of an  
6 individual with a limited permit to practice occupational therapy issued  
7 by the department shall be direct supervision as defined by the commis-  
8 sioner's regulations.

9 3. A limited permit shall be valid for one year. A limited permit may  
10 be renewed once for a period not to exceed one additional year, at the  
11 discretion of the department, upon the submission of an explanation  
12 satisfactory to the department for an applicant's failure to become  
13 licensed within the original one-year period.

14 4. The fee for a limited permit shall be seventy dollars.

15 § 7906. Exempt persons. This title shall not be construed to affect or  
16 prevent the following, provided that no title, sign, card or device  
17 shall be used in such manner as to tend to convey the impression that  
18 the person rendering such service is a licensed occupational therapist:

19 1. A licensed physician from practicing his or her profession under  
20 title one and title two of this article.

21 2. Qualified members of other licensed or legally recognized  
22 professions from performing work incidental to the practice of their  
23 profession, except that such persons may not hold themselves out under  
24 the title occupational therapist or as performing occupational therapy.

25 3. A student from engaging in clinical practice as part of an accred-  
26 ited program in occupational therapy, pursuant to subdivision three of  
27 section seventy-nine hundred four of this title.

1 4. An occupational therapy assistant student from engaging in clinical  
2 practice under the direction and supervision of an occupational thera-  
3 pist or an occupational therapy assistant who is under the supervision  
4 of an occupational therapist, as part of an accredited occupational  
5 therapy assistant program, as defined by the commissioner and in accord-  
6 ance with the commissioner's regulations.

7 5. The care of the sick by any person, provided such person is  
8 employed primarily in a domestic capacity. This shall not authorize the  
9 treatment of patients in a home care service of any hospital, clinic,  
10 institution or agency.

11 6. An employee of a federal agency from using the title or practicing  
12 as an occupational therapist insofar as such activities are required by  
13 his or her salaried position and the use of such title shall be limited  
14 to such employment.

15 7. The following people from working under the direct supervision of a  
16 licensed occupational therapist: An individual employed by the state or  
17 municipal government upon the effective date of this section who  
18 performs supportive services in occupational therapy solely for the time  
19 such person continues in such employment.

20 8. Any occupational therapist who is licensed in another state, United  
21 States possession or country or who has received at least a baccalau-  
22 reate degree or its equivalent in occupational therapy and who is either  
23 in this state for the purposes of:

24 a. consultation, provided such practice is limited to such consulta-  
25 tion;

26 b. an occupational therapist authorized to practice in another state  
27 or country from conducting a teaching clinical demonstration in  
28 connection with a program of basic clinical education, graduate educa-

1 tion or post graduate education in an approved school of occupational  
2 therapy or its affiliated clinical facility or health care agency or  
3 before a group of licensed occupational therapists; or

4 c. because he or she resides near a border of this state, provided  
5 such practice is limited in this state to the vicinity of such border  
6 and said occupational therapist does not maintain an office or place to  
7 meet patients or receive calls in this state.

8 § 7907. Special conditions. 1. A person who upon the effective date of  
9 this title:

10 a. submits evidence of a minimum of three years of experience with  
11 training satisfactory to the board in occupational therapy and in  
12 accordance with the regulations of the commissioner; or

13 b. a baccalaureate degree or its equivalent in occupational therapy,  
14 shall be licensed upon the filing of an application with the department  
15 within six months of the effective date of this title.

16 2. A person who on the effective date of this subdivision has a  
17 current registration with the department as an occupational therapy  
18 assistant, if such person meets the requirements for a license estab-  
19 lished within this title, except for examination, the department shall  
20 issue a license without examination.

21 § 7908. Mandatory continuing competency. 1. a. Each licensed occupa-  
22 tional therapist and occupational therapy assistant required under this  
23 title to register triennially with the department to practice in the  
24 state shall comply with the provisions of the mandatory continuing  
25 competency requirements prescribed in subdivision two of this section,  
26 except as provided in paragraphs b and c of this subdivision. Occupa-  
27 tional therapists and occupational therapy assistants who do not satisfy  
28 the mandatory continuing competency requirements shall not be authorized

1 to practice until they have met such requirements, and they have been  
2 issued a registration certificate, except that an occupational therapist  
3 or occupational therapy assistant may practice without having met such  
4 requirements if he or she is issued a conditional registration pursuant  
5 to subdivision three of this section.

6 b. Occupational therapists and occupational therapy assistants shall  
7 be exempt from the mandatory continuing competency requirement for the  
8 triennial registration period during which they are first licensed.  
9 Adjustment to the mandatory continuing competency requirements may be  
10 granted by the department for reasons of health of the licensee where  
11 certified by an appropriate health care professional, for extended  
12 active duty with the armed forces of the United States, or for other  
13 good cause acceptable to the department which may prevent compliance.

14 c. A licensed occupational therapist or occupational therapy assistant  
15 not engaged in practice, as determined by the department, shall be  
16 exempt from the mandatory continuing competency requirement upon the  
17 filing of a statement with the department declaring such status. Any  
18 licensee who returns to the practice of occupational therapy during the  
19 triennial registration period shall notify the department prior to reen-  
20 tering the profession and shall meet such mandatory continuing competen-  
21 cy requirements as shall be prescribed by regulations of the commission-  
22 er.

23 2. a. During each triennial registration period an applicant for  
24 registration as an occupational therapist shall complete a minimum of  
25 thirty-six hours of learning activities which contribute to continuing  
26 competence, as specified in subdivision four of this section, provided  
27 further that at least twenty-four hours shall be in areas of study  
28 pertinent to the scope of practice of occupational therapy. With the

1 exception of continuing education hours taken during the registration  
2 period immediately preceding the effective date of this section, contin-  
3 uing education hours taken during one triennium shall not be transferred  
4 to a subsequent triennium.

5 b. During each triennial registration period an applicant for regis-  
6 tration as an occupational therapy assistant shall complete a minimum of  
7 thirty-six hours of learning activities which contribute to continuing  
8 competence as specified in subdivision four of this section, provided  
9 further that at least twenty-four hours shall be in recognized areas of  
10 study pertinent to the licensee's professional scope of practice of  
11 occupational therapy. With the exception of continuing education hours  
12 taken during the registration period immediately preceding the effective  
13 date of this section, continuing education hours taken during one trien-  
14 nium shall not be transferred to a subsequent triennium.

15 c. Any occupational therapist or occupational therapy assistant whose  
16 first registration date following the effective date of this section  
17 occurs less than three years from such effective date but on or after  
18 January first, two thousand thirteen, shall complete continuing compe-  
19 tency hours on a prorated basis at the rate of one-half hour per month  
20 for the period beginning January first, two thousand thirteen up to the  
21 first registration date.

22 d. Thereafter, a licensee who has not satisfied the mandatory continu-  
23 ing competency requirements shall not be issued a triennial registration  
24 certificate by the department and shall not practice unless and until a  
25 conditional registration certificate is issued as provided for in subdi-  
26 vision three of this section.

27 3. The department, in its discretion, may issue a conditional regis-  
28 tration to a licensee who fails to meet the continuing competency

1 requirements established in subdivision two of this section, but who  
2 agrees to make up any deficiencies and complete any additional learning  
3 activities which the department may require. The fee for such a condi-  
4 tional registration shall be the same as, and in addition to, the fee  
5 for the triennial registration. The duration of such conditional regis-  
6 tration shall be determined by the department but shall not exceed one  
7 year. Any licensee who is notified of the denial of registration for  
8 failure to submit evidence, satisfactory to the department, of required  
9 continuing competency learning activities and who practices without such  
10 registration, may be subject to disciplinary proceedings pursuant to  
11 section sixty-five hundred ten of this article.

12 4. As used in subdivision two of this section, "acceptable learning  
13 activities" shall mean activities which contribute to professional prac-  
14 tice in occupational therapy, and which meet the standards prescribed in  
15 the regulations of the commissioner. Such learning activities shall  
16 include, but not be limited to, collegiate level credit and non-credit  
17 courses, self-study activities, independent study, formal mentoring  
18 activities, publications in professional journals, professional develop-  
19 ment programs and technical sessions; such learning activities may be  
20 offered and sponsored by national, state and local professional associ-  
21 ations and other organizations or parties acceptable to the department,  
22 and any other organized educational and technical learning activities  
23 acceptable to the department. The department may, in its discretion and  
24 as needed to contribute to the health and welfare of the public, require  
25 the completion of continuing competency learning activities in specific  
26 subjects to fulfill this mandatory continuing competency requirement.  
27 Learning activities shall be taken from a sponsor approved by the  
28 department, pursuant to the regulations of the commissioner.

1 5. Occupational therapists and occupational therapy assistants shall  
2 maintain adequate documentation of completion of a. a learning plan that  
3 shall record current and anticipated roles and responsibilities but  
4 shall not require the records of peer review or self-assessment of  
5 competencies, and b. acceptable continuing competency learning activ-  
6 ities and shall provide such documentation at the request of the depart-  
7 ment. Failure to provide such documentation upon request of the depart-  
8 ment shall be an act of misconduct subject to the disciplinary  
9 proceedings pursuant to section sixty-five hundred ten of this title.

10 6. The mandatory continuing competency fee shall be forty-five dollars  
11 for occupational therapists and twenty-five dollars for occupational  
12 therapy assistants, shall be payable on or before the first day of each  
13 triennial registration period, and shall be paid in addition to the  
14 triennial registration fee required by section seventy-nine hundred four  
15 of this title.

16 TITLE 21

17 DIETETICS AND NUTRITION

18 Section 8000. Introduction.

19 8001. Definitions.

20 8002. Use of titles.

21 8003. State board for dietetics and nutrition.

22 8004. Requirements for certification.

23 8005. Special provisions.

24 8006. Special conditions.

25 § 8000. Introduction. This title applies to the use of the titles  
26 "certified dietitian" and "certified nutritionist". The general

1 provision for all professions contained in title one of this article  
2 shall apply to this title.

3 § 8001. Definitions. 1. Dietetics and nutrition are each defined in  
4 this section as the integration and application of principles derived  
5 from the sciences of nutrition, biochemistry, physiology, food manage-  
6 ment and behavioral and social sciences to achieve and maintain people's  
7 health.

8 2. Where the title "certified dietitian" or "certified nutritionist"  
9 is used in this article it shall mean "certified dietitian", "certified  
10 dietician", or "certified nutritionist".

11 3. A certified dietitian or certified nutritionist is one who engages  
12 in the integration and application of principles derived from the  
13 sciences of nutrition, biochemistry, physiology, food management and  
14 behavioral and social sciences to achieve and maintain people's health,  
15 and who is certified as such by the department pursuant to section eight  
16 thousand four of this title. The primary function of a certified dieti-  
17 tian or certified nutritionist is the provision of nutrition care  
18 services that shall include:

19 a. Assessing nutrition needs and food patterns;

20 b. Planning for and directing the provision of food appropriate for  
21 physical and nutrition needs; and

22 c. Providing nutrition counseling.

23 § 8002. Use of titles. Only a person certified under this title shall  
24 be authorized to use the title "certified dietitian", "certified dieti-  
25 cian", or "certified nutritionist".

26 § 8003. State board for dietetics and nutrition. 1. A state board for  
27 dietetics and nutrition shall be appointed by the commissioner, for the  
28 purpose of assisting the department on matters of certification and

1 professional conduct in accordance with section sixty-five hundred eight  
2 of this article.

3 2. The board shall consist of not less than thirteen members, ten of  
4 whom shall be certified dietitians or certified nutritionists, except  
5 that the members of the first board need not be certified but shall be  
6 persons who are eligible for certification under the provisions of this  
7 title prior to their appointment to the board. The first board, with  
8 respect to members representing the profession, shall consist of five  
9 members registered by a national dietetic association having registra-  
10 tion standards acceptable to the department and five members who are  
11 members of or registered by a national nutritional association having  
12 membership and/or registration standards acceptable to the department.  
13 Thereafter, members of the profession appointed to such board shall be  
14 certified pursuant to this title. To the extent reasonable, the depart-  
15 ment should insure the state board is broadly representative of various  
16 professional interests within the dietetic and nutritional community.  
17 Three members shall be representatives of the general public. An execu-  
18 tive secretary to the board shall be appointed by the commissioner.

19 § 8004. Requirements for certification. To qualify for certification,  
20 an applicant shall fulfill the following requirements:

21 1. File an application with the department;

22 2. a. (i) Have received an education including a bachelor's degree, or  
23 its equivalent as determined by the department, in dietetics/nutrition  
24 or an equivalent major course of study which shall include appropriate  
25 core curriculum courses in dietetics/nutrition from an accredited  
26 college or university as approved by the department, in accordance with  
27 the commissioner's regulations; and

1 (ii) Have completed a planned, continuous, experience component, in  
2 accordance with the commissioner's regulations, in dietetic or nutrition  
3 practice under the supervision of a certified dietitian or certified  
4 nutritionist or a dietitian or nutritionist who is registered by or is a  
5 member of a national dietetic association or national nutrition associ-  
6 ation having registration or membership standards acceptable to the  
7 department; such experience shall be satisfactory to the board and in  
8 accordance with the commissioner's regulations; or

9 b. (i) Have received an education including an associates degree in  
10 dietetics or nutrition acceptable to the department;

11 (ii) In the last fifteen years have completed ten years of experience  
12 and education in the field of dietetics or nutrition satisfactory to the  
13 board in accordance with the commissioner's regulations. These ten years  
14 must be the full time equivalent of any combination of post secondary  
15 dietetic or nutrition education and dietetic or nutrition work experi-  
16 ence satisfactory to the board in accordance with the commissioner's  
17 regulations; and

18 (iii) Have obtained the endorsement of three dietitians or nutrition-  
19 ists acceptable to the department;

20 3. Pass an examination satisfactory to the board and in accordance  
21 with the commissioner's regulations; provided that such examination  
22 shall test a level of knowledge and experience equivalent to that  
23 obtained by an individual satisfactorily meeting the requirements of  
24 paragraph a of subdivision two of this section;

25 4. Pay a fee of one hundred seventy-five dollars to the department for  
26 admission to a department conducted examination and for initial certif-  
27 ication, a fee of eighty-five dollars for each reexamination, a fee of  
28 one hundred fifteen dollars for an initial certification for persons not

1 requiring admission to a department conducted examination, a fee of one  
2 hundred fifty-five dollars for each triennial registration period; and

3 5. Be at least eighteen years of age.

4 § 8005. Special provisions. Nothing contained in this title shall be  
5 deemed to alter, modify or impair any conditions of employment relating  
6 to service in the federal government, the state of New York, its poli-  
7 tical subdivisions, including school districts, or special districts and  
8 authorities or any facilities or institutions under the jurisdiction of  
9 or subject to the certification of any agency of the state of New York  
10 or its political subdivisions.

11 § 8006. Special conditions. A person shall be certified without exam-  
12 ination provided that, within three years of the effective date of this  
13 title, the individual:

14 1. files an application and pays the appropriate fees to the depart-  
15 ment; and

16 2. a. is registered as a dietitian or nutritionist by a national diet-  
17 etic or national nutrition association having registration standards  
18 acceptable to the department;

19 b. meets the requirements of subparagraph one of paragraph a of subdi-  
20 vision two and subdivision five of section eight thousand four of this  
21 title and has been actively engaged in the provision of nutrition care  
22 services for a minimum of three years during the five years immediately  
23 preceding the effective date of this title; or

24 c. meets all the requirements of paragraph b of subdivision two and  
25 subdivision five of section eight thousand four of this title.

26 TITLE 22

27 SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

1 Section 8100. Introduction.

2 8101. Definition of practice of speech-language pathology.

3 8102. Practice of speech-language pathology.

4 8103. Definition of practice of audiology.

5 8104. Practice of audiology.

6 8105. State board for speech-language pathology and audiology.

7 8106. Requirements for a professional license.

8 8106-a. Limited license.

9 8107. Exempt persons.

10 8108. Special provisions.

11 8109. Mandatory continuing competency.

12 § 8100. Introduction. This title applies to the professions of speech-  
13 language pathology and audiology. The general provisions for all  
14 professions contained in title one of this article apply to this title.

15 § 8101. Definition of practice of speech-language pathology. The prac-  
16 tice of the profession of speech-language pathology shall mean the  
17 application of principles, methods and procedures of measurement,  
18 prediction, non-medical diagnosis, testing, counselling, consultation,  
19 rehabilitation and instruction related to the development and disorders  
20 of speech, voice, swallowing, and/or language for the purpose of  
21 preventing, ameliorating or modifying such disorder conditions in indi-  
22 viduals and/or groups of individuals.

23 § 8102. Practice of speech-language pathology. Only a person licensed  
24 or otherwise authorized under this title shall practice speech-language  
25 pathology or use the title of speech-language pathologist.

26 § 8103. Definition of practice of audiology. The practice of the  
27 profession of audiology shall mean the application of principles, meth-  
28 ods and procedures of measurement, testing, evaluation, consultation,

1 counselling, instruction and habilitation or rehabilitation related to  
2 hearing and its disorders, related communication impairments and vesti-  
3 bular disorders for the purpose of non-medical diagnosis, prevention,  
4 identification, amelioration or modification of such disorders and  
5 conditions in individuals and/or groups of individuals.

6 § 8104. Practice of audiology. Only a person licensed or otherwise  
7 authorized under this title shall practice audiology or use the title  
8 audiologist.

9 § 8105. State board for speech-language pathology and audiology. A  
10 state board for speech-language pathology and audiology shall be  
11 appointed by the commissioner for the purpose of assisting the depart-  
12 ment on matters of professional licensing and professional conduct in  
13 accordance with section sixty-five hundred eight of this title. The  
14 board shall consist of not less than seven members, three of whom shall  
15 be audiologists and four of whom shall be speech-language pathologists.  
16 Each speech-language pathologist and audiologist on the board shall be  
17 licensed and have practiced in this state for at least five years, as  
18 provided under this title except that the members of the first board  
19 need not be licensed prior to their appointment to the board. An execu-  
20 tive secretary to the board shall be appointed by the commissioner.

21 § 8106. Requirements for a professional license. To qualify for a  
22 license as a speech-language pathologist or audiologist, an applicant  
23 shall fulfill the following requirements:

- 24 1. Application: file an application with the department;
- 25 2. Education: have obtained at least a masters degree in speech-lan-  
26 guage pathology and/or audiology or its equivalent, as determined by the  
27 department, in accordance with the commissioner's regulations;

1 3. Experience: have experience satisfactory to the board and in  
2 accordance with the commissioner's regulations;

3 4. Examination: pass an examination satisfactory to the board and in  
4 accordance with the commissioner's regulations;

5 5. Age: be at least twenty-one years of age;

6 6. Character: be of good moral character as determined by the depart-  
7 ment; and

8 7. Fees: pay a fee of one hundred forty dollars to the department for  
9 admission to a department conducted examination and for an initial  
10 license, a fee of seventy dollars for each reexamination, a fee of one  
11 hundred fifteen dollars for an initial license for persons not requiring  
12 admission to a department conducted examination, and a fee of one  
13 hundred fifty-five dollars for each triennial registration period.

14 § 8106-a. Limited license. 1. The department shall issue a limited  
15 license to an applicant for a license as a speech-language pathologist  
16 who meets all requirements set forth in this section.

17 2. Any person engaging in clinical or academic practice under the  
18 supervision of a licensed speech-language pathologist for such period of  
19 time as may be necessary to complete an experience requirement for a  
20 professional license as a speech-language pathologist shall be eligible  
21 for a limited license.

22 3. A limited licensee shall be authorized to practice speech-language  
23 pathology only under the supervision of a licensed speech-language  
24 pathologist.

25 4. A limited license shall be valid for one year. It may be renewed  
26 for additional one year periods until such time as may be necessary to  
27 complete an experience requirement for a professional license as a  
28 speech-language pathologist.

1 5. The fee for a limited license shall be seventy dollars.

2 § 8107. Exempt persons. This title shall not be construed as prohibit-  
3 ing:

4 1. The practice of any other professions licensed or registered under  
5 this title.

6 2. Any person employed by the federal, state or a local government or  
7 by a public or non-public elementary or secondary school or an institu-  
8 tion of higher learning from performing the duties of a speech-language  
9 pathologist, an audiologist, a teacher of the speech and hearing hand-  
10 icapped, or a teacher of the deaf in the course of such employment.

11 3. Any person from engaging in clinical or academic practice under the  
12 supervision of a licensed speech-language pathologist or audiologist for  
13 such period of time as may be necessary to complete an experience  
14 requirement for a professional license, as provided in this title and in  
15 rules or regulations approved by the commissioner with the advice of the  
16 state board for speech-language pathology and audiology.

17 4. A person from another state from performing speech-language pathol-  
18 ogy or audiology services in this state provided such services are  
19 performed for no more than thirty days in any calendar year and provided  
20 that such services are performed in conjunction with and/or under the  
21 supervision of a speech-language pathologist or audiologist licensed  
22 under this title.

23 5. Any hearing aid dealer from performing hearing measurements by  
24 means of an audiometer or other testing equipment when used solely for  
25 the purpose of selecting, fitting, selling or dispensing an instrument  
26 designed to aid or improve human hearing, including the taking of  
27 impressions for the making and fitting of ear molds and the demon-

1 stration of use and instructions of persons in the use of such hearing  
2 aids and accessories thereto.

3 6. A student from engaging in clinical practice, under the supervision  
4 of a licensed audiologist or a licensed speech-language pathologist as  
5 part of a nationally accredited program or a state licensure qualifying  
6 program in speech-language pathology or audiology, pursuant to subdivi-  
7 sion three of section eighty-one hundred six of this title.

8 § 8108. Special provisions. 1. Every person regularly employed in  
9 teaching or working as a speech-language pathologist or audiologist for  
10 not less than two years prior to the effective date of this title shall  
11 be issued a license by the department, if he or she is a person of good  
12 moral character; twenty-one years or older, has been engaged in such  
13 practice in the state for at least two years in accordance with regu-  
14 lations of the commissioner, and possesses:

15 a. the American Speech-Language-Hearing Association certificate of  
16 clinical competence in speech-language pathology and/or audiology, or  
17 the equivalent thereof as determined by the board in accordance with the  
18 commissioner's regulations; or

19 b. a masters degree in speech-language pathology, audiology or commu-  
20 nication disorders appropriate to the license being sought and a total  
21 of five years experience; or

22 c. a bachelors degree in speech-language pathology, audiology or  
23 communication disorders appropriate to the license being sought and  
24 thirty postgraduate semester hours in subjects satisfactory to the board  
25 and a total of five years experience; or

26 d. a bachelors degree and sufficient postgraduate study to be the  
27 equivalent of a masters degree in speech-language pathology, audiology  
28 or communication disorders as determined by the board in accordance with

1 the commissioner's regulations and a total of five years experience.  
2 Applications for a license under this section shall be submitted by  
3 January first, nineteen hundred eighty and applicants shall have until  
4 that date to fulfill the requirements set forth by this chapter.

5 2. This title shall not prohibit the practice of speech-language  
6 pathology or audiology by a corporation provided that such practice is  
7 carried on by a licensed speech-language pathologist or audiologist or  
8 persons exempt under this title and a violation of this provision shall  
9 be a class A misdemeanor.

10 3. Any person or firm offering the services of a speech-language  
11 pathologist or audiologist shall employ only persons licensed or exempt  
12 under this title and a violation of this provision shall be a class A  
13 misdemeanor.

14 4. a. The commissioner, pursuant to the recommendation of the board  
15 shall promulgate regulations defining appropriate standards of conduct  
16 for the dispensing of hearing aids by licensed audiologists. Such regu-  
17 lations shall also define continuing education requirements which such  
18 dispensing audiologist shall meet as a condition of maintaining regis-  
19 tration pursuant to this title.

20 b. Audiologists engaged in the practice of dispensing hearing aids  
21 shall comply with the applicable provisions of article thirty-seven-A of  
22 the general business law.

23 § 8109. Mandatory continuing competency. 1. a. Each licensed speech-  
24 language pathologist and audiologist required under this title to regis-  
25 ter triennially with the department to practice in the state shall  
26 comply with the provisions of the mandatory continuing competency  
27 requirements prescribed in subdivision two of this section, except as  
28 provided in paragraphs b and c of this subdivision. Speech-language

1 pathologists and audiologists who do not satisfy the mandatory continu-  
2 ing competency requirements shall not be authorized to practice until  
3 they have met such requirements, and they have been issued a registra-  
4 tion certificate, except that a speech-language pathologist or audiolo-  
5 gist may practice without having met such requirements if he or she is  
6 issued a conditional registration pursuant to subdivision three of this  
7 section.

8 b. Speech-language pathologists and audiologists shall be exempt from  
9 the mandatory continuing competency requirement for the triennial regis-  
10 tration period during which they are first licensed. Adjustment to the  
11 mandatory continuing competency requirements may be granted by the  
12 department for reasons of health of the licensee where certified by an  
13 appropriate health care professional, for extended active duty with the  
14 armed forces of the United States, or for other good cause acceptable to  
15 the department which may prevent compliance.

16 c. A licensed speech-language pathologist or audiologist not engaged  
17 in practice, as determined by the department, shall be exempt from the  
18 mandatory continuing competency requirement upon the filing of a state-  
19 ment with the department declaring such status. Any licensee who returns  
20 to the practice of speech-language pathology or audiology during the  
21 triennial registration period shall notify the department prior to reen-  
22 tering the profession and shall meet such mandatory continuing competen-  
23 cy requirements as shall be prescribed by regulations of the commission-  
24 er.

25 2. During each triennial registration period an applicant for regis-  
26 tration as either a speech-language pathologist or audiologist shall  
27 complete a minimum of thirty hours of learning activities which contrib-  
28 ute to continuing competence, as specified in subdivision four of this

1 section, provided further that at least twenty hours shall be in recog-  
2 nized areas of study pertinent to the licensee's professional scope of  
3 practice of speech-language pathology and/or audiology. Any speech-lan-  
4 guage pathologist or audiologist whose first registration date following  
5 the effective date of this section occurs less than three years from  
6 such effective date, but on or after January first, two thousand one,  
7 shall complete continuing competency hours on a prorated basis at the  
8 rate of one-half hour per month for the period beginning January first,  
9 two thousand one up to the first registration date. Thereafter, a licen-  
10 see who has not satisfied the mandatory continuing competency require-  
11 ments shall not be issued a triennial registration certificate by the  
12 department and shall not practice unless and until a conditional regis-  
13 tration certificate is issued as provided for in subdivision three of  
14 this section. Continuing competency hours taken during one triennium may  
15 not be transferred to a subsequent triennium.

16 3. The department, in its discretion, may issue a conditional regis-  
17 tration to a licensee who fails to meet the continuing competency  
18 requirements established in subdivision two of this section, but who  
19 agrees to make up any deficiencies and complete any additional learning  
20 activities which the department may require. The fee for such a condi-  
21 tional registration shall be the same as, and in addition to, the fee  
22 for the triennial registration. The duration of such conditional regis-  
23 tration shall be determined by the department but shall not exceed one  
24 year. Any licensee who is notified of the denial of registration for  
25 failure to submit evidence, satisfactory to the department, of required  
26 continuing competency learning activities and who practices without such  
27 registration, may be subject to disciplinary proceedings pursuant to  
28 section sixty-five hundred ten of this article.

1 4. As used in subdivision two of this section, "acceptable learning  
2 activities" shall mean activities which contribute to professional prac-  
3 tice in speech-language pathology and/or audiology, and which meet the  
4 standards prescribed in the regulations of the commissioner. Such learn-  
5 ing activities shall include, but not be limited to, collegiate level  
6 credit and non-credit courses, self-study activities, independent study,  
7 formal mentoring activities, publications in professional journals,  
8 professional development programs and technical sessions; such learning  
9 activities may be offered and sponsored by national, state and local  
10 professional associations and other organizations or parties acceptable  
11 to the department, and any other organized educational and technical  
12 learning activities acceptable to the department. The department may, in  
13 its discretion and as needed to contribute to the health and welfare of  
14 the public, require the completion of continuing competency learning  
15 activities in specific subjects to fulfill this mandatory continuing  
16 competency requirement. For speech-language pathologists who are  
17 employed in school settings as teachers of the speech and hearing hand-  
18 icapped or as teachers of students with speech and language disabili-  
19 ties, acceptable learning activities shall also include professional  
20 development programs and technical sessions specific to teaching  
21 students with speech and language disabilities including those designed  
22 to improve methods for teaching such students, aligned with professional  
23 development plans in accordance with regulations of the commissioner and  
24 promoting the attainment of standards for such students. Learning activ-  
25 ities must be taken from a sponsor approved by the department, pursuant  
26 to the regulations of the commissioner.

27 5. Speech-language pathologists and audiologists shall maintain  
28 adequate documentation of completion of acceptable continuing competency

1 learning activities and shall provide such documentation at the request  
2 of the department. Failure to provide such documentation upon the  
3 request of the department shall be an act of misconduct subject to  
4 disciplinary proceedings pursuant to section sixty-five hundred ten of  
5 this article.

6 6. The mandatory continuing competency fee shall be fifty dollars,  
7 shall be payable on or before the first day of each triennial registra-  
8 tion period, and shall be paid in addition to the triennial registration  
9 fee required by section eighty-one hundred six of this title.

10 TITLE 23

11 ACUPUNCTURE

12 Section 8200. Introduction.

13 8201. Definitions.

14 8202. Practice of acupuncture and use of title "licensed  
15 acupuncturist" or "certified acupuncturist".

16 8203. State board for acupuncture.

17 8204. Requirements for a professional license.

18 8205. Limited permits.

19 8206. Exemptions; waiver.

20 § 8200. Introduction. This title applies to the profession of acupunc-  
21 ture. The general provisions for all professions contained in title one  
22 of this article apply to this article.

23 § 8201. Definitions. As used in this title the following terms shall  
24 have the following meanings:

25 1. a. "Profession of acupuncture" is the treating, by means of mechan-  
26 ical, thermal or electrical stimulation effected by the insertion of  
27 needles or by the application of heat, pressure or electrical stimu-

1 lation at a point or combination of points on the surface of the body  
 2 predetermined on the basis of the theory of the physiological interre-  
 3 lationship of body organs with an associated point or combination of  
 4 points for diseases, disorders and dysfunctions of the body for the  
 5 purpose of achieving a therapeutic or prophylactic effect. The profes-  
 6 sion of acupuncture includes recommendation of dietary supplements and  
 7 natural products including, but not limited to, the recommendation of  
 8 diet, herbs and other natural products, and their preparation in accord-  
 9 ance with traditional and modern practices of East Asian (Chinese, Kore-  
 10 an or Japanese) medical theory.

11 b. Each acupuncturist licensed pursuant to this title, shall advise  
 12 each patient as to the importance of consulting with a licensed physi-  
 13 cian regarding the patient's condition and shall keep on file with the  
 14 patient's records, a form attesting to the patient's notice of such  
 15 advice. Such form shall be in duplicate, one copy to be retained by the  
 16 patient, signed and dated by both the acupuncturist and the patient and  
 17 shall be prescribed in the following manner:

18 WE, THE UNDERSIGNED, DO AFFIRM THAT (THE PATIENT) HAS BEEN ADVISED BY  
 19 , (A LICENSED ACUPUNCTURIST), TO CONSULT A PHYSICIAN REGARDING THE  
 20 CONDITION OR CONDITIONS FOR WHICH SUCH PATIENT SEEKS ACUPUNCTURE TREAT-  
 21 MENT.

22 \_\_\_\_\_

23 \_\_\_\_\_

24 (Signature)

25 Date

26 \_\_\_\_\_

27 \_\_\_\_\_

28 (Signature)

1 Date

2 c. Nothing in this title shall be construed to prohibit an individual  
3 who is not subject to regulation in this state as a licensed acupunctu-  
4 rist from engaging in the recommendation of traditional remedies and  
5 supplements as defined in this title, nor shall this section be  
6 construed to authorize an individual to practice pharmacy under title  
7 ten of this article.

8 2. "Board" is the state board for acupuncture as created by section  
9 eighty-two hundred three of this title.

10 § 8202. Practice of acupuncture and use of title "licensed acupunctu-  
11 rist" or "certified acupuncturist". Only a person licensed or authorized  
12 pursuant to section eighty-two hundred four of this title or certified  
13 pursuant to section eighty-two hundred six of this title shall practice  
14 acupuncture. Only a person licensed pursuant to section eighty-two  
15 hundred four of this title shall use the title "licensed acupuncturist"  
16 and only a person certified pursuant to section eighty-two hundred six  
17 of this title shall use the title "certified acupuncturist".

18 § 8203. State board for acupuncture. 1. There is hereby established  
19 within the department a state board for acupuncture. The board shall  
20 consist of not less than eleven members to be appointed by the depart-  
21 ment on the recommendation of the commissioner for the purpose of  
22 assisting the department on matters of professional licensing and  
23 professional conduct in accordance with section sixty-five hundred eight  
24 of this article, four of whom shall be licensed acupuncturists, four of  
25 whom shall be licensed physicians certified to use acupuncture and three  
26 of whom shall be public members representing the consumer and community.  
27 Of the acupuncturists first appointed to the board, one may be a regis-  
28 tered specialist's assistant-acupuncture provided that the term of such

1 registered specialist's assistant-acupuncture shall not be more than  
2 four years. Of the members first appointed, three shall be appointed for  
3 a one year term, three shall be appointed for a two year term and three  
4 shall be appointed for a three year term, and two shall be appointed for  
5 a four year term. Thereafter all members shall serve for five year  
6 terms. In the event that more than eleven members are appointed, a  
7 majority of the additional members shall be licensed acupuncturists. The  
8 members of the board shall select one of themselves as chairman to serve  
9 for a one year term.

10 2. An executive secretary to the board shall be appointed by the  
11 commissioner.

12 3. The commissioner shall promulgate such rules and regulations as  
13 they deem necessary and appropriate to effectuate the provisions of this  
14 title.

15 § 8204. Requirements for a professional license. To qualify for a  
16 license as a licensed acupuncturist an applicant shall fulfill the  
17 following requirements:

18 1. Application: file an application with the department;

19 2. Education: provide evidence of satisfactory completion of a course  
20 of formal study or its substantial equivalent in accordance with the  
21 commissioner's regulations;

22 3. Experience: have experience in accordance with the commissioner's  
23 regulations;

24 4. Examination: pass an examination satisfactory to the board and in  
25 accordance with the commissioner's regulations. Such examination shall  
26 be given at least once within twelve months of the effective date of  
27 this title, and at least once annually thereafter, and shall consist of  
28 both written and practical parts. Either part may be given at the

1 discretion of the department in English and/or Chinese or other  
2 language. Nothing in this subdivision is to be construed to require the  
3 department to issue an exam in a language other than English. The prac-  
4 tical part of the exam must be directly administered by an acupuncturist  
5 acceptable to the department, who may also be a member of the board. The  
6 cost of the initial examination or reexamination shall be borne by the  
7 applicant in accordance with a schedule established by the department  
8 and approved by the director of the budget;

9 5. Age: be at least twenty-one years of age;

10 6. Character: be of good moral character as determined by the depart-  
11 ment;

12 7. Fees: pay a fee of five hundred dollars to the department for  
13 initial licensure, and a fee of two hundred fifty dollars for each  
14 triennial registration; and

15 8. Registration: if a license is granted, register triennially with  
16 the department, including present home and business address and such  
17 other pertinent information as the department requires.

18 § 8205. Limited permits. 1. The department shall issue a limited  
19 permit to an applicant who meets all requirements for admission to the  
20 licensing examination;

21 2. All practice under a limited permit shall be under the supervision  
22 of a licensed or certified acupuncturist in a public hospital, an incor-  
23 porated hospital or clinic, a licensed proprietary hospital, a licensed  
24 nursing home, a public health agency, the office of a licensed or certi-  
25 fied acupuncturist or in the civil service of the federal or state  
26 government;

27 3. Limited permits shall be for one year and may be renewed at the  
28 discretion of the department for one additional year;

1 4. Supervision of a permittee by a licensed or certified acupuncturist  
2 shall be on-site supervision and not necessarily direct personal super-  
3 vision;

4 5. No practitioner shall supervise more than one permittee; and

5 6. The fee for each limited permit and for each renewal shall be  
6 determined by the department.

7 § 8206. Exemptions; waiver. 1. A person who is validly registered as a  
8 "specialist's assistant-acupuncture" in accordance with section sixty-  
9 five hundred forty-one of this article and the commissioner's regu-  
10 lations shall not be subject to the provisions of this title.

11 2. Any person who is validly licensed under the provisions of the  
12 former chapter nine hundred fifty-nine of the laws of nineteen hundred  
13 seventy-four is deemed to be licensed pursuant to this title.

14 3. Any person who is validly certified under the provisions of the  
15 former chapter nine hundred fifty-nine of the laws of nineteen hundred  
16 seventy-four shall continue to be certified to practice acupuncture and  
17 may continue to use the title certified acupuncturist. The department  
18 may establish rules and regulations providing for the certification of  
19 physicians and dentists as acupuncturists, provided that such certified  
20 acupuncturists do not represent themselves as licensed acupuncturists.  
21 Certified acupuncturists seeking to become licensed acupuncturists shall  
22 be subject to all provisions of this title.

23 4. A person who does not otherwise possess the credentials or quali-  
24 fications required for the practice of acupuncture prescribed by this  
25 title or the regulations promulgated hereunder or any other law but who  
26 is authorized by the office of addiction services and supports or the  
27 department to provide treatment for alcoholism, substance dependence, or  
28 chemical dependency in a hospital or clinical program which has been

1 approved for such treatment by the office of addiction services and  
2 supports or the department and who has been trained to practice acupunc-  
3 ture for the treatment of alcoholism, substance dependence, or chemical  
4 dependency through an educational program acceptable to the education  
5 department may nevertheless practice acupuncture provided such practice  
6 is limited to the treatment of alcoholism, substance dependence, or  
7 chemical dependency in such clinical or hospital programs, or in a  
8 program that if statutorily exempt from such approval meets standards  
9 approved by the office of addiction services and supports or the depart-  
10 ment, and further provided that such practice is done in accordance with  
11 regulations promulgated by the office of addiction services and  
12 supports, or the department. Such person shall work only under the  
13 general supervision of a physician or dentist certified to practice  
14 acupuncture or an individual licensed to practice acupuncture in the  
15 state of New York pursuant to this title. Notwithstanding any other law,  
16 rule or regulation to the contrary, persons authorized on or before the  
17 effective date of this title to practice acupuncture for the treatment  
18 of alcoholism, substance dependence, or chemical dependency within a  
19 hospital or clinical program which has been approved for such treatment  
20 by the office of addiction services and supports or the department may  
21 nevertheless continue to practice acupuncture under the provisions of  
22 this subdivision.

23 5. Any person who is pursuing qualification for licensure through a  
24 course of formal study pursuant to this title may practice acupuncture  
25 without a license, provided such practice is limited to such study.

26 6. Any person who has completed a formal course of study or a tutorial  
27 apprenticeship acceptable to the department and in accordance with the  
28 commissioner's regulations, prior to the effective date of this title,

1 and presents satisfactory proof of such completion, shall be exempt from  
2 the education requirements set forth in subdivision two of section  
3 eighty-two hundred four of this title provided an application pursuant  
4 to subdivision one of section eighty-two hundred four of this title is  
5 filed with the department not later than one year from the effective  
6 date of this title, and in no event shall participation in such tutorial  
7 apprenticeship or formal course of study constitute a violation of this  
8 chapter.

9 7. Any person who is pursuing qualification for certification through  
10 a formal course of study in a registered program and any person  
11 appointed to the faculty of such program may practice acupuncture with-  
12 out a license, provided that such practice is limited to such research,  
13 study and training.

14 8. Any person who is licensed and in good standing to practice  
15 acupuncture in another state or country may practice acupuncture in this  
16 state without a license solely for the purpose of conducting clinical  
17 training, practice demonstrations or clinical research that is within  
18 the practice of acupuncture in connection with a program of basic clin-  
19 ical education, graduate education, or post-graduate education in an  
20 approved school of acupuncture or in its affiliated clinical facility or  
21 health care agency, or before a group of licensed acupuncturists who are  
22 members of a professional society. Any person practicing acupuncture in  
23 New York state pursuant to this subdivision shall be subject to the  
24 personal and subject matter jurisdiction and disciplinary and regulatory  
25 authority of the department as if he or she is a licensee and as if the  
26 exemption pursuant to this subdivision is a license. Such individual  
27 shall comply with the provisions of this title, the rules of the depart-  
28 ment, and the regulations of the commissioner, relating to professional

1 misconduct, disciplinary proceedings and penalties for professional  
2 misconduct.

3 TITLE 24

4 ATHLETIC TRAINERS

5 Section 8300. Introduction.

6 8301. Definition.

7 8302. Definition of practice of athletic training.

8 8303. Use of the title "certified athletic trainer".

9 8304. State committee for athletic trainers.

10 8305. Requirements and procedure for professional certification.

11 8306. Special provisions.

12 8307. Non-liability of certified athletic trainers for first aid  
13 or emergency treatment.

14 8308. Separability.

15 § 8300. Introduction. This title applies to the profession of athletic  
16 training. The general provisions of all professions contained in title  
17 one of this article shall apply to this title.

18 § 8301. Definition. As used in this title "athletic trainer" means any  
19 person who is duly certified in accordance with this title to perform  
20 athletic training under the supervision of a physician and limits his or  
21 her practice to secondary schools, institutions of postsecondary educa-  
22 tion, professional athletic organizations, or a person who, under the  
23 supervision of a physician, carries out comparable functions on  
24 orthopedic athletic injuries, excluding spinal cord injuries, in a  
25 health care organization. Supervision of an athletic trainer by a  
26 physician shall be continuous but shall not be construed as requiring  
27 the physical presence of the supervising physician at the time and place

1 where such services are performed. The scope of work described in this  
2 title shall not be construed as authorizing the reconditioning of neuro-  
3 logic injuries, conditions or disease.

4 § 8302. Definition of practice of athletic training. The practice of  
5 the profession of athletic training is defined as the application of  
6 principles, methods and procedures for managing athletic injuries, which  
7 shall include the preconditioning, conditioning and reconditioning of an  
8 individual who has suffered an athletic injury through the use of appro-  
9 priate preventative and supportive devices, under the supervision of a  
10 physician and recognizing illness and referring to the appropriate  
11 medical professional with implementation of treatment pursuant to physi-  
12 cian's orders. Athletic training includes instruction to coaches,  
13 athletes, parents, medical personnel and communities in the area of care  
14 and prevention of athletic injuries. The scope of work described in this  
15 title shall not be construed as authorizing the reconditioning of neuro-  
16 logic injuries, conditions or disease.

17 § 8303. Use of the title "certified athletic trainer". Only a person  
18 certified or otherwise authorized under this title shall use the title  
19 "certified athletic trainer".

20 § 8304. State committee for athletic trainers. A state committee for  
21 athletic trainers shall be appointed by the commissioner, upon the  
22 recommendation of the commissioner and shall assist on matters of  
23 certification and professional conduct in accordance with section six  
24 thousand five hundred eight of this article. The committee shall consist  
25 of five members who are athletic trainers certified in this state. The  
26 committee shall assist the state board for medicine in athletic training  
27 matters. Nominations and terms of office of the members of the state  
28 committee for athletic trainers shall conform to the corresponding

1 provisions relating thereto for state boards under title one of this  
2 article. Notwithstanding the foregoing, the members of the first  
3 committee need not be certified prior to their appointment to the  
4 committee.

5 § 8305. Requirements and procedure for professional certification. For  
6 certification as a certified athletic trainer under this title, an  
7 applicant shall fulfill the following requirements:

8 1. Application: file an application with the department;

9 2. Education: have received an education including a bachelor's, its  
10 equivalent or higher degree in accordance with the commissioner's regu-  
11 lations;

12 3. Experience: have experience in accordance with the commissioner's  
13 regulations;

14 4. Examination: pass an examination in accordance with the commission-  
15 er's regulations;

16 5. Age: be at least twenty-one years of age; and

17 6. Fees: pay a fee for an initial certificate of one hundred dollars  
18 to the department; and a fee of fifty dollars for each triennial regis-  
19 tration period.

20 § 8306. Special provisions. A person shall be certified without exam-  
21 ination provided that, within three years from the effective date of  
22 regulations implementing the provisions of this title, the individual:

23 1. files an application and pays the appropriate fees to the depart-  
24 ment; and

25 2. meets the requirements of subdivisions two and five of section  
26 eight thousand three hundred five of this title and who in addition:

1 a. has been actively engaged in the profession of athletic training  
2 for a minimum of four years during the seven years immediately preceding  
3 the effective date of this title; or

4 b. is certified by a United States certifying body acceptable to the  
5 department.

6 § 8307. Non-liability of certified athletic trainers for first aid or  
7 emergency treatment. Notwithstanding any inconsistent provision of any  
8 general, special or local law, any certified athletic trainer who volun-  
9 tarily and without the expectation of monetary compensation renders  
10 first aid or emergency treatment at the scene of an accident or other  
11 emergency, outside a hospital, doctor's office or any other place having  
12 proper and necessary athletic training equipment, to a person who is  
13 unconscious, ill or injured, shall not be liable for damages for inju-  
14 ries alleged to have been sustained by such person or for damages for  
15 the death of such person alleged to have occurred by reason of an act or  
16 omission in the rendering of such first aid or emergency treatment  
17 unless it is established that such injuries were or such death was  
18 caused by gross negligence on the part of such athletic trainer. Nothing  
19 in this section shall be deemed or construed to relieve a certified  
20 athletic trainer from liability for damages for injuries or death caused  
21 by an act or omission on the part of an athletic trainer while rendering  
22 professional services in the normal and ordinary course of his or her  
23 practice.

24 § 8308. Separability. If any section of this title, or part thereof,  
25 shall be adjudged by any court of competent jurisdiction to be invalid,  
26 such judgment shall not affect, impair or invalidate the remainder of  
27 any other section or part thereof.

1 TITLE 25

2 MENTAL HEALTH PRACTITIONERS

3 Section 8400. Introduction.

4 8401. Definitions.

5 8402. Mental health counseling.

6 8403. Marriage and family therapy.

7 8404. Creative arts therapy.

8 8405. Psychoanalysis.

9 8406. State board for mental health practitioners.

10 8407. Boundaries of professional competency.

11 8408. Hospital privileges.

12 8409. Limited permits.

13 8410. Exemptions.

14 8411. Special provisions.

15 8412. Mandatory continuing education.

16 § 8400. Introduction. This title applies to the professions of mental  
17 health counseling, marriage and family therapy, creative arts therapy,  
18 and psychoanalysis and provides for the licensing of such practitioners.  
19 The general provisions for all professions contained in title one this  
20 article apply to this title.

21 § 8401. Definitions. For purposes of this title, the following terms  
22 shall have the following meanings:

23 1. "Board" means the state board for mental health practitioners  
24 authorized by section eighty-four hundred six of this title.

25 2. "Psychotherapy" means the treatment of mental, nervous, emotional,  
26 behavioral and addictive disorders, and ailments by the use of both  
27 verbal and behavioral methods of intervention in interpersonal relation-  
28 ships with the intent of assisting the persons to modify attitudes,

1 thinking, affect, and behavior which are intellectually, socially and  
2 emotionally maladaptive.

3 § 8402. Mental health counseling. 1. The practice of the profession of  
4 mental health counseling is defined as:

5 a. the evaluation, assessment, amelioration, treatment, modification,  
6 or adjustment to a disability, problem, or disorder of behavior, charac-  
7 ter, development, emotion, personality or relationships by the use of  
8 verbal or behavioral methods with individuals, couples, families or  
9 groups in private practice, group, or organized settings; and

10 b. the use of assessment instruments and mental health counseling and  
11 psychotherapy to identify, evaluate and treat dysfunctions and disorders  
12 for purposes of providing appropriate mental health counseling services.

13 2. Only a person licensed or exempt under this title shall practice  
14 mental health counseling or use the title "mental health counselor".  
15 Only a person licensed under this title shall use the title "licensed  
16 mental health counselor" or any other designation tending to imply that  
17 the person is licensed to practice mental health counseling.

18 3. Requirements for a professional license. To qualify for a license  
19 as a "licensed mental health counselor", an applicant shall fulfill the  
20 following requirements:

21 a. Application: File an application with the department;

22 b. Education: Have received an education, including a master's or  
23 higher degree in counseling from a program registered by the department  
24 or determined by the department to be the substantial equivalent there-  
25 of, in accordance with the commissioner's regulations. The graduate  
26 coursework shall include, but not be limited to, the following areas:

27 (i) human growth and development;

28 (ii) social and cultural foundations of counseling;

1     (iii) counseling theory and practice and psychopathology;  
2     (iv) group dynamics;  
3     (v) lifestyle and career development;  
4     (vi) assessment and appraisal of individuals, couples and families and  
5 groups;  
6     (vii) research and program evaluation;  
7     (viii) professional orientation and ethics;  
8     (ix) foundations of mental health counseling and consultation;  
9     (x) clinical instruction; and  
10    (xi) completion of a minimum one year supervised internship or practi-  
11 cum in mental health counseling;  
12    c. Experience: An applicant shall complete a minimum of three thousand  
13 hours of post-master's supervised experience relevant to the practice of  
14 mental health counseling satisfactory to the board and in accordance  
15 with the commissioner's regulations. Satisfactory experience obtained in  
16 an entity operating under a waiver issued by the department pursuant to  
17 section sixty-five hundred three-a of this article may be accepted by  
18 the department, notwithstanding that such experience may have been  
19 obtained prior to the effective date of such section sixty-five hundred  
20 three-a of this article and/or prior to the entity having obtained a  
21 waiver. The department may, for good cause shown, accept satisfactory  
22 experience that was obtained in a setting that would have been eligible  
23 for a waiver but which has not obtained a waiver from the department or  
24 experience that was obtained in good faith by the applicant under the  
25 belief that appropriate authorization had been obtained for the experi-  
26 ence, provided that such experience meets all other requirements for  
27 acceptable experience;

1 d. Examination: Pass an examination satisfactory to the board and in  
2 accordance with the commissioner's regulations;

3 e. Age: Be at least twenty-one years of age;

4 f. Character: Be of good moral character as determined by the depart-  
5 ment; and

6 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial  
7 license and a fee of one hundred seventy dollars for each triennial  
8 registration period.

9 § 8403. Marriage and family therapy. 1. The practice of the profession  
10 of marriage and family therapy is defined as:

11 a. the assessment and treatment of nervous and mental disorders,  
12 whether affective, cognitive or behavioral, which results in dysfunc-  
13 tional interpersonal family relationships including, but not limited to  
14 familial relationships, marital/couple relationships, parent-child  
15 relationships, pre-marital and other personal relationships;

16 b. the use of mental health counseling, psychotherapy and therapeutic  
17 techniques to evaluate and treat marital, relational, and family  
18 systems, and individuals in relationship to these systems;

19 c. the use of mental health counseling and psychotherapeutic tech-  
20 niques to treat mental, emotional and behavioral disorders and ailments  
21 within the context of marital, relational and family systems to prevent  
22 and ameliorate dysfunction; and

23 d. the use of assessment instruments and mental health counseling and  
24 psychotherapy to identify and evaluate dysfunctions and disorders for  
25 purposes of providing appropriate marriage and family therapy services.

26 2. Only a person licensed or exempt under this title shall practice  
27 marriage and family therapy or use the title "marriage and family thera-  
28 pist". Only a person licensed under this title shall use the titles

1 "licensed marriage and family therapist", "licensed marriage therapist",  
2 "licensed family therapist" or any other designation tending to imply  
3 that the person is licensed to practice marriage and family therapy.

4 3. Requirements for a professional license. To qualify for a license  
5 as a "licensed marriage and family therapist", an applicant shall  
6 fulfill the following requirements:

7 a. Application: File an application with the department;

8 b. Education: Have received a master's or doctoral degree in marriage  
9 and family therapy from a program registered by the department, or  
10 determined by the department to be the substantial equivalent, in  
11 accordance with the commissioner's regulations or a graduate degree in  
12 an allied field from a program registered by the department and graduate  
13 level coursework determined to be equivalent to that required in a  
14 program registered by the department. This coursework shall include,  
15 but not be limited to:

16 (i) the study of human development, including individual, child and  
17 family development;

18 (ii) psychopathology;

19 (iii) marital and family therapy;

20 (iv) family law;

21 (v) research;

22 (vi) professional ethics; and

23 (vii) a practicum of at least three hundred client contact hours;

24 c. Experience: The completion of at least one thousand five hundred  
25 client contact hours of supervised clinical experience, by persons hold-  
26 ing a degree from a master's or doctoral program, or the substantial  
27 equivalent, in accordance with the commissioner's regulations or the  
28 completion of at least one thousand five hundred client hours of super-

1 vised post-master's clinical experience in marriage and family therapy  
2 satisfactory to the department in accordance with the commissioner's  
3 regulations. Satisfactory experience obtained in an entity operating  
4 under a waiver issued by the department pursuant to section sixty-five  
5 hundred three-a of this article may be accepted by the department,  
6 notwithstanding that such experience may have been obtained prior to the  
7 effective date of such section sixty-five hundred three-a of this arti-  
8 cle and/or prior to the entity having obtained a waiver. The department  
9 may, for good cause shown, accept satisfactory experience that was  
10 obtained in a setting that would have been eligible for a waiver but  
11 which has not obtained a waiver from the department or experience that  
12 was obtained in good faith by the applicant under the belief that appro-  
13 priate authorization had been obtained for the experience, provided that  
14 such experience meets all other requirements for acceptable experience;

15 d. Examination: Pass an examination satisfactory to the board and in  
16 accordance with the commissioner's regulations;

17 e. Age: Be at least twenty-one years of age;

18 f. Character: Be of good moral character as determined by the depart-  
19 ment; and

20 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial  
21 license and a fee of one hundred seventy dollars for each triennial  
22 registration period.

23 § 8404. Creative arts therapy. 1. The practice of the profession of  
24 creative arts therapy is defined as:

25 a. the assessment, evaluation, and the therapeutic intervention and  
26 treatment, which may be either primary, parallel or adjunctive, of  
27 mental, emotional, developmental and behavioral disorders through the  
28 use of the arts as approved by the department; and

1 b. the use of assessment instruments and mental health counseling and  
2 psychotherapy to identify, evaluate and treat dysfunctions and disorders  
3 for purposes of providing appropriate creative arts therapy services.

4 2. Only a person licensed or exempt under this title shall practice  
5 creative arts therapy or use the title "creative arts therapist". Only a  
6 person licensed under this title shall use the title "licensed creative  
7 arts therapist" or any other designation tending to imply that the  
8 person is licensed to practice creative arts therapy.

9 3. Requirements for a professional license. To qualify for a license  
10 as a "licensed creative arts therapist", an applicant shall fulfill the  
11 following requirements:

12 a. Application: File an application with the department;

13 b. Education: Have received an education, including a master's or  
14 higher degree in creative arts therapy from a program registered by the  
15 department or determined by the department to be the substantial equiv-  
16 alent thereof, in accordance with the commissioner's regulations. The  
17 graduate coursework shall include, but not be limited to, the following  
18 areas:

19 (i) human growth and development;

20 (ii) theories in therapy;

21 (iii) group dynamics;

22 (iv) assessment and appraisal of individuals and groups;

23 (v) research and program evaluation;

24 (vi) professional orientation and ethics;

25 (vii) foundations of creative arts therapy and psychopathology; and

26 (viii) clinical instruction;

27 c. Experience: Have completed at least fifteen hundred hours of post-  
28 master's supervised experience in one or more creative arts therapies

1 satisfactory to the department and in accordance with the commissioner's  
2 regulations. Satisfactory experience obtained in an entity operating  
3 under a waiver issued by the department pursuant to section sixty-five  
4 hundred three-a of this article may be accepted by the department,  
5 notwithstanding that such experience may have been obtained prior to the  
6 effective date of such section sixty-five hundred three-a of this arti-  
7 cle and/or prior to the entity having obtained a waiver. The department  
8 may, for good cause shown, accept satisfactory experience that was  
9 obtained in a setting that would have been eligible for a waiver but  
10 which has not obtained a waiver from the department or experience that  
11 was obtained in good faith by the applicant under the belief that appro-  
12 priate authorization had been obtained for the experience, provided that  
13 such experience meets all other requirements for acceptable experience;

14 d. Examination: Pass an examination in creative arts therapy satisfac-  
15 tory to the department and in accordance with the commissioner's regu-  
16 lations;

17 e. Age: Be at least twenty-one years of age;

18 f. Character: Be of good moral character as determined by the depart-  
19 ment; and

20 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial  
21 license and a fee of one hundred seventy dollars for each triennial  
22 registration period.

23 § 8405. Psychoanalysis. 1. The practice of the profession of psycho-  
24 analysis is defined as:

25 a. the observation, description, evaluation, and interpretation of  
26 dynamic unconscious mental processes that contribute to the formation of  
27 personality and behavior in order to identify and resolve unconscious  
28 psychic problems which affect interpersonal relationships and emotional

1 development, to facilitate changes in personality and behavior through  
2 the use of verbal and nonverbal cognitive and emotional communication,  
3 and to develop adaptive functioning; and

4 b. the use of assessment instruments and mental health counseling and  
5 psychotherapy to identify, evaluate and treat dysfunctions and disorders  
6 for purposes of providing appropriate psychoanalytic services.

7 2. Only a person licensed or exempt under this title shall practice  
8 psychoanalysis or use the title "psychoanalyst". Only a person licensed  
9 under this title shall use the title "licensed psychoanalyst" or any  
10 other designation tending to imply that the person is licensed to prac-  
11 tice psychoanalysis.

12 3. Requirements for a professional license. To qualify for a license  
13 as a "licensed psychoanalyst", an applicant shall fulfill the following  
14 requirements:

15 a. Application: File an application with the department;

16 b. Education: Have received a master's degree or higher from a  
17 degree-granting program registered by the department or the substantial  
18 equivalent and have completed a program of study registered by the  
19 department in a psychoanalytic institute chartered by the department or  
20 the substantial equivalent as determined by the department. The program  
21 of study in a psychoanalytic institute shall include coursework substan-  
22 tially equivalent to coursework required for a master's degree in a  
23 health or mental health field of study. The coursework shall include,  
24 but not be limited to, the following areas:

25 (i) personality development;

26 (ii) psychoanalytic theory of psychopathology;

27 (iii) psychoanalytic theory of psychodiagnosis;

28 (iv) sociocultural influence on growth and psychopathology;

- 1 (v) practice technique (including dreams and symbolic processes);  
2 (vi) analysis of resistance, transference, and countertransference;  
3 (vii) case seminars on clinical practice;  
4 (viii) practice in psychopathology and psychodiagnosis;  
5 (ix) professional ethics and psychoanalytic research methodology; and  
6 (x) a minimum of three hundred hours of personal analysis and one  
7 hundred fifty hours of supervised analysis;

8 c. Experience: Have completed a minimum of fifteen hundred hours of  
9 supervised clinical practice satisfactory to the department and in  
10 accordance with the commissioner's regulations. Satisfactory experience  
11 obtained in an entity operating under a waiver issued by the department  
12 pursuant to section sixty-five hundred three-a of this article may be  
13 accepted by the department, notwithstanding that such experience may  
14 have been obtained prior to the effective date of such section sixty-  
15 five hundred three-a and/or prior to the entity having obtained a waiv-  
16 er. The department may, for good cause shown, accept satisfactory expe-  
17 rience that was obtained in a setting that would have been eligible for  
18 a waiver but which has not obtained a waiver from the department or  
19 experience that was obtained in good faith by the applicant under the  
20 belief that appropriate authorization had been obtained for the experi-  
21 ence, provided that such experience meets all other requirements for  
22 acceptable experience;

23 d. Examination: Pass an examination in psychoanalysis satisfactory to  
24 the department and in accordance with the commissioner's regulations;

25 e. Age: Be at least twenty-one years of age;

26 f. Character: Be of good moral character as determined by the depart-  
27 ment; and

1 g. Fees: Pay a fee of one hundred seventy-five dollars for an initial  
2 license and a fee of one hundred seventy dollars for each triennial  
3 registration period.

4 § 8406. State board for mental health practitioners. A state board for  
5 mental health practitioners shall be appointed by the commissioner for  
6 the purpose of assisting the department on matters of licensing and  
7 regulation. The board shall be composed of at least three licensed  
8 members from each profession licensed pursuant to this title and at  
9 least three public representatives who do not hold interests in the  
10 organization, financing, or delivery of mental health services. Addi-  
11 tionally, the board shall contain one physician who shall be a psychia-  
12 trist. Members of the first board need not be licensed prior to their  
13 appointment to the board. The terms of the first appointed members shall  
14 be staggered so that five are appointed for three years, five are  
15 appointed for four years, and six are appointed for five years. An exec-  
16 utive secretary to the board shall be appointed by the commissioner.

17 § 8407. Boundaries of professional competency. 1. It shall be deemed  
18 practicing outside the boundaries of his or her professional competence  
19 for a person licensed pursuant to this title, in the case of treatment  
20 of any serious mental illness, to provide any mental health service for  
21 such illness on a continuous and sustained basis without a medical eval-  
22 uation of the illness by, and consultation with, a physician regarding  
23 such illness. Such medical evaluation and consultation shall be to  
24 determine and advise whether any medical care is indicated for such  
25 illness. For purposes of this section, "serious mental illness" means  
26 schizophrenia, schizoaffective disorder, bipolar disorder, major depres-  
27 sive disorder, panic disorder, obsessive-compulsive disorder, atten-  
28 tion-deficit hyperactivity disorder and autism.

1 2. Any individual whose license or authority to practice derives from  
2 the provisions of this title shall be prohibited from:

3 a. prescribing or administering drugs as defined in this chapter as a  
4 treatment, therapy, or professional service in the practice of his or  
5 her profession; or

6 b. using invasive procedures as a treatment, therapy, or professional  
7 service in the practice of his or her profession. For purposes of this  
8 subdivision, "invasive procedure" means any procedure in which human  
9 tissue is cut, altered, or otherwise infiltrated by mechanical or other  
10 means. Invasive procedure includes surgery, lasers, ionizing radiation,  
11 therapeutic ultrasound, or electroconvulsive therapy.

12 § 8408. Hospital privileges. Nothing in this title shall be deemed to  
13 authorize, grant, or extend hospital privileges to individuals licensed  
14 under this title.

15 § 8409. Limited permits. The following requirements for a limited  
16 permit shall apply to all professions licensed pursuant to this title:

17 1. The department may issue a limited permit to an applicant who meets  
18 all qualifications for licensure, except the examination and/or experi-  
19 ence requirements, in accordance with regulations promulgated therefor.

20 2. Limited permits shall be for two years; such limited permits may be  
21 renewed, at the discretion of the department, for up to two additional  
22 one year periods.

23 3. The fee for each limited permit and for each renewal shall be  
24 seventy dollars.

25 § 8410. Exemptions. Nothing contained in this title shall be construed  
26 to:

27 1. Apply to the practice, conduct, activities, services or use of any  
28 title by any person licensed or otherwise authorized to practice medi-

1 cine within the state pursuant to title two of this article or by any  
2 person registered to perform services as a physician assistant within  
3 the state pursuant to title four of this article or by any person  
4 licensed or otherwise authorized to practice psychology within this  
5 state pursuant to title seventeen of this article or by any person  
6 licensed or otherwise authorized to practice social work within this  
7 state pursuant to title eighteen of this article, or by any person  
8 licensed or otherwise authorized to practice nursing as a registered  
9 professional nurse or nurse practitioner within this state pursuant to  
10 title twelve of this article or by any person licensed or otherwise  
11 authorized to practice applied behavior analysis within the state pursu-  
12 ant to title twenty-nine of this article; provided, however, that no  
13 physician, physician's assistant, registered professional nurse, nurse  
14 practitioner, psychologist, licensed master social worker, licensed  
15 clinical social worker, licensed behavior analyst or certified behavior  
16 analyst assistant may use the titles "licensed mental health counselor",  
17 "licensed marriage and family therapist", "licensed creative arts thera-  
18 pist", or "licensed psychoanalyst", unless licensed under this article;  
19     2. Prohibit or limit any individual who is credentialed under any law,  
20 including attorneys, rape crisis counselors, certified alcoholism coun-  
21 selors and certified substance abuse counselors from providing mental  
22 health services within their respective established authorities;  
23     3. Prohibit or limit the practice of a profession licensed pursuant to  
24 this title by a student, intern or resident in, and as part of, a super-  
25 vised educational program in an institution approved by the department;  
26     4. Prohibit or limit the provision of pastoral counseling services by  
27 any member of the clergy or Christian Science practitioner, within the  
28 context of his or her ministerial charge or obligation;

1 5. Prohibit or limit individuals, churches, schools, teachers, organ-  
2 izations, or not-for-profit businesses, from providing instruction,  
3 advice, support, encouragement, or information to individuals, families,  
4 and relational groups;

5 6. Prohibit or limit an occupational therapist from performing work  
6 consistent with title twenty of this article;

7 7. Prohibit the practice of mental health counseling, marriage and  
8 family therapy, creative arts therapy or psychoanalysis, to the extent  
9 permissible within the scope of practice of such professions, by any  
10 not-for-profit corporation or education corporation providing services  
11 within the state of New York and operating under a waiver pursuant to  
12 section sixty-five hundred three-a of this title, provided that such  
13 entities offering mental health counseling, marriage and family therapy,  
14 creative arts therapy or psychoanalysis services shall only provide such  
15 services through an individual appropriately licensed or otherwise  
16 authorized to provide such services or a professional entity authorized  
17 by law to provide such services;

18 8. a. Prevent a person without a license from: performing assessments  
19 including but not limited to basic information collection, gathering of  
20 demographic data, and informal observations, screening and referral used  
21 for general eligibility for a program or service and determining the  
22 functional status of an individual for the purpose of determining need  
23 for services; advising individuals regarding the appropriateness of  
24 benefits they are eligible for; providing general advice and guidance  
25 and assisting individuals or groups with difficult day to day problems  
26 such as finding employment, locating sources of assistance, and organiz-  
27 ing community groups to work on a specific problem; providing peer  
28 services; selecting for suitability and providing substance abuse treat-

1 ment services or group re-entry services to incarcerated individuals in  
2 state correctional facilities; or providing substance abuse treatment  
3 services or re-entry services to incarcerated individuals in local  
4 correctional facilities.

5 b. Prevent a person without a license from creating, developing or  
6 implementing a service plan or recovery plan that is not a behavioral  
7 health diagnosis or treatment plan. Such service or recovery plans shall  
8 include, but are not limited to, coordinating, evaluating or determining  
9 the need for, or the provision of the following services: job training  
10 and employability; housing; homeless services and shelters for homeless  
11 individuals and families; refugee services; residential, day or communi-  
12 ty habilitation services; general public assistance; in home services  
13 and supports or home-delivered meals; recovery supports; adult or child  
14 protective services including investigations; detention as defined in  
15 section five hundred two of the executive law; prevention and residen-  
16 tial services for victims of domestic violence; services for runaway and  
17 homeless youth; foster care, adoption, preventive services or services  
18 in accordance with an approved plan pursuant to section four hundred  
19 four of the social services law, including, adoption and foster home  
20 studies and assessments, family service plans, transition plans, perman-  
21 ency planning activities, and case planning or case management as such  
22 terms are defined in the regulations of the office of children and fami-  
23 ly services; residential rehabilitation; home and community based  
24 services; and de-escalation techniques, peer services or skill develop-  
25 ment.

26 c. (i) Prevent a person without a license from participating as a  
27 member of a multi-disciplinary team to assist in the development of or  
28 implementation of a behavioral health services or treatment plan;

1 provided that such team shall include one or more professionals licensed  
2 under this title or titles two, twelve, seventeen or eighteen of this  
3 article; and provided, further, that the activities performed by members  
4 of the team shall be consistent with the scope of practice for each team  
5 member licensed or authorized under this article, and those who are not  
6 so authorized may not engage in the following restricted practices: the  
7 diagnosis of mental, emotional, behavioral, addictive and developmental  
8 disorders and disabilities; patient assessment and evaluating; the  
9 provision of psychotherapeutic treatment; the provision of treatment  
10 other than psychotherapeutic treatment; or independently developing and  
11 implementing assessment-based treatment plans as defined in section  
12 seventy-seven hundred one of this chapter.

13 (ii) For the purposes of this paragraph, "assist" shall include, but  
14 not be limited to, the provision or performance of the following tasks,  
15 services, or functions by an individual who has obtained the training  
16 and experience required by the applicable state oversight agency to  
17 perform such task, service or function in facilities or programs operat-  
18 ing pursuant to article nineteen-G of the executive law; articles seven,  
19 sixteen, thirty-one or thirty-two of the mental hygiene law; or title  
20 three of article seven of the social services law:

21 (A) helping an individual with the completion of forms or question-  
22 naires;

23 (B) reviewing existing case records and collecting background informa-  
24 tion about an individual which may be used by the licensed professional  
25 or multi-disciplinary team;

26 (C) gathering and reporting information about previous behavioral  
27 health interventions, hospitalizations, documented diagnosis, or prior

1 treatment for review by the licensed professional and multi-disciplinary  
2 team;

3 (D) discussing with the individual his or her situation, needs,  
4 concerns, and thoughts in order to help identify services that support  
5 the individual's goals, independence, and quality of life;

6 (E) providing advice, information, and assistance to individuals and  
7 family members to identify needs and available resources in the communi-  
8 ty to help meet the needs of the individual or family member;

9 (F) engaging in immediate and long-term problem solving, engaging in  
10 the development of social skills, or providing general help in areas  
11 including, but not limited to, housing, employment, child care, parent-  
12 ing, community based services, and finances;

13 (G) distributing paper copies of self-administered tests for the indi-  
14 vidual to complete when such tests do not require the observation and  
15 judgment of a licensed professional;

16 (H) monitoring treatment by the collection of written and/or observa-  
17 tional data in accordance with the treatment plan and providing verbal  
18 or written reports to the multi-disciplinary team;

19 (I) identifying gaps in services and coordinating access to or arrang-  
20 ing services for individuals such as home care, community based  
21 services, housing, employment, transportation, child care, vocational  
22 training, or health care;

23 (J) offering education programs that provide information about disease  
24 identification and recommended treatments that may be provided, and how  
25 to access such treatment;

26 (K) reporting on behavior, actions, and responses to treatment by  
27 collecting written and/or observational data as part of a multi-disci-  
28 plinary team;

1 (L) using de-escalation techniques consistent with appropriate train-  
2 ing;

3 (M) performing assessments using standardized, structured interview  
4 tools or instruments;

5 (N) directly delivering services outlined in the service plan that are  
6 not clinical in nature but have been tailored to an individual based on  
7 any diagnoses such individual may have received from a licensed profes-  
8 sional; and

9 (O) advocating with educational, judicial or other systems to protect  
10 an individual's rights and access to appropriate services.

11 d. Provided, further, that nothing in this subdivision shall be  
12 construed as requiring a license for any particular activity or function  
13 based solely on the fact that the activity or function is not listed in  
14 this subdivision.

15 9. Notwithstanding any other provision of law to the contrary, nothing  
16 in this title shall be construed to prohibit or limit the activities or  
17 services provided under this title by any person who is employed or who  
18 commences employment in a program or service operated, regulated, fund-  
19 ed, or approved by the department of mental hygiene, the office of chil-  
20 dren and family services, the department of corrections and community  
21 supervision, the office of temporary and disability assistance, the  
22 state office for the aging and the department or a local governmental  
23 unit as that term is defined in section 41.03 of the mental hygiene law  
24 or a social services district as defined in section sixty-one of the  
25 social services law on or before two years from the date that the regu-  
26 lations issued in accordance with section six of part Y of chapter  
27 fifty-seven of the laws of two thousand eighteen appear in the state  
28 register or are adopted, whichever is later. Such prohibitions or limi-

1 tations shall not apply to such employees for as long as they remain  
2 employed by such programs or services and whether they remain employed  
3 by the same or other employers providing such programs or services.  
4 Provided however, that any person who commences employment in such  
5 program or service after such date and performs services that are  
6 restricted under this title shall be appropriately licensed or author-  
7 ized under this title. Each state oversight agency shall create and  
8 maintain a process to verify employment history of individuals exempt  
9 under this subdivision.

10 10. The activities or services provided by a person with a master's  
11 level degree required for licensure pursuant to this title, working  
12 under the supervision of a professional licensed pursuant to title  
13 seventeen or eighteen of this article in a program or service operated,  
14 regulated, funded, or approved by the department of mental hygiene, the  
15 office of children and family services, the department of corrections  
16 and community supervision, the office of temporary and disability  
17 assistance, the state office for the aging and the department or a local  
18 government unit as that term is defined in section 41.03 of the mental  
19 hygiene law or a social services district as defined in section sixty-  
20 one of the social services law.

21 § 8411. Special provisions. 1. This section shall apply to all  
22 professions licensed pursuant to this title, unless otherwise provided.

23 2. Any nonexempt person practicing a profession to be licensed pursu-  
24 ant to this title shall apply for a license of said profession within  
25 one year of the effective date of the specified profession.

26 a. If such person does not meet the requirements for a license estab-  
27 lished within this title, such person may meet alternative criteria

1 determined by the department to be the substantial equivalent of such  
2 criteria.

3 b. If such person meets the requirements for a license established  
4 within this title, except for examination, and has been certified or  
5 registered by a national certifying or registering body having certif-  
6 ication or registration standards acceptable to the commissioner, the  
7 department shall license without examination.

8 c. If such person meets the requirements for a license established  
9 within this title, except for examination, and there exists no national  
10 certifying or registering body having certification or registration  
11 standards acceptable to the commissioner, the department shall license  
12 without examination if the applicant submits evidence satisfactory to  
13 the department of having been engaged in the practice of the specified  
14 profession for at least five of the immediately preceding eight years.

15 3. Any person licensed pursuant to this title may use accepted classi-  
16 fications of signs, symptoms, dysfunctions and disorders, as approved in  
17 accordance with regulations promulgated by the department, in the prac-  
18 tice of such licensed profession.

19 § 8412. Mandatory continuing education. 1. a. Each licensed mental  
20 health counselor, marriage and family therapist, psychoanalyst, and  
21 creative arts therapist required under this title to register triennial-  
22 ly with the department to practice in this state, shall comply with the  
23 provisions of mandatory continuing education requirements prescribed in  
24 subdivision two of this section, except as set forth in paragraphs b and  
25 c of this subdivision. Licensed mental health counselors, marriage and  
26 family therapists, psychoanalysts, and creative arts therapists who do  
27 not satisfy the mandatory continuing education requirements shall not  
28 practice until they have met such requirements, and they have been

1 issued a registration certificate, except that a licensed mental health  
2 counselor, marriage and family therapist, psychoanalyst, and creative  
3 arts therapist may practice without having met such requirements if he  
4 or she is issued a conditional registration certificate pursuant to  
5 subdivision three of this section.

6 b. Each licensed mental health counselor, marriage and family thera-  
7 pist, psychoanalyst, and creative arts therapist shall be exempt from  
8 the mandatory continuing education requirements for the triennial regis-  
9 tration period during which they are first licensed. In accordance with  
10 the intent of this section, adjustment to the mandatory continuing  
11 education requirement may be granted by the department for reasons of  
12 health that are certified by an appropriate health care professional,  
13 for extended active duty with the armed forces of the United States, or  
14 for other good cause acceptable to the department which may prevent  
15 compliance.

16 c. A licensed mental health counselor, marriage and family therapist,  
17 psychoanalyst, and creative arts therapist not engaged in practice, as  
18 determined by the department, shall be exempt from the mandatory contin-  
19 uing education requirement upon the filing of a statement with the  
20 department declaring such status. Any licensee who returns to the prac-  
21 tice of mental health counseling, marriage and family therapy, psycho-  
22 analysis, and creative arts therapy during the triennial registration  
23 period shall notify the department prior to reentering the profession  
24 and shall meet such mandatory education requirements as shall be  
25 prescribed by regulations of the commissioner.

26 2. During each triennial registration period an applicant for regis-  
27 tration as a licensed mental health counselor, marriage and family ther-  
28 apist, psychoanalyst, and creative arts therapist shall complete a mini-

1 mum of thirty-six hours of acceptable formal continuing education, a  
2 maximum of twelve hours of which may be self-instructional course work  
3 acceptable to the department. Any licensed mental health counselor,  
4 marriage and family therapist, psychoanalyst, and creative arts thera-  
5 pist whose first registration date following the effective date of this  
6 section occurs less than three years from such effective date, but on or  
7 after January first, two thousand seventeen, shall complete continuing  
8 education hours on a prorated basis at the rate of one hour per month  
9 for the period beginning January first, two thousand seventeen up to the  
10 first registration date thereafter. A licensee who has not satisfied the  
11 mandatory continuing education requirement shall not be issued a trien-  
12 nial registration certificate by the department and shall not practice  
13 unless and until a conditional registration certificate is issued as  
14 provided for in subdivision three of this section. Continuing education  
15 hours taken during one triennium may not be transferred to the subse-  
16 quent triennium.

17 3. a. The department, in its discretion, may issue a conditional  
18 registration to a licensee who fails to meet the continuing education  
19 requirements established in subdivision two of this section but who  
20 agrees to make up any deficiencies and complete any additional education  
21 which the department may require. The fee for such a conditional regis-  
22 tration shall be the same as, and in addition to, the fee for the trien-  
23 nial registration. The duration of such conditional registration shall  
24 be determined by the department but shall not exceed one year. Any  
25 licensee who is notified of the denial of registration for failure to  
26 submit evidence, satisfactory to the department, of required continuing  
27 education and who practices without such registration may be subject to

1 disciplinary proceedings pursuant to section sixty-five hundred ten of  
2 this article.

3 b. For purposes of this section "acceptable formal education" shall  
4 mean formal courses of learning which contribute to professional prac-  
5 tice in mental health counseling, marriage and family therapy, psycho-  
6 analysis, or creative arts therapies and which meet the standards  
7 prescribed by regulations of the commissioner. Such formal courses of  
8 learning shall include, but not be limited to, collegiate level credit  
9 and non-credit courses, professional development programs and technical  
10 sessions offered by national, state and local professional associations  
11 and other organizations acceptable to the department, and any other  
12 organized educational and technical programs acceptable to the depart-  
13 ment. Continuing education courses must be taken from a provider who has  
14 been approved by the department, based upon an application and fee,  
15 pursuant to the regulations of the commissioner. The department may, in  
16 its discretion and as needed to contribute to the health and welfare of  
17 the public, require the completion of continuing education courses in  
18 specific subjects to fulfill this mandatory continuing education  
19 requirement. Licensed mental health counselors, marriage and family  
20 therapists, psychoanalysts, and creative arts therapists shall maintain  
21 adequate documentation of completion of acceptable formal continuing  
22 education and shall provide such documentation at the request of the  
23 department. Failure to provide such documentation upon the request of  
24 the department shall be an act of misconduct subject to disciplinary  
25 proceedings pursuant to section sixty-five hundred ten of this article.

26 c. The mandatory continuing education fee shall be determined by the  
27 department. Such fee shall be payable on or before the first day of each  
28 triennial registration period, and shall be paid in addition to the

1 triennial registration fees required by paragraph g of subdivision three  
2 of section eighty-four hundred two of this title and paragraph g of  
3 subdivision three of section eighty-four hundred five of this title.

4 TITLE 26

5 RESPIRATORY THERAPISTS AND RESPIRATORY THERAPY TECHNICIANS

6 Section 8500. Introduction.

7 8501. Definition of the practice of respiratory therapy.

8 8502. Practice of respiratory therapy and use of the title  
9 "respiratory therapist".

10 8503. State board for respiratory therapy.

11 8504. Requirements for licensure as a respiratory therapist.

12 8504-a. Mandatory continuing education for respiratory thera-  
13 pists.

14 8505. Exempt persons.

15 8506. Limited permits.

16 8507. Special provisions.

17 8508. Definition of the practice of respiratory therapy tech-  
18 nician.

19 8509. Duties of respiratory therapy technicians and use of the  
20 title "respiratory therapy technician".

21 8510. Requirements for licensure as a respiratory therapy  
22 technician.

23 8510-a. Mandatory continuing education for respiratory therapy  
24 technicians.

25 8511. Limited permits.

26 8512. Exempt persons.

27 8513. Special provisions.

1 § 8500. Introduction. This title applies to the practice of respir-  
2 atory therapy and provides for the licensing of respiratory therapists  
3 and respiratory therapy technicians. The general provisions for all  
4 professions contained in title one of this article shall apply to this  
5 title.

6 § 8501. Definition of the practice of respiratory therapy. The prac-  
7 tice of the profession of respiratory therapy, which shall be undertaken  
8 pursuant to the direction of a duly licensed physician, is defined as  
9 the performance of cardiopulmonary evaluation, respiratory therapy  
10 treatment techniques, and education of the patient, family and public.

11 1. Evaluation shall include the acquisition, analysis and interpreta-  
12 tion of data obtained from physiological specimens, performing diagnos-  
13 tic tests, studies and research of the cardiopulmonary system and neuro-  
14 physiological studies related to respiratory care.

15 2. Therapy shall include the application and monitoring of medical  
16 gases (excluding anesthetic gases) and environmental control systems,  
17 mechanical ventilatory support, artificial airway care, bronchopulmonary  
18 hygiene, pharmacologic agents related to respiratory care procedures,  
19 and cardiopulmonary rehabilitation related and limited to respiratory  
20 care.

21 3. Respiratory therapy services may be performed pursuant to a  
22 prescription of a licensed physician or certified nurse practitioner.

23 § 8502. Practice of respiratory therapy and use of the title "respir-  
24 atory therapist". 1. Only a person licensed or exempt under this title  
25 shall practice respiratory therapy or use the title "respiratory thera-  
26 pist".

27 2. A licensed respiratory therapist may supervise respiratory therapy  
28 technicians in the practice of their profession in such capacities as

1 are prescribed by law and as from time to time may be set by the commis-  
2 sioner.

3 § 8503. State board for respiratory therapy. A state board for respir-  
4 atory therapy shall be appointed by the recommendation of the commis-  
5 sioner for the purpose of assisting the department on matters of profes-  
6 sional licensing and conduct in accordance with section sixty-five  
7 hundred eight of this article. The board shall be composed of not less  
8 than five licensed respiratory therapists, two licensed respiratory  
9 therapy technicians, and four additional members who shall include at  
10 least one licensed physician and at least one public member. Members of  
11 the first board who are respiratory therapy practitioners need not be  
12 licensed prior to appointment on the board, provided, however, that the  
13 first appointed respiratory therapists shall be registered by a national  
14 certifying or accrediting board, acceptable to the department and the  
15 first appointed respiratory therapy technicians shall be certified by a  
16 national certifying or accrediting board, acceptable to the department.  
17 An executive secretary to the board shall be appointed by the commis-  
18 sioner.

19 § 8504. Requirements for licensure as a respiratory therapist. To  
20 qualify for a license as a respiratory therapist, an applicant shall  
21 fulfill the following requirements:

- 22 1. Application: file an application with the department;
- 23 2. Education: have received an education, including completion of an  
24 approved associate degree program in respiratory therapy or in a program  
25 determined by the department to be the equivalent;
- 26 3. Experience: have experience satisfactory to the board and in  
27 accordance with the commissioner's regulations;

1 4. Examination: pass an examination satisfactory to the board and in  
2 accordance with the commissioner's regulations;

3 5. Age: be at least eighteen years of age;

4 6. Character: be of good moral character as determined by the depart-  
5 ment; and

6 7. Fees: pay a fee of one hundred seventy-five dollars to the depart-  
7 ment for admission to a department conducted examination and for an  
8 initial license; a fee of eighty-five dollars for each re-examination; a  
9 fee of one hundred fifteen dollars for an initial license for persons  
10 not requiring admission to a department conducted examination and a fee  
11 of one hundred fifty-five dollars for each triennial registration period  
12 commencing on and after June first, nineteen hundred ninety-three.

13 § 8504-a. Mandatory continuing education for respiratory therapists.

14 1. a. Each licensed respiratory therapist required under this title to  
15 register triennially with the department to practice in the state shall  
16 comply with provisions of the mandatory continuing education require-  
17 ments prescribed in subdivision two of this section except as set forth  
18 in paragraphs b and c of this subdivision. Respiratory therapists who do  
19 not satisfy the mandatory continuing education requirement shall not  
20 practice until they have met such requirements, and have been issued a  
21 registration certificate, except that a respiratory therapist may prac-  
22 tice without having met such requirements if he or she is issued a  
23 conditional registration certificate pursuant to subdivision three of  
24 this section.

25 b. Respiratory therapists shall be exempt from the mandatory continu-  
26 ing education requirement for the triennial registration period during  
27 which they are first licensed. In accord with the intent of this  
28 section, adjustment to the mandatory continuing education requirement

1 may be granted by the department for reasons of health, certified by an  
2 appropriate health care professional, for extended active duty with the  
3 armed forces of the United States, or for other good cause acceptable to  
4 the department which may prevent compliance.

5 c. A licensed respiratory therapist not engaged in practice as deter-  
6 mined by the department, shall be exempt from the mandatory continuing  
7 education requirement upon the filing of a statement with the department  
8 declaring such status. Any licensee who returns to their respective  
9 practice as a respiratory therapist during the triennial registration  
10 period shall notify the department prior to reentering the profession  
11 and shall meet such mandatory education requirements as shall be  
12 prescribed by regulations of the commissioner.

13 2. During each triennial registration period an applicant for regis-  
14 tration as a respiratory therapist shall complete a minimum of thirty  
15 hours of acceptable formal continuing education, as specified in subdi-  
16 vision four of this section, provided that no more than fifteen hours of  
17 such continuing education shall consist of self-study courses. Any  
18 respiratory therapist whose first registration date following the effec-  
19 tive date of this section occurs less than three years from such effec-  
20 tive date, but on or after January first, two thousand one, shall  
21 complete continuing education hours on a prorated basis at the rate of  
22 five-sixths of one hour per month for the period beginning January  
23 first, two thousand up to the first registration date thereafter. A  
24 licensee who has not satisfied the mandatory continuing education  
25 requirements shall not be issued a triennial registration certificate by  
26 the department and shall not practice unless and until a conditional  
27 registration certificate is issued as provided for in subdivision three  
28 of this section. With the exception of continuing education hours

1 completed during the registration period immediately preceding the  
2 effective date of this section, continuing education hours completed  
3 during one triennium may not be transferred to a subsequent triennium.

4 3. The department, in its discretion, may issue a conditional regis-  
5 tration to a licensee who fails to meet the continuing education  
6 requirements established in subdivision two of this section but who  
7 agrees to make up any deficiencies and complete any additional education  
8 which the department may require. The fee for such a conditional regis-  
9 tration shall be the same as, and in addition to, the fee for the trien-  
10 nial registration. The duration of such conditional registration shall  
11 be determined by the department but shall not exceed one year. Any  
12 licensee who is notified of the denial of registration for failure to  
13 submit evidence, satisfactory to the department, of required continuing  
14 education and who practices as a respiratory therapist without such  
15 registration, may be subject to disciplinary proceedings pursuant to  
16 section sixty-five hundred ten of this article.

17 4. As used in subdivision two of this section, "acceptable formal  
18 continuing education" for respiratory therapy shall mean formal courses  
19 of learning which contribute to professional practice in respiratory  
20 therapy and which meet the standards prescribed by regulations of the  
21 commissioner. The department may, in its discretion and as needed to  
22 contribute to the health and welfare of the public, require the  
23 completion of continuing education courses in specific subjects.

24 5. Respiratory therapists shall maintain adequate documentation of  
25 completion of acceptable formal continuing education and shall provide  
26 such documentation at the request of the department.

27 6. The mandatory continuing education fee for respiratory therapists  
28 shall be thirty dollars, shall be payable on or before the first day of

1 each triennial registration period, and shall be paid in addition to the  
2 triennial registration fee required by section eighty-five hundred four  
3 of this title.

4 § 8505. Exempt persons. This title shall not prohibit:

5 1. The practice of respiratory therapy as an integral part of a  
6 program of study by students enrolled in approved respiratory therapy  
7 education programs;

8 2. The performance of any of the modalities included in the definition  
9 of respiratory therapy by any other duly licensed, certified or regis-  
10 tered health care provider, provided that such modalities are within the  
11 scope of his or her practice;

12 3. Unlicensed assistants from being employed in a hospital, as defined  
13 in article twenty-eight of this chapter, for purposes other than the  
14 practice of respiratory therapy;

15 4. The practice of respiratory therapy by any legally qualified  
16 respiratory therapy practitioner of any other state or territory who is  
17 serving in the armed forces or the public health service of the United  
18 States or who is employed by the veterans' administration, while engaged  
19 in the performance of his or her duties.

20 5. The provision of polysomnographic technology services, as defined  
21 by the commissioner, by an individual, under the direction and super-  
22 vision of a licensed physician, who has obtained authorization issued by  
23 the department. Such authorization shall be issued to individuals who  
24 have met standards, including those relating to education, experience,  
25 examination and character, as promulgated in regulations of the commis-  
26 sioner. Such authorization shall be subject to the full disciplinary and  
27 regulatory authority of the department, pursuant to this title, as if  
28 such authorization were a professional license issued under this title.

1 The application fee for such authorization shall be three hundred  
2 dollars. Each authorization holder shall register with the department  
3 every three years and shall pay a registration fee of three hundred  
4 dollars.

5 § 8506. Limited permits. Permits limited as to eligibility, practice  
6 and duration shall be issued by the department to eligible applicants as  
7 follows:

8 1. Eligibility. A person who fulfills all requirements for registra-  
9 tion as a respiratory therapist except that relating to the examination  
10 shall be eligible for a limited permit.

11 2. Limit of practice. All practice under a limited permit shall be  
12 under the direct supervision of a licensed respiratory therapist physi-  
13 cian specializing in pulmonary medicine, an anesthesiologist or an  
14 otherwise legally authorized physician.

15 3. Duration. A limited permit shall expire one year from the date of  
16 issuance or upon notice to the permittee by the department that the  
17 application for licensure has been denied, or ten days after notifica-  
18 tion to the permittee of failure on the professional licensing examina-  
19 tion, whichever first occurs; provided, however, that if the permittee  
20 is awaiting the results of a licensing examination at the time such  
21 limited permit expires, such permit shall continue to be valid until ten  
22 days after notification to the permittee of the result of such examina-  
23 tion.

24 4. Fees. The fee for each limited permit shall be seventy dollars.

25 § 8507. Special provisions. A person shall be licensed without exam-  
26 ination provided that, within one year of the effective date of this  
27 title, the individual:

1 1. files an application and pays the appropriate fees to the depart-  
2 ment; and

3 2. (a) is registered by a national certifying or accrediting board for  
4 respiratory therapy acceptable to the department, or

5 (b) has practiced respiratory therapy in a hospital, as defined in  
6 article twenty-eight of this chapter, in the state for not less than  
7 three years within the last five years prior to the effective date of  
8 this title, or

9 (c) has met the educational standards of a hospital, as defined in  
10 article twenty-eight of this chapter, or, in the case of a hospital  
11 operated by a public benefit corporation, has met the educational stand-  
12 ards of such corporation, and has practiced as a respiratory therapist  
13 for at least one year in such hospital.

14 § 8508. Definition of the practice of respiratory therapy technician.  
15 A respiratory therapy technician means a person licensed in accordance  
16 with this title who works under the supervision of a licensed respir-  
17 atory therapist or a licensed or otherwise legally authorized physician  
18 performing tasks and responsibilities within the framework of the prac-  
19 tice of respiratory therapy.

20 § 8509. Duties of respiratory therapy technicians and use of the title  
21 "respiratory therapy technician". Only a person licensed or otherwise  
22 authorized under this title shall participate in the practice of respir-  
23 atory therapy as a respiratory therapy technician and only a person  
24 licensed under this title shall use the title "respiratory therapy tech-  
25 nician".

26 § 8510. Requirements for licensure as a respiratory therapy techni-  
27 cian. To qualify for a license as a respiratory therapy technician an  
28 applicant shall fulfill the following requirements:

- 1     1. Application: file an application with the department;
- 2     2. Education: have received an education including completion of high  
3 school or its equivalent and have completed an approved one-year certif-  
4 icate respiratory therapy education program, or a program determined  
5 equivalent, in accordance with the commissioner's regulations;
- 6     3. Experience: have experience satisfactory to the board and in  
7 accordance with the commissioner's regulations;
- 8     4. Examination: pass an examination satisfactory to the board and in  
9 accordance with the commissioner's regulations;
- 10    5. Age: be at least eighteen years of age;
- 11    6. Character: be of good moral character as determined by the depart-  
12 ment; and
- 13    7. Fees: pay a fee of ninety dollars to the department for admission  
14 to a department conducted examination and for an initial license; a fee  
15 of sixty dollars for each re-examination; a fee of fifty dollars for an  
16 initial license for persons not requiring admission to a department  
17 conducted examination and a fee of ninety dollars for each triennial  
18 registration period commencing on and after June first, nineteen hundred  
19 ninety-three.
- 20    § 8510-a. Mandatory continuing education for respiratory therapy tech-  
21 nicians. 1. a. Each licensed respiratory therapy technician required  
22 under this title to register triennially with the department to practice  
23 in the state shall comply with provisions of the mandatory continuing  
24 education requirements prescribed in subdivision two of this section  
25 except as set forth in paragraphs b and c of this subdivision. Respir-  
26 atory therapy technicians who do not satisfy the mandatory continuing  
27 education requirement shall not practice until they have met such  
28 requirements, and have been issued a registration certificate, except

1 that a respiratory therapy technician may practice without having met  
2 such requirements if he or she is issued a conditional registration  
3 certificate pursuant to subdivision three of this section.

4 b. Respiratory therapy technicians shall be exempt from the mandatory  
5 continuing education requirement for the triennial registration period  
6 during which they are first licensed. In accord with the intent of this  
7 section, adjustment to the mandatory continuing education requirement  
8 may be granted by the department for reasons of health, certified by an  
9 appropriate health care professional, for extended active duty with the  
10 armed forces of the United States, or for other good cause acceptable to  
11 the department which may prevent compliance.

12 c. A licensed respiratory therapy technician not engaged in practice  
13 as determined by the department, shall be exempt from the mandatory  
14 continuing education requirement upon the filing of a statement with the  
15 department declaring such status. Any licensee who returns to their  
16 respective practice as a respiratory therapy technician during the  
17 triennial registration period shall notify the department prior to reen-  
18 tering the profession and shall meet such mandatory education require-  
19 ments as shall be prescribed by regulations of the commissioner.

20 2. During each triennial registration period an applicant for regis-  
21 tration as a respiratory therapy technician shall complete a minimum of  
22 twenty-four hours of acceptable formal continuing education, as speci-  
23 fied in subdivision four of this section, provided that no more than  
24 twelve hours of such continuing education shall consist of self-study  
25 courses. Any respiratory therapy technician whose first registration  
26 date following the effective date of this section occurs less than three  
27 years from such effective date, but on or after January first, two thou-  
28 sand one, shall complete continuing education hours on a prorated basis

1 at the rate of two-thirds of one hour per month for the period beginning  
2 January first, two thousand up to the first registration date thereaft-  
3 er. A licensee who has not satisfied the mandatory continuing education  
4 requirements shall not be issued a triennial registration certificate by  
5 the department and shall not practice unless and until a conditional  
6 registration certificate is issued as provided for in subdivision three  
7 of this section. With the exception of continuing education hours taken  
8 during the registration period immediately preceding the effective date  
9 of this section, continuing education hours completed during one trien-  
10 nium may not be transferred to a subsequent triennium.

11 3. The department, in its discretion, may issue a conditional regis-  
12 tration to a licensee who fails to meet the continuing education  
13 requirements established in subdivision two of this section but who  
14 agrees to make up any deficiencies and complete any additional education  
15 which the department may require. The fee for such a conditional regis-  
16 tration shall be the same as, and in addition to, the fee for the trien-  
17 nial registration. The duration of such conditional registration shall  
18 be determined by the department but shall not exceed one year. Any  
19 licensee who is notified of the denial of registration for failure to  
20 submit evidence, satisfactory to the department, of required continuing  
21 education and who practices as a respiratory therapy technician without  
22 such registration, may be subject to the disciplinary proceedings pursu-  
23 ant to section sixty-five hundred ten of this article.

24 4. As used in subdivision two of this section, "acceptable formal  
25 continuing education" for respiratory therapy technicians shall mean  
26 formal courses of learning which contribute to professional practice as  
27 a respiratory therapy technician and which meet the standards prescribed  
28 by regulations of the commissioner. The department may, in its

1 discretion and as needed to contribute to the health and welfare of the  
2 public, require the completion of continuing education courses in  
3 specific subjects.

4 5. Respiratory therapy technicians shall maintain adequate documenta-  
5 tion of completion of acceptable formal continuing education and shall  
6 provide such documentation at the request of the department.

7 6. The mandatory continuing education fee for respiratory therapy  
8 technicians shall be twenty-five dollars, shall be payable on or before  
9 the first day of each triennial registration period, and shall be paid  
10 in addition to the triennial registration fee required by section eight-  
11 y-five hundred ten of this title.

12 § 8511. Limited permits. 1. Eligibility. The department may issue a  
13 limited permit to an applicant for respiratory therapy technician who  
14 meets all requirements for admission to the licensing examination.

15 2. Limit of practice. All practice under a limited permit shall be  
16 under the direct supervision of a licensed respiratory therapist or a  
17 licensed or otherwise legally authorized physician.

18 3. Duration. A limited permit shall expire one year from the date of  
19 issuance or upon notice to the permittee by the department that the  
20 application for registration has been denied, or ten days after notifi-  
21 cation to the permittee of failure on the professional licensing exam-  
22 ination, whichever first occurs; provided, however, that if the permit-  
23 tee is awaiting the results of a licensing examination at the time such  
24 limited permit expires, such permit shall continue to be valid until ten  
25 days after notification to the permittee of the result of such examina-  
26 tion.

27 4. Fees. The fee for each limited permit shall be fifty dollars.

28 § 8512. Exempt persons. This title shall not prohibit:

1 1. a respiratory therapy student or a respiratory therapy technician  
2 student from engaging in clinical assistance under the supervision of a  
3 licensed respiratory therapist or a licensed or otherwise legally  
4 authorized physician as an integral part of a program of study by  
5 students enrolled in an approved respiratory therapy technician program  
6 or in a clinical facility or health care agency affiliated with the  
7 program for respiratory therapy technicians; or

8 2. the performance of any of the tasks or responsibilities included in  
9 the definition of respiratory therapy technician by any other duly  
10 licensed, certified or registered health care provider, provided that  
11 such tasks or responsibilities are within the scope of his or her prac-  
12 tice; or

13 3. unlicensed assistants from being employed in a hospital, as defined  
14 in article twenty-eight of this chapter, for purposes other than the  
15 practice of respiratory therapy technician; or

16 4. the practice of respiratory therapy by any legally qualified  
17 respiratory therapy practitioner of any other state or territory who is  
18 serving in the armed forces or the public health service of the United  
19 States or who is employed by the veterans' administration, while engaged  
20 in the performance of his or her duties.

21 § 8513. Special provisions. A person shall be licensed without exam-  
22 ination provided that, within one year of the effective date of this  
23 title, the individual:

24 1. files an application and pays the appropriate fees to the depart-  
25 ment; and

26 2. a. is certified by a national certifying or accrediting board for  
27 respiratory therapy technicians acceptable to the department, or

1 b. has practiced as a respiratory therapy technician in a hospital, as  
2 defined in article twenty-eight of this chapter, in the state for not  
3 less than two years within the last five years, or

4 c. has met the educational standards of a hospital, as defined in  
5 article twenty-eight of this chapter, or, in the case of a hospital  
6 operated by a public benefit corporation, has met the educational stand-  
7 ards of such corporation, and has practiced as a respiratory therapy  
8 technician for at least one year in such hospital.

9 TITLE 27

10 CLINICAL LABORATORY TECHNOLOGY PRACTICE ACT

11 Section 8600. Introduction.

12 8601. Definition of the practice of clinical laboratory tech-  
13 nology and clinical laboratory technology practition-  
14 er.

15 8602. Practice of clinical laboratory technology and cytotech-  
16 nology and use of the titles "licensed clinical labo-  
17 ratory technologist" and "licensed cytotechnologist".

18 8603. Practice as a clinical laboratory technician and histo-  
19 logical technician and the use of the titles "clinical  
20 laboratory technician" and "histological technician".

21 8604. State board for clinical laboratory technology.

22 8605. Requirements for a license as a clinical laboratory  
23 technologist or cytotechnologist.

24 8606. Requirements for certification as a clinical laboratory  
25 technician.

26 8606-a. Requirements for certification as a histological techni-  
27 cian.

28 8607. Special provisions.

1       8608. Limited and provisional permits.

2       8609. Exempt persons.

3       8610. Restricted clinical laboratory licenses.

4       § 8600. Introduction. This title defines the practice of clinical  
5 laboratory technology and provides for the licensing of clinical labora-  
6 tory technologists and cytotechnologists and for the certification of  
7 clinical laboratory technicians and histological technicians. The gener-  
8 al provisions for all professions contained in title one of this article  
9 shall apply to this title.

10      § 8601. Definition of the practice of clinical laboratory technology  
11 and clinical laboratory technology practitioner. 1. "Clinical laboratory  
12 technology" means the performance of microbiological, virological, sero-  
13 logical, chemical, immunohematological, hematological, biophysical,  
14 cytogenetical, cytological or histological procedures and examinations  
15 and any other test or procedure conducted by a laboratory as defined by  
16 title five of article five of this chapter, on material derived from the  
17 human body which provides information for the diagnosis, prevention or  
18 treatment of a disease or assessment of a human medical condition.

19      2. A "clinical laboratory technology practitioner" means clinical  
20 laboratory technologists, cytotechnologists, clinical laboratory techni-  
21 cians, and histological technicians as such terms are defined in this  
22 subdivision, who practice clinical laboratory technology in a licensed  
23 clinical laboratory. For the purposes of this title, a licensed clin-  
24 ical laboratory does not include a laboratory operated by any licensed  
25 physician, dentist, podiatrist, midwife or certified nurse practitioner  
26 who performs laboratory tests or procedures, personally or through his  
27 or her employees, solely as an adjunct to the treatment of his or her  
28 own patients.

1 a. "Clinical laboratory technologist" means a clinical laboratory  
2 practitioner who, pursuant to established and approved protocols of the  
3 department of health, performs clinical laboratory procedures and exam-  
4 inations and any other tests or procedures conducted by a clinical labo-  
5 ratory, including maintaining equipment and records, and performing  
6 quality assurance activities related to examination performance, and  
7 which require the exercise of independent judgment and responsibility,  
8 as determined by the department.

9 b. "Cytotechnologist" means a clinical laboratory practitioner who,  
10 pursuant to established and approved protocols of the department,  
11 performs cytological procedures and examinations and any other such  
12 tests including maintaining equipment and records and performing quality  
13 assurance activities related to examination performance, and which  
14 require the exercise of independent judgment and responsibility, as  
15 determined by the department.

16 c. "Clinical laboratory technician" means a clinical laboratory prac-  
17 titioner who performs clinical laboratory procedures and examinations  
18 pursuant to established and approved protocols of the department, which  
19 require limited exercise of independent judgment and which are performed  
20 under the supervision of a clinical laboratory technologist, laboratory  
21 supervisor, or director of a clinical laboratory.

22 d. "Histological technician" means a clinical laboratory practitioner  
23 who pursuant to established and approved protocols of the department  
24 performs slide based histological assays, tests, and procedures and any  
25 other such tests conducted by a clinical histology laboratory, including  
26 maintaining equipment and records and performing quality assurance  
27 activities relating to procedure performance on histological testing of  
28 human tissues and which requires limited exercise of independent judg-

1 ment and is performed under the supervision of a laboratory supervisor,  
2 designated by the director of a clinical laboratory or under the super-  
3 vision of the director of the clinical laboratory.

4 e. "Director of a clinical laboratory" means a director as that term  
5 is defined in section five hundred seventy-one of this chapter.

6 f. "Laboratory supervisor" means an individual who, under the general  
7 direction of the laboratory director, supervises technical personnel and  
8 reporting of findings, performs tests requiring special scientific  
9 skills, and, in the absence of the director, is responsible for the  
10 proper performance of all laboratory procedures.

11 § 8602. Practice of clinical laboratory technology and cytotechnology  
12 and use of the titles "licensed clinical laboratory technologist" and  
13 "licensed cytotechnologist". No person shall practice clinical laborato-  
14 ry technology or hold himself or herself out as a clinical laboratory  
15 technologist or a cytotechnologist in this state unless he or she is  
16 licensed or exempt pursuant to this title.

17 § 8603. Practice as a clinical laboratory technician and histological  
18 technician and the use of the titles "clinical laboratory technician"  
19 and "histological technician". No person shall practice as a clinical  
20 laboratory technician or as a histological technician or hold himself or  
21 herself out as a clinical laboratory technician or a histological tech-  
22 nician in this state unless he or she is certified or exempt pursuant to  
23 this title, provided that an individual licensed as a clinical laborato-  
24 ry technologist, cytotechnologist, or clinical laboratory technician may  
25 practice the profession of histological technician.

26 § 8604. State board for clinical laboratory technology. A state board  
27 for clinical laboratory technology shall be appointed by the commission-  
28 er for the purpose of assisting the department on matters of profes-

1 sional licensing and professional conduct in accordance with section  
2 sixty-five hundred eight of this article. The board shall be composed of  
3 twelve members, four of whom shall be licensed clinical laboratory tech-  
4 nologists, two of whom shall be licensed cytotechnologists, one of whom  
5 shall be a certified clinical laboratory technician, one of whom shall  
6 be a certified histological technician, two members of the public, one  
7 representative of the diagnostic/manufacturing industry, and one direc-  
8 tor of a clinical laboratory who shall be a physician. An executive  
9 secretary to the board shall be appointed by the commissioner. The clin-  
10 ical laboratory practitioner members of the initial board need not be  
11 licensed prior to their appointment but shall have met all other  
12 requirements of licensing except the filing of an application, the pass-  
13 ing of a satisfactory exam and paying a fee.

14 § 8605. Requirements for a license as a clinical laboratory technolo-  
15 gist or cytotechnologist. To qualify for a license as a clinical labora-  
16 tory technology practitioner under one of the titles defined in subdivi-  
17 sion two of section eighty-six hundred one of this title, an applicant  
18 shall fulfill the particular requirements of a subdivision of this  
19 section applicable to the license and title sought by the applicant:

20 1. Licensure as a clinical laboratory technologist.

21 a. Application: file an application with the department;

22 b. Education: have received an education, including a bachelor's  
23 degree in clinical laboratory technology from a program registered by  
24 the department or determined by the department to be the substantial  
25 equivalent, or have received a bachelor's degree that includes a minimum  
26 number of credit hours in the sciences and received appropriate clinical  
27 education in an accredited clinical laboratory technology program or a

1 program to be determined by the department to be the substantial equiv-  
2 alent;

3 c. Examination: pass an examination satisfactory to the board and in  
4 accordance with the commissioner's regulations;

5 d. Age: be at least eighteen years of age;

6 e. Character: be of good moral character as determined by the depart-  
7 ment; and

8 f. Fees: pay a fee of one hundred seventy-five dollars for an initial  
9 license and a fee of one hundred seventy dollars for each triennial  
10 registration period.

11 2. Licensure as a cytotechnologist.

12 a. Application: file an application with the department;

13 b. Education: have received an education, including a bachelor's  
14 degree in cytotechnology from a program registered by the department or  
15 determined by the department to be the substantial equivalent, or have  
16 received a bachelor's degree that includes a minimum number of credit  
17 hours in the sciences and received appropriate clinical education in an  
18 accredited cytotechnology program or a program determined by the depart-  
19 ment to be the substantial equivalent;

20 c. Examination: pass an examination acceptable to the board and in  
21 accordance with the commissioner's regulations;

22 d. Age: be at least eighteen years of age;

23 e. Character: be of good moral character as determined by the depart-  
24 ment; and

25 f. Fees: pay a fee of one hundred seventy-five dollars for an initial  
26 license and a fee of one hundred seventy dollars for each triennial  
27 registration period.

1 § 8606. Requirements for certification as a clinical laboratory tech-  
2 nician. For certification as a clinical laboratory technician under this  
3 title, an applicant shall fulfill the following requirements:

4 1. Application: file an application with the department;

5 2. Education: have received an education, including an associate's  
6 degree from an approved clinical laboratory technician program regis-  
7 tered by the department or determined by the department to be the  
8 substantial equivalent;

9 3. Examination: pass an examination satisfactory to the board and in  
10 accordance with the commissioner's regulations;

11 4. Age: be at least eighteen years of age;

12 5. Character: be of good moral character as determined by the depart-  
13 ment; and

14 6. Fees: pay a fee of one hundred twenty-five dollars for an initial  
15 certification and a fee of one hundred twenty dollars for each triennial  
16 registration period.

17 § 8606-a. Requirements for certification as a histological technician.  
18 For certification as a histological technician under this title, an  
19 applicant shall fulfill the following requirements:

20 1. Application: file an application with the department;

21 2. Education: have received an education, including an associate's  
22 degree from an approved histological technician program registered by  
23 the department or determined by the department to be the substantial  
24 equivalent, or have received an associate's degree that includes a mini-  
25 imum number of credit hours in the sciences and received appropriate  
26 clinical education in a histological technician program approved by the  
27 department or a program to be determined by the department to be the  
28 substantial equivalent;

1 3. Examination: pass an examination satisfactory to the board and in  
2 accordance with the commissioner's regulations;

3 4. Age: be at least eighteen years of age;

4 5. Character: be of good moral character as determined by the depart-  
5 ment; and

6 6. Fees: pay a fee of one hundred twenty-five dollars for an initial  
7 certification and a fee of one hundred twenty dollars for each triennial  
8 registration period.

9 § 8607. Special provisions. 1. Notwithstanding the requirements of  
10 sections eighty-six hundred five and eighty-six hundred six of this  
11 title, and until July first, two thousand nine, an individual may be  
12 licensed as a clinical laboratory technology practitioner, as defined in  
13 section eighty-six hundred one of this title, provided that an individ-  
14 ual may be licensed pursuant to subparagraph (vi) of paragraph a or  
15 subparagraph (iii) of paragraph b of this subdivision until December  
16 thirty-first, two thousand thirteen provided such person:

17 a. In the case of clinical laboratory technologist, has either:

18 (i) met the educational requirements for clinical laboratory technolo-  
19 gist as defined in section eighty-six hundred five of this title and has  
20 been performing the duties of a clinical laboratory technologist for two  
21 of the past five years prior to December thirty-first, two thousand  
22 seven; or completed an approved baccalaureate degree program in biolog-  
23 ical, chemical or physical sciences from an accredited college or  
24 university and has been performing the duties of a clinical laboratory  
25 technologist for two of the past five years prior to December thirty-  
26 first, two thousand seven;

1 (ii) been engaged full-time in the education of clinical laboratory  
2 practitioners for the equivalent of two of the past five years prior to  
3 December thirty-first, two thousand seven;

4 (iii) performed the duties of a clinical laboratory technologist for  
5 at least five years prior to December thirty-first, two thousand seven  
6 as verified by a director of a clinical laboratory;

7 (iv) become previously qualified under other regulatory requirements  
8 for that license or its equivalent;

9 (v) become a currently certified clinical laboratory technician with a  
10 bachelor's degree from an accredited college that includes a minimum  
11 number of credit hours in the sciences and four years of documented work  
12 experience as a clinical laboratory technician, acceptable to the  
13 department; or

14 (vi) become qualified to perform the duties of a clinical laboratory  
15 technologist in a clinical laboratory operated in accordance with title  
16 five of article five of this chapter and the regulations promulgated  
17 thereunder, and competently performed the duties of a clinical laborato-  
18 ry technologist in a clinical laboratory for a period of not less than  
19 six months in the three years immediately preceding December thirty-  
20 first, two thousand seven as verified by a director of the clinical  
21 laboratory.

22 b. In the case of a clinical laboratory technician, has either:

23 (i) met the educational requirements of a clinical laboratory techni-  
24 cian as defined in section eighty-six hundred six of this title and  
25 performed the duties of a clinical laboratory technician for two of the  
26 past five years prior to December thirty-first, two thousand seven;

27 (ii) performed the duties of a clinical laboratory technician for at  
28 least five years prior to December thirty-first, two thousand seven or

1 has previously qualified under other regulatory requirements for such a  
2 certification or such certification's equivalent; or

3 (iii) become qualified to perform the duties of a clinical laboratory  
4 technician in a clinical laboratory operated in accordance with title  
5 five of article five of this chapter and the regulations promulgated  
6 thereunder, and competently performed the duties of a clinical laborato-  
7 ry technician in a clinical laboratory for a period of not less than six  
8 months in the three years immediately preceding December thirty-first,  
9 two thousand seven as verified by a director of the clinical laboratory.

10 c. In the case of cytotechnologist, has either:

11 (i) met the educational requirements of a cytotechnologist as defined  
12 in section eighty-six hundred five of this title and performed the  
13 duties of a cytotechnologist for two of the previous five years prior to  
14 December thirty-first, two thousand seven;

15 (ii) performed the duties of a cytotechnologist for at least five  
16 years prior to December thirty-first, two thousand seven as verified by  
17 a director of a clinical laboratory; or

18 (iii) has previously qualified under other regulatory requirements for  
19 such a license or such license's equivalent.

20 d. In the case of a histological technician, has either:

21 (i) met the educational requirements of a histological technician as  
22 defined in section eighty-six hundred six-a of this title and performed  
23 the duties of a histological technician for two of the past five years  
24 prior to December thirty-first, two thousand seven;

25 (ii) performed the duties of a histological technician for at least  
26 five years prior to December thirty-first, two thousand seven or has  
27 previously qualified under other regulatory requirements for such a  
28 certification or such certification's equivalent; or

1 (iii) become qualified to perform the duties of a histological techni-  
2 cian in a clinical laboratory operated in accordance with title five of  
3 article five of this chapter and the regulations promulgated thereunder,  
4 and competently performed the duties of a histological technician in a  
5 clinical laboratory for a period of not less than six months in the  
6 three years immediately preceding December thirty-first, two thousand  
7 seven as verified by a director of the clinical laboratory.

8 2. For the purposes of subdivision one of this section, it shall be  
9 determined that the filing of an application with the department on or  
10 before January first, two thousand nine shall qualify for purposes of  
11 such subdivision, regardless of the time period required for processing  
12 such application, provided that an application for licensure pursuant to  
13 subparagraph (vi) of paragraph a, subparagraph (iii) of paragraph b, or  
14 subparagraph (iii) or paragraph d of subdivision one of this section  
15 shall be submitted on or before September first, two thousand thirteen.

16 3. The commissioner may adopt such regulations as appropriate to  
17 license or certify individuals who hold valid licenses, certifications  
18 or their equivalent in another state or country, provided the standards  
19 for granting licenses or certifications to such individuals are not less  
20 than the standards required of persons otherwise licensed or certified  
21 pursuant to this title.

22 § 8608. Limited and provisional permits. 1. Limited permit. On the  
23 recommendation of the board, the department may issue a limited permit  
24 to practice as a clinical laboratory practitioner to an applicant who  
25 has met all requirements for licensure as a clinical laboratory technol-  
26 ogist or cytotechnologist or certification as a clinical laboratory  
27 technician or histological technician, except those relating to the  
28 examination and provided that the individual is under the general super-

1 vision of the director of a clinical laboratory, as determined by the  
2 department. This limited permit shall be valid for a period of not more  
3 than one year, and may be renewed, at the discretion of the department,  
4 for one additional year.

5 2. Provisional permit. (a) On the recommendation of the board, the  
6 department may issue a provisional permit to practice as a clinical  
7 laboratory practitioner to an applicant who is employed in a clinical  
8 laboratory for the purpose of enabling the applicant to complete the  
9 education requirements and/or to pass the exam required for licensure as  
10 a clinical laboratory technologist or histological technician and  
11 provided that the individual is under the general supervision of the  
12 director of a clinical laboratory, as determined by the department, and  
13 provided further that the applicant meets the requirements outlined in  
14 paragraph b of this subdivision. This provisional permit shall be valid  
15 for a period of not more than one year, and may be renewed, at the  
16 discretion of the department, for one additional year.

17 b. To qualify for a provisional permit, the applicant shall:

18 (i) file an application with the department;

19 (ii) have at least one of the following enumerated qualifications:

20 (A) be licensed as a clinical laboratory technologist, or the equiv-  
21 alent as determined by the department, in another jurisdiction or  
22 possess a current certification in a clinical laboratory technology from  
23 a national certification organization acceptable to the department; or

24 (B) have received both an education, including a bachelor's degree in  
25 the biological, chemical, or physical sciences, and training in a clin-  
26 ical laboratory, provided that such education and training are accepta-  
27 ble to the department; or

1 (C) have received a bachelor's degree in the biological, chemical, or  
2 physical sciences or in mathematics, and have served as a research  
3 assistant in a research laboratory, under the direction of the director  
4 or the principal researcher of such research laboratory, working on the  
5 research and development of any procedures and examinations to be  
6 conducted by a laboratory, as defined in title five of article five of  
7 this chapter, on material derived from the human body which provides  
8 information for the diagnosis, prevention or treatment of a disease or  
9 assessment of a human medical condition; or

10 (D) for those seeking a provisional permit as a histological techni-  
11 cian, have received an education, including an associate's degree that  
12 includes a minimum number of credit hours in the sciences, provided that  
13 such education is acceptable to the department;

14 (iii) be at least eighteen years of age;

15 (iv) be of good moral character as determined by the department; and

16 (v) pay a fee of three hundred forty-five dollars for a provisional  
17 permit provided that the fee for a provisional permit as a histological  
18 technician shall be two hundred forty-five dollars.

19 (c) Each provisional permit shall be subject to the disciplinary  
20 provisions applicable to licensees pursuant to subtitle three of title  
21 one of this article.

22 3. The commissioner is authorized to adopt such rules and regulations  
23 as may be necessary to implement the provisions of this section.

24 § 8609. Exempt persons. This title shall not be construed to apply to:

25 1. the practice, conduct, activities, or services by any person  
26 licensed or otherwise authorized to practice medicine within the state  
27 pursuant to title four of this article, or by any person registered to  
28 perform services as a physician assistant or specialist assistant within

1 the state pursuant to title four of this article, or by any person  
2 licensed to practice dentistry within the state pursuant to title seven  
3 of this article or by any person licensed to practice podiatry within  
4 the state pursuant to title fourteen of this article or by any person  
5 certified as a nurse practitioner within the state pursuant to title  
6 twelve of this article or by any person licensed to perform services as  
7 a respiratory therapist or respiratory therapy technician under title  
8 twenty-six of this article or any person licensed to practice midwifery  
9 within the state pursuant to title thirteen of this article or a person  
10 licensed to practice nursing pursuant to title twelve of this article,  
11 or a person licensed to practice pursuant to article thirty-five of this  
12 chapter; provided, however, that no such person shall use the titles  
13 licensed laboratory technologist, cytotechnologist, or certified labora-  
14 tory technician, unless licensed or certified under this title; or  
15 2. clinical laboratory technology practitioners employed by the United  
16 States government or any bureau, division, or agency thereof, while in  
17 the discharge of the employee's official duties; or  
18 3. clinical laboratory technology practitioners employed by the New  
19 York State Department of Health Wadsworth Center Laboratory or the New  
20 York City Department of Health and Mental Hygiene Public Health Labora-  
21 tory, while in the discharge of the employee's official duties; or  
22 4. clinical laboratory technology practitioners engaged in teaching or  
23 research, provided that the results of any examination performed are not  
24 used in health maintenance, diagnosis or treatment of disease and are  
25 not added to the patient's permanent record; or  
26 5. students or trainees enrolled in approved clinical laboratory  
27 science or technology education programs or training programs described  
28 in subparagraph (iii) of paragraph c of subdivision one of section

1 eighty-six hundred ten of this title provided that these activities  
2 constitute a part of a planned course in the program, that the persons  
3 are designated by a title such as intern, trainee, fellow or student,  
4 and the persons work directly under the supervision of an individual  
5 licensed or exempt pursuant to subdivision one, two, four or eight of  
6 this section; or

7 6. persons employed by a clinical laboratory to perform supportive  
8 functions not related to the direct performance of laboratory procedures  
9 or examinations; or

10 7. persons who are working in facilities registered pursuant to  
11 section five hundred seventy-nine of this chapter and only perform  
12 waived tests as defined in section five hundred seventy-one of this  
13 chapter pursuant to such registration; or

14 8. a director of a clinical laboratory holding a valid certificate of  
15 qualification pursuant to section five hundred seventy-three of this  
16 chapter.

17 § 8610. Restricted clinical laboratory licenses. 1. Restricted clin-  
18 ical laboratory license.

19 a. The department may issue a restricted license pursuant to which the  
20 restricted licensee may receive a certificate to perform certain exam-  
21 inations and procedures within the definition of clinical laboratory  
22 technology set forth in subdivision one of section eighty-six hundred  
23 one of this title, provided that such a restricted licensee may perform  
24 examinations and procedures only in those of the following areas which  
25 are specifically listed in his or her certificate: histocompatibility,  
26 cytogenetics, stem cell process, flow cytometry/cellular immunology and  
27 molecular diagnosis to the extent such molecular diagnosis is included

1 in genetic testing-molecular and molecular oncology, and toxicology  
2 (under paragraph b-1 of this subdivision).

3 b. Notwithstanding paragraph a of this subdivision, restricted licen-  
4 ses employed at National Cancer Institute designated cancer centers or  
5 at teaching hospitals that are eligible for distributions pursuant to  
6 paragraph (c) of subdivision three of section twenty-eight hundred  
7 seven-m of this chapter may receive a certificate that also includes the  
8 practice of molecular diagnosis including but not limited to genetic  
9 testing-molecular and molecular oncology, and restricted licensees  
10 employed at National Cancer Institute designated cancer centers may  
11 receive a certificate that includes the use of mass spectrometry or any  
12 tests and procedures acceptable to the commissioner, in consultation  
13 with the commissioner, in the field of proteomics, provided that such  
14 certificate holders may practice in such additional areas only at such  
15 centers, teaching hospitals or other sites as may be designated by the  
16 commissioner.

17 b-1. Only individuals employed in a New York state department of  
18 health authorized toxicology laboratory, operating under the direction  
19 of a clinical laboratory director, may obtain a certificate in toxicolo-  
20 gy.

21 c. To qualify for a restricted license, an applicant shall:

22 (i) file an application with the department;

23 (ii) have received an education, including a bachelor's degree in the  
24 biological, chemical, or physical sciences or in mathematics from a  
25 program registered by the department or determined by the department to  
26 be the substantial equivalent;

27 (iii) have completed a training program with a planned sequence of  
28 supervised employment or engagement in activities appropriate for the

1 area of certification, which training program is satisfactory to the  
2 department in quality, breadth, scope and nature and is provided by an  
3 entity that shall be responsible for the services provided. The training  
4 program shall be described and attested to by the clinical director of  
5 the laboratory in which it is located prior to the beginning of the  
6 program. The duration of the training program shall be one year of full-  
7 time training in the specific areas in which the applicant is seeking  
8 certification or the part-time equivalent thereof, as determined by the  
9 department, and the successful completion of such program shall be  
10 certified by a laboratory director who is responsible for overseeing  
11 such program;

12 (iv) be at least eighteen years of age;

13 (v) be of good moral character as determined by the department; and

14 (vi) pay a fee of one hundred seventy-five dollars for an initial  
15 restricted license and a fee of one hundred seventy dollars for each  
16 triennial registration period.

17 d. Each restricted licensee shall register with the department as  
18 required of licensees pursuant to section sixty-five hundred two of this  
19 article and shall be subject to the disciplinary provisions applicable  
20 to licensees pursuant to subtitle three of title one of this article.

21 2. The commissioner is authorized to adopt such rules and regulations  
22 as may be necessary to implement the provisions of this section.

23 3. Nothing in this section shall restrict a clinical laboratory prac-  
24 titioner, as defined in subdivision two of section eighty-six hundred  
25 one of this title, from performing any of the examinations or procedures  
26 which restricted clinical laboratory licensees are permitted to perform  
27 under this section and which such clinical laboratory practitioner is  
28 otherwise authorized to perform.

1 TITLE 28

2 MEDICAL PHYSICS PRACTICE

3 Section 8700. Introduction.

4 8701. Definitions.

5 8702. Definition of "practice of medical physics".

6 8703. Use of the title "professional medical physicist".

7 8704. State committee for medical physics.

8 8705. Requirements and procedures for professional licensure.

9 8706. Limited permits.

10 8707. Exemptions.

11 8708. Licensure without examination.

12 8709. Separability.

13 § 8700. Introduction. This title applies to the profession of medical  
14 physics. The general provisions for all licensed healthcare professions  
15 contained in title one of this article apply to this title.

16 § 8701. Definitions. As used in this title:

17 1. "Clinical" shall mean activities directly relating to the treatment  
18 or diagnosis of human ailments.

19 2. "Specialty" or "specialty area" shall mean the following branch or  
20 branches of special competence within medical physics:

21 a. "Diagnostic radiological physics" shall mean the branch of medical  
22 physics relating to the diagnostic application of radiation, the analy-  
23 sis and interpretation of image quality, performance measurements and  
24 the calibration of equipment associated with the production and use of  
25 such radiation, the analysis and interpretation of measurements associ-  
26 ated with patient doses and exposures, and the radiation safety aspects  
27 associated with the production and use of such radiation;

1 b. "Medical health physics" shall mean the branch of medical physics  
2 pertaining to the radiation safety aspects of the use of radiation for  
3 both diagnostic and therapeutic purposes, and the use of equipment to  
4 perform appropriate radiation measurements;

5 c. "Medical nuclear physics" shall mean the branch of medical physics  
6 pertaining to the therapeutic and diagnostic application of radionu-  
7 clides, excluding those used in sealed sources for therapeutic purposes,  
8 the analysis and interpretation of performance measurements associated  
9 with radiation imaging equipment and performance oversight of radionu-  
10 clide calibration equipment associated with the use and production of  
11 radionuclides, the analysis and interpretation of measurements and  
12 calculations associated with patient organ doses, and the radiation  
13 safety aspects associated with the production and use of such radionu-  
14 clides; and

15 d. "Therapeutic radiological physics" or "radiation oncology physics"  
16 shall mean the branch of medical physics relating to the therapeutic  
17 application of radiation, the analysis and interpretation of radiation  
18 equipment performance measurements and the calibration of equipment  
19 associated with the production and use of such radiation, the analysis  
20 and interpretation of measurements associated with patient doses, and  
21 the radiation safety aspects associated with the production and use of  
22 such radiation.

23 3. "Medical physics" shall mean the branch of physics limited to the  
24 field of radiological physics.

25 4. "Radiation" shall mean all ionizing radiation above background  
26 levels or any non-ionizing radiation used in diagnostic imaging or in  
27 radiation oncology.

1 5. "Radiological physics" shall mean diagnostic radiological physics,  
2 therapeutic radiological physics or radiation oncology physics, medical  
3 nuclear physics and medical health physics.

4 6. "Radiological procedure" shall mean any test, measurement, calcu-  
5 lation or radiation exposure for the purpose of diagnosis or treatment  
6 of any medical condition of a human, including therapeutic radiation,  
7 diagnostic imaging and measurements, and nuclear medicine procedures.

8 § 8702. Definition of "practice of medical physics". 1. The "practice  
9 of the profession of medical physics" shall mean the use and application  
10 of accepted principles and protocols of physics in a clinical setting to  
11 assure the correct quality, quantity and placement of radiation during  
12 the performance of a radiological procedure, so as to protect the  
13 patient and other persons from harmful, excessive or misapplied radi-  
14 ation. Such practice shall include, but not necessarily be limited to:  
15 radiation beam calibration and characterization; oversight and responsi-  
16 bility for patient radiation dose measurement, calculation and report-  
17 ing; oversight and responsibility for quality control; instrument spec-  
18 ification; optimization of image quality; acceptance testing; shielding  
19 design; protection analysis on radiation emitting equipment and radio-  
20 pharmaceuticals; and consultation with a physician to assure accurate  
21 radiation dosage and application to a specific patient.

22 2. A license to practice medical physics shall be issued with special  
23 competency in one or more specialty areas in which the licensee has  
24 satisfied the requirements of section eighty-seven hundred five of this  
25 title.

26 3. The practice in any specialty by a person whose license is not  
27 issued with special competency for such specialty shall be deemed the  
28 unauthorized practice of the profession of medical physics.

1 4. Only a person licensed under this title shall practice the profes-  
2 sion of medical physics.

3 § 8703. Use of the title "professional medical physicist". Only a  
4 person licensed under this title shall use the title "professional  
5 medical physicist".

6 § 8704. State committee for medical physics. 1. A state committee for  
7 medical physics shall be appointed by the commissioner and shall assist  
8 on matters of licensure and professional conduct in accordance with  
9 section sixty-five hundred eight of this title. Notwithstanding the  
10 provisions of section sixty-five hundred eight of this title, the  
11 committee shall assist the board for medicine solely in medical physics  
12 matters, which board shall also function as the state board for medical  
13 physics. The licensure requirements for professional medical physicists  
14 shall be waived for the initial committee appointees, provided that such  
15 appointees shall have received national certification in their special-  
16 ty.

17 2. The committee shall consist of eight individuals, to be composed of  
18 the following:

19 a. Four licensed medical physicists represented by each of the follow-  
20 ing specialties:

21 (i) diagnostic radiological physics;

22 (ii) therapeutic radiological or radiation oncology physics;

23 (iii) medical nuclear physics; and

24 (iv) medical health physics;

25 b. Three licensed physicians represented by each of the following  
26 specialties:

27 (i) diagnostic radiology;

28 (ii) radiation therapy or radiation oncology; and

1 (iii) nuclear medicine; and

2 (c) A representative of the public at large.

3 § 8705. Requirements and procedures for professional licensure. To  
4 qualify for a license as a professional medical physicist, an applicant  
5 shall fulfill the following requirements:

6 1. Application: file an application with the department;

7 2. Education: have received an education including a master's or  
8 doctoral degree from an accredited college or university in accordance  
9 with the commissioner's regulations. Such person shall have completed  
10 such courses of instruction as are deemed necessary by the commissioner  
11 to practice in the medical physics specialty in which the applicant has  
12 applied for a license;

13 3. Experience: have experience in his or her medical physics specialty  
14 satisfactory to the board and in accordance with the commissioner's  
15 regulations;

16 4. Examination: pass an examination in his or her medical specialty  
17 satisfactory to the board and in accordance with the commissioner's  
18 regulations. The examination requirement may be waived by the board on  
19 recommendation of the commissioner for certain applicants with extensive  
20 experience as a medical physicist;

21 5. Age: be at least twenty-one years of age;

22 6. Fee: pay a fee of three hundred dollars to the department for  
23 admission to a department conducted examination for licensure, a fee of  
24 one hundred fifty dollars for licensure with special competency in the  
25 first specialty and twenty-five dollars for each additional specialty,  
26 and a fee of three hundred dollars for each biennial registration peri-  
27 od.

1 § 8706. Limited permits. Permits limited as to eligibility, practice  
2 and duration shall be issued by the department to eligible applicants,  
3 as follows:

4 1. Eligibility. The following persons shall be eligible for a limited  
5 permit:

6 a. a person who fulfills all requirements for a license as a profes-  
7 sional medical physicist except those relating to examination or experi-  
8 ence; or

9 b. a medical physics student enrolled in a graduate or post-graduate  
10 curriculum approved by the department;

11 2. Limit of practice. A permittee shall be authorized to practice  
12 medical physics only under the direct and immediate supervision of a  
13 professional medical physicist and only in the specialty of such profes-  
14 sional medical physicist;

15 3. Duration. A limited permit shall be valid for two years. It may be  
16 renewed biennially at the discretion of the department;

17 4. Fee. The fee for each limited permit and for each renewal shall be  
18 sixty dollars.

19 § 8707. Exemptions. Nothing in this title shall be construed to  
20 affect, prevent or in any manner expand or limit the authority of any  
21 person otherwise authorized by law or regulation to practice any func-  
22 tion of a medical physicist, or any department or agency authorized by  
23 law or regulation to regulate the use of radiation, nor prohibit the  
24 repair or calibration of any test equipment used by professional medical  
25 physicists by any person otherwise allowed to do so under state or  
26 federal law, nor serve to limit radiologic and/or imaging technicians or  
27 any individual otherwise authorized by law or regulation from performing  
28 quality control measurements or obtaining quality control data, nor

1 serve to limit a service engineer in the repair of radiation producing  
2 equipment nor an installation engineer in the installation of radiation  
3 producing equipment.

4 § 8708. Licensure without examination. 1. Within eighteen months of  
5 the effective date of regulations implementing the provisions of this  
6 title, the department may issue a license to practice medical physics  
7 with special competency in one or more specialties in this state, with-  
8 out an examination, to a person who meets the requirements of subdivi-  
9 sions one, five and six of section eighty-seven hundred five of this  
10 title and who in addition has an earned bachelor's, master's or doctoral  
11 degree from an accredited college or university that signifies the  
12 completion of a course of study acceptable to the department, and has  
13 demonstrated to the department's satisfaction, in the case of an earned  
14 bachelor's degree, the completion of at least fifteen years of full-time  
15 work experience in the medical physics specialty for which application  
16 is made, or, in the case of an earned master's or doctoral degree, the  
17 completion of at least two years of full-time work experience in the  
18 five years preceding the date of application in the medical physics  
19 specialty for which application is made and the equivalent of one year  
20 or more of full-time work experience in the ten years preceding the date  
21 of application for each additional specialty for which application is  
22 made.

23 2. On receipt of an application and fee pursuant to section eighty-  
24 seven hundred five of this title, the department may issue a license to  
25 practice medical physics with special competency in one or more special-  
26 ties in this state to a person who holds a license to practice medical  
27 physics in another state, territory or jurisdiction that has require-

1 ments for licensing of medical physicists which the department deter-  
2 mines to be substantially the same as the requirements of this title.

3 § 8709. Separability. If any section of this title, or part thereof,  
4 shall be adjudged by any court of competent jurisdiction to be invalid,  
5 such judgment shall not affect, impair or invalidate the remainder of  
6 any other section or part thereof.

7 TITLE 29

8 APPLIED BEHAVIOR ANALYSIS

9 Section 8800. Introduction.

10 8801. Definitions.

11 8802. Definition of the practice of "applied behavior analysis".

12 8803. The practice of and use of the title "licensed behavior  
13 analyst" or "certified behavior analyst assistant".

14 8804. Requirements and procedures for professional licensure.

15 8805. Special provisions.

16 8806. Limited permits.

17 8807. Exemptions.

18 8808. State board for applied behavior analysis.

19 § 8800. Introduction. This title applies to the profession and prac-  
20 tice of applied behavior analysis and to the use of the titles "licensed  
21 behavior analyst" and "certified behavior analyst assistant". The gener-  
22 al provisions for all licensed healthcare professions contained in title  
23 one of this article shall apply to this title.

24 § 8801. Definitions. As used in this title, the following term shall  
25 have the following meaning: "applied behavior analysis" or "ABA" means  
26 the design, implementation, and evaluation of environmental modifica-  
27 tions, using behavioral stimuli and consequences, to produce socially  
28 significant improvement in human behavior, including the use of direct

1 observation, measurement, and functional analysis of the relationship  
2 between environment and behavior.

3 § 8802. Definition of the practice of "applied behavior analysis". 1.  
4 The practice of applied behavior analysis by a "licensed behavior  
5 analyst" shall mean the design, implementation and evaluation of envi-  
6 ronmental modifications, using behavioral stimuli and consequences, to  
7 produce socially significant improvement in human behavior, including  
8 the use of direct observation, measurement, and functional analysis of  
9 the relationship between environment and behavior, pursuant to a diagno-  
10 sis and prescription or order from a person who is licensed or otherwise  
11 authorized to provide such diagnosis and prescription or ordering  
12 services pursuant to a profession enumerated in this title, for the  
13 purpose of providing behavioral health treatment for persons with autism  
14 and autism spectrum disorders and related disorders.

15 2. The practice of applied behavior analysis by a "licensed behavior  
16 analyst" shall mean the design, implementation and evaluation of envi-  
17 ronmental modifications, using behavioral stimuli and consequences, to  
18 produce socially significant improvement in human behavior, including  
19 the use of direct observation, measurement, and functional analysis of  
20 the relationship between environment and behavior, pursuant to a diagno-  
21 sis and prescription or order from a person who is licensed or otherwise  
22 authorized to provide such diagnosis and prescription or ordering  
23 services pursuant to a profession enumerated in this title, for the  
24 purpose of providing behavioral health treatment. For purposes of this  
25 section, prescriptions or orders for behavioral health treatment  
26 provided by a licensed behavior analyst shall be limited to providing  
27 treatment to individuals with behavioral health conditions that appear  
28 in the most recent edition of the diagnostic and statistical manual of

1 mental disorders, published by the American Psychiatric Association, or  
2 an equivalent classification system as determined by the department. In  
3 addition, licensed behavior analysts providing services pursuant to a  
4 prescription or order, as authorized by this section, shall provide a  
5 report at least annually regarding the status of the individual served  
6 to the licensed person prescribing or ordering such service or more  
7 frequently, if needed, in order to report significant changes in the  
8 condition of the individual.

9 3. The practice of applied behavior analysis by a "certified behavior  
10 analyst assistant" means the services and activities provided by a  
11 person certified in accordance with this title who works under the  
12 supervision of a licensed behavior analyst to perform such patient  
13 related applied behavior analysis tasks as are assigned by the supervis-  
14 ing licensed behavior analyst. Supervision of a certified behavior  
15 analyst assistant by a licensed behavior analyst shall be in accordance  
16 with regulations of the commissioner. No licensed behavior analyst shall  
17 supervise more than six certified behavior analyst assistants.

18 4. The practice of applied behavior analysis shall not include diagno-  
19 sis of a disorder or condition for which ABA may be appropriate, or  
20 prescribing or ordering ABA for a particular individual.

21 5. Any individual whose license or authority to practice derives from  
22 the provisions of this title shall be prohibited from:

23 a. Prescribing or administering drugs as defined in this chapter or as  
24 a treatment, therapy, or professional service in the practice of his or  
25 her profession; or

26 b. Using invasive procedures as a treatment, therapy, or professional  
27 service in the practice of his or her profession. For purposes of this  
28 subdivision, "invasive procedure" means any procedure in which human

1 tissue is cut, altered, or otherwise infiltrated by mechanical or other  
2 means. Invasive procedure includes, but is not limited to, surgery,  
3 lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive  
4 therapy.

5 § 8803. The practice of and use of the title "licensed behavior  
6 analyst" or "certified behavior analyst assistant". Only a person  
7 licensed, certified or exempt under this title shall practice applied  
8 behavior analysis. Only a person licensed or certified under this title  
9 shall use the titles "licensed behavior analyst" or "certified behavior  
10 analyst assistant".

11 § 8804. Requirements and procedures for professional licensure. 1. To  
12 qualify for certification as a certified behavior analyst assistant, an  
13 applicant shall fulfill the following requirements:

14 a. Application: file an application with the department;

15 b. Education: have received an education, including a bachelor's or  
16 higher degree from a program registered by the department or determined  
17 by the department to be the substantial equivalent thereof, in accord-  
18 ance with the commissioner's regulations.

19 c. Experience: have experience in the practice of applied behavior  
20 analysis satisfactory to the board and the department in accordance with  
21 the commissioner's regulations.

22 d. Examination: pass an examination acceptable to the board and the  
23 department in accordance with the commissioner's regulations.

24 e. Age: be at least twenty-one years of age;

25 f. Character: be of good moral character as determined by the depart-  
26 ment and submit an attestation of moral character; and

1 g. Fee: pay a fee of one hundred fifty dollars for an initial license  
2 and a fee of seventy-five dollars for each triennial registration peri-  
3 od.

4 2. To qualify for a license as a licensed behavior analyst, an appli-  
5 cant shall fulfill the following requirements:

6 a. Application: file an application with the department;

7 b. Education: have received an education, including a master's or  
8 higher degree from a program registered by the department or determined  
9 by the department to be the substantial equivalent, thereof, in accord-  
10 ance with the commissioner's regulations.

11 c. Experience: have experience in the practice of applied behavior  
12 analysis satisfactory to the board and the department in accordance with  
13 the commissioner's regulations.

14 d. Examination: pass an examination acceptable to the board and the  
15 department in accordance with the commissioner's regulations.

16 e. Age: be at least twenty-one years of age;

17 f. Character: be of good moral character as determined by the depart-  
18 ment and submit an attestation of moral character; and

19 g. Fee: pay a fee of two hundred dollars for an initial license and a  
20 fee of one hundred dollars for each triennial registration period.

21 § 8805. Special provisions. An individual who meets the requirements  
22 for a license or certification as a licensed behavior analyst or a  
23 certified behavior analyst assistant, except for examination, experience  
24 and education, and who is certified or registered by a national certify-  
25 ing body having certification or registration standards acceptable to  
26 the commissioner, may be licensed or certified, without meeting addi-  
27 tional requirements as to examination, experience and education,

1 provided that such individual submits an application to the department  
2 within two years of the effective date of this section.

3 § 8806. Limited permits. The following requirements for a limited  
4 permit shall apply to all professions licensed or certified pursuant to  
5 this title:

6 1. The department may issue a limited permit to an applicant who meets  
7 all qualifications for licensure, except the examination and/or experi-  
8 ence requirements, in accordance with regulations promulgated therefor.

9 2. Limited permits shall be for one year; such limited permits may be  
10 renewed, at the discretion of the department, for one additional year.

11 3. The fee for each limited permit and for each renewal shall be  
12 seventy dollars.

13 4. A limited permit holder shall practice only under supervision as  
14 determined in accordance with the commissioner's regulations.

15 § 8807. Exemptions. 1. Nothing contained in this title shall be  
16 construed to limit the scopes of practice of any other profession  
17 licensed under this title.

18 2. Nothing in this title shall be construed as prohibiting a person  
19 from performing the duties of a licensed behavior analyst or a certified  
20 behavior analyst assistant, in the course of such employment, if such  
21 person is employed:

22 a. by a federal, state, county or municipal agency, or other political  
23 subdivision;

24 b. by a chartered elementary or secondary school or degree-granting  
25 institution;

26 c. as a certified teacher or teaching assistant, other than a pupil  
27 personnel services professional, in an approved program as defined in

1 paragraph b of subdivision one of section forty-four hundred ten of the  
2 education law; or

3 d. in a setting to the extent that the exemption in paragraph d of  
4 subdivision six of section forty-four hundred ten of the education law  
5 applies.

6 3. Nothing in this title shall be construed as prohibiting a certified  
7 teacher or teaching assistant, other than a pupil personnel services  
8 professional, from performing the duties of a licensed behavior analyst  
9 or certified behavior analyst assistant, in the course of such employ-  
10 ment or contractual agreement, if such person is employed or contracted  
11 with an agency approved by the department of health to provide early  
12 intervention services or has an agreement with the department of health  
13 to provide early intervention services pursuant to title two-A of arti-  
14 cle twenty-five of this chapter.

15 4. Nothing in this title shall be construed as prohibiting the activ-  
16 ities and services required of a student, intern, or resident in an  
17 educational program acceptable to the department pursuant to the commis-  
18 sioner's regulations, pursuing a course of study leading to a bachelor's  
19 or higher degree in an educational program acceptable to the department  
20 pursuant to the commissioner's regulations in an institution approved by  
21 the department, provided that such activities and services constitute a  
22 part of his or her supervised course of study in an educational program  
23 acceptable to the department pursuant to the commissioner's regulations.  
24 Such person shall be designated by title which clearly indicates his or  
25 her training status.

26 5. Nothing in this title shall be construed to affect or prevent a  
27 person without a license or other authorization pursuant to this title  
28 from performing assessments, including collecting basic information,

1 gathering demographic data, and making informal observations, for the  
2 purpose of determining need for services unrelated to an ABA plan.  
3 Further, licensure or authorization pursuant to this title shall not be  
4 required to create, develop or implement a service plan unrelated to an  
5 ABA plan. This title shall not apply to behavioral health treatments  
6 other than ABA that may be provided to persons with autism spectrum  
7 disorder. A license under this title shall not be required for persons  
8 to participate as a member of a multi-disciplinary team to implement an  
9 ABA plan; provided, however, that such team shall include one or more  
10 professionals licensed under this title or titles two, seventeen, eigh-  
11 teen or twenty-five of this article; and provided further that the  
12 activities performed by members of the team shall be consistent with the  
13 scope of practice for each team member licensed or authorized under this  
14 title, and those who are not so authorized may not engage in the follow-  
15 ing restricted practices: creation, modification or termination of an  
16 ABA plan; diagnosis of mental, emotional, behavioral, addictive and  
17 developmental disorders and disabilities; patient assessment and evalu-  
18 ating; provision of psychotherapeutic treatment; provision of treatment  
19 other than psychotherapeutic treatment; and development and implementa-  
20 tion of assessment-based treatment plans, as defined in section eighty-  
21 eight hundred two of this title. Provided further, however, that nothing  
22 in this subdivision shall be construed as requiring a license or author-  
23 ization for any particular activity or function based solely on the fact  
24 that the activity or function is not listed in this subdivision.  
25 Provided further, however, that nothing in this subdivision shall  
26 authorize the delegation of restricted activities to an individual who  
27 is not appropriately licensed or authorized under this title.

1 6. Nothing in this title shall be construed as prohibiting an early  
2 intervention ABA aide, pursuant to regulations promulgated by the  
3 commissioner, and acting under the supervision and direction of a quali-  
4 fied supervisor who is licensed or otherwise authorized pursuant to this  
5 chapter from:

6 (a) assisting the supervisor and qualified personnel with the imple-  
7 mentation of individual ABA plans;

8 (b) assisting in the recording and collection of data needed to moni-  
9 tor progress;

10 (c) participating in required team meetings; and

11 (d) completing any other activities as directed by his or her supervi-  
12 sor and as necessary to assist in the implementation of individual ABA  
13 plans. Provided however, that nothing in this subdivision shall author-  
14 ize the delegation of restricted activities to an individual who is not  
15 appropriately licensed or otherwise authorized under this title;  
16 provided further however, that in regard to the early intervention  
17 program established pursuant to title two-A of article twenty-five of  
18 this chapter, an early intervention ABA aide under the supervision and  
19 direction of a qualified supervisor may complete activities necessary to  
20 assist in the implementation of an individual ABA plan, provided that  
21 such activities do not require professional skill or judgment.

22 7. This title shall not be construed to prohibit care delivered by any  
23 family member, household member or friend, or person employed primarily  
24 in a domestic capacity who does not hold himself or herself out, or  
25 accept employment, as a person licensed to practice applied behavior  
26 analysis under the provisions of this title; provided that, if such  
27 person is remunerated, the person does not hold himself or herself out  
28 as one who accepts employment for performing such care.

1 8. Nothing in this title shall be construed as prohibiting programs  
2 certified by the office of alcoholism and substance abuse services from  
3 providing substance use disorder services for persons with autism and  
4 autism spectrum disorders and related disorders.

5 § 8808. State board for applied behavior analysis. 1. A state board  
6 for applied behavior analysis shall be appointed by the commissioner and  
7 shall assist on matters of licensing and professional conduct in accord-  
8 ance with section sixty-five hundred eight of this article. An executive  
9 secretary of the board shall be appointed by the commissioner.

10 2. The board shall consist of seven individuals, to be composed of the  
11 following:

12 (a) Three licensed behavior analysts;

13 (b) One certified behavior analyst assistant;

14 (c) One licensed psychologist, who may currently prescribe treatment  
15 involving applied behavior analysis in his or her professional practice;  
16 and

17 (d) Two public representatives, as defined in paragraph b of subdivi-  
18 sion one of section sixty-five hundred eight of this article.

19 TITLE 30

20 LICENSED PATHOLOGISTS' ASSISTANTS

21 Section 8850. Definitions.

22 8851. Practice as pathologists' assistant and use of the title  
23 "pathologists' assistant".

24 8852. Requirements for licensure as a pathologists' assistant.

25 8853. Special provisions; eligibility.

26 8854. State committee for pathologists' assistants.

27 8855. Limited permits.

28 8856. Exemptions and exempt persons.

1 § 8850. Definitions. As used in this title: 1. The term "pathologists'  
2 assistant" means a person licensed to assist physicians who practice  
3 pathology by providing services within the permitted scope of practice  
4 for pathologists' assistants as defined in subdivision four of this  
5 section. All such services shall be performed under the direction and  
6 supervision of a licensed physician who practices anatomic pathology.

7 2. The term "direction and supervision" means continuous direction and  
8 supervision, but shall not be construed as necessarily requiring the  
9 physical presence of the supervising physician at the time and place  
10 where such services are performed.

11 3. The term "physician" means a practitioner of medicine licensed to  
12 practice medicine pursuant to title two of this article.

13 4. The term "scope of practice for pathologists' assistants" means the  
14 provision of the following services under the direction and supervision  
15 of a licensed physician who practices anatomic pathology: a. preparing  
16 gross tissue sections for pathology analysis, including but not limited  
17 to, cutting, staining as required, describing gross anatomic features,  
18 dissecting surgical specimens, and submitting tissues for bio-banking,  
19 histologic processing, or other analyses; b. performing human postmortem  
20 examinations, including but not limited to, selection of tissues and  
21 fluids for further examination, external examination, dissection, and  
22 gathering and recording information for autopsy reports; and c. other  
23 functions and responsibilities in furtherance of and consistent with the  
24 foregoing as determined by the department. The term does not include the  
25 authority to diagnose or provide a medical opinion. Services of a  
26 pathologists' assistant must be performed in a laboratory or other site  
27 authorized under law to perform such services.

1 5. The term "committee" means the state committee for pathologists'  
2 assistants created by this title.

3 § 8851. Practice as pathologists' assistant and use of the title  
4 "pathologists' assistant". Only persons licensed or otherwise authorized  
5 to practice as a pathologists' assistant under this title shall practice  
6 pathologist assisting or use the title "pathologists' assistant" or the  
7 term "pathologists' assistant" alone or in combination with other terms  
8 and phrases in describing their services and activities or the desig-  
9 nation "Path A".

10 § 8852. Requirements for licensure as a pathologists' assistant. To  
11 qualify for licensure as a "licensed pathologists' assistant", an appli-  
12 cant shall fulfill the following requirements:

13 1. Application: file an application with the department;

14 2. Education: receive an education, including a bachelor's or higher  
15 degree in pathologists' assistant, granted on the basis of completion of  
16 a program of pathologists' assistant registered with the department or  
17 the substantial equivalent thereof, in accordance with the commission-  
18 er's regulations;

19 3. Examination: obtain a passing score on an examination acceptable to  
20 the department;

21 4. Age: at the time of application be at least twenty-one years of  
22 age;

23 5. Character: be of good moral character as determined by the depart-  
24 ment; and

25 6. Fee: pay a fee determined by the department for an initial license  
26 and for each triennial registration period.

27 § 8853. Special provisions; eligibility. An individual who meets the  
28 requirements for a license as a licensed pathologists' assistant except

1 for examination and education and who has been performing the duties of  
2 a pathologists' assistant for two of the five years prior to the effec-  
3 tive date of this title may be licensed without meeting additional  
4 requirements, provided that such individual submits an application to  
5 the department within two years of the effective date of this title. For  
6 this purpose, the applicant's supervising physicians must attest to the  
7 applicant's experience and competence.

8 § 8854. State committee for pathologists' assistants. 1. A state  
9 committee for pathologists' assistants shall be appointed by the commis-  
10 sioner as a committee of the board of medicine to advise solely on  
11 matters relating to pathologists' assistants and shall assist on matters  
12 of licensure and professional conduct. The pathologists' assistant  
13 members of the initial committee need not be licensed prior to their  
14 appointment but shall have met all other requirements of licensing  
15 pursuant to section eighty-eight hundred fifty-two of this title except  
16 the filing of an application and paying a fee.

17 2. The committee shall consist of no fewer than five individuals, to  
18 be composed of a minimum of the following:

19 (a) one licensed physician who practices pathology;

20 (b) three licensed pathologists' assistants; and

21 (c) one public representative.

22 § 8855. Limited permits. 1. Eligibility. A person who fulfills all  
23 requirements for licensure as a pathologists' assistant except that  
24 relating to the examination shall be eligible for a limited permit.

25 2. Limit of practice. A permittee shall be authorized to practice as a  
26 pathologists' assistant only under the direction and supervision of a  
27 licensed physician who practices anatomic pathology and pursuant to the  
28 order and direction of that licensed physician.

1 3. Duration. A limited permit shall expire one year from the date of  
2 issuance. A limited permit may be extended for one additional year for  
3 good cause as determined by the department.

4 4. Fees. The fee for each limited permit shall be determined by the  
5 department.

6 § 8856. Exemptions and exempt persons. This title shall not prohibit:

7 1. The performance of any tasks or responsibilities by any student  
8 engaged in clinical training in a general hospital licensed pursuant to  
9 title twenty-eight of this chapter, provided such practice is limited to  
10 clinical training that shall be carried out under the direct supervision  
11 of a licensed physician who practices anatomic pathology; or

12 2. The performance of any tasks or responsibilities by any person  
13 licensed under this title, provided such tasks or responsibilities are  
14 permitted by the title governing the profession pursuant to which such  
15 person is licensed; or

16 3. The performance of any tasks or responsibilities by any legally  
17 qualified pathologists' assistants of any other state or territory who  
18 is serving in the armed forces or the public health service of the  
19 United States or who is employed by the veterans' administration, while  
20 engaged in the performance of his or her duties; or

21 4. The performance of any tasks and responsibilities by any individual  
22 legally carrying out the examinations and tests enumerated in subdivi-  
23 sion two of section five hundred seventy-nine of this chapter.

24 § 3. The state finance law is amended by adding a new section 98-d to  
25 read as follows:

26 § 98-d. Licensed healthcare professions account. 1. There is hereby  
27 established in the joint custody of the state comptroller and the  
28 commissioner of taxation and finance an account of the miscellaneous

1 special revenue fund to be known as the licensed healthcare professions  
2 account.

3 2. Notwithstanding any other law, rule or regulation to the contrary,  
4 the state comptroller is hereby authorized and directed to receive for  
5 deposit to the credit of the licensed healthcare professions account,  
6 payments relating to the responsibilities of the department of health  
7 pursuant to article fifty-one of the public health law, including fees  
8 for professional licenses and registration, penalties for professional  
9 misconduct, charges for test administration, verification and certif-  
10 ication of credentials, and restoration of revoked and annulled  
11 licenses, and surcharges and charges as established by statute or by the  
12 department of health's regulations pursuant to such article.

13 3. Moneys of this account, following appropriation by the legislature,  
14 shall be available to the department of health for services and expenses  
15 for regulation, oversight, and enforcement of licensed healthcare  
16 professions enumerated in article fifty-one of the public health law.

17 § 4. Subdivision (d) of section 4504 of the civil practice law and  
18 rules, as added by chapter 987 of the laws of 1971, is amended to read  
19 as follows:

20 (d) Proof of negligence; unauthorized practice of medicine. In any  
21 action for damages for personal injuries or death against a person not  
22 authorized to practice medicine under [article 131 of the education law]  
23 title 2 of article 51 of the public health law for any act or acts  
24 constituting the practice of medicine, when such act or acts were a  
25 competent producing proximate or contributing cause of such injuries or  
26 death, the fact that such person practiced medicine without being so  
27 authorized shall be deemed prima facie evidence of negligence.

1 § 5. Subdivision (a) of section 1203 of the limited liability company  
2 law, as amended by chapter 475 of the laws of 2014, is amended to read  
3 as follows:

4 (a) Notwithstanding the education law or any other provision of law,  
5 one or more professionals each of whom is authorized by law to render a  
6 professional service within the state, or one or more professionals, at  
7 least one of whom is authorized by law to render a professional service  
8 within the state, may form, or cause to be formed, a professional  
9 service limited liability company for pecuniary profit under this arti-  
10 cle for the purpose of rendering the professional service or services as  
11 such professionals are authorized to practice. With respect to a profes-  
12 sional service limited liability company formed to provide medical  
13 services as such services are defined in [article 131 of the education  
14 law] title 2 of article 51 of the public health law, each member of such  
15 limited liability company must be licensed pursuant to [article 131 of  
16 the education law] title 2 of article 51 of the public health law to  
17 practice medicine in this state. With respect to a professional service  
18 limited liability company formed to provide dental services as such  
19 services are defined in [article 133 of the education law] title 7 of  
20 article 51 of the public health law, each member of such limited liabil-  
21 ity company must be licensed pursuant to [article 133 of the education  
22 law] title 7 of article 51 of the public health law to practice dentis-  
23 try in this state. With respect to a professional service limited  
24 liability company formed to provide veterinary services as such services  
25 are defined in article 135 of the education law, each member of such  
26 limited liability company must be licensed pursuant to article 135 of  
27 the education law to practice veterinary medicine in this state. With  
28 respect to a professional service limited liability company formed to

1 provide professional engineering, land surveying, architectural, land-  
2 scape architectural and/or geological services as such services are  
3 defined in article 145, article 147 and article 148 of the education  
4 law, each member of such limited liability company must be licensed  
5 pursuant to article 145, article 147 and/or article 148 of the education  
6 law to practice one or more of such professions in this state. With  
7 respect to a professional service limited liability company formed to  
8 provide licensed clinical social work services as such services are  
9 defined in [article 154 of the education law] title 18 of article 51 of  
10 the public health law, each member of such limited liability company  
11 shall be licensed pursuant to [article 154 of the education law] title  
12 18 of article 51 of the public health law to practice licensed clinical  
13 social work in this state. With respect to a professional service limit-  
14 ed liability company formed to provide creative arts therapy services as  
15 such services are defined in [article 163 of the education law] title 25  
16 of article 51 of the public health law, each member of such limited  
17 liability company must be licensed pursuant to [article 163 of the  
18 education law] title 25 of article 51 of the public health law to prac-  
19 tice creative arts therapy in this state. With respect to a professional  
20 service limited liability company formed to provide marriage and family  
21 therapy services as such services are defined in [article 163 of the  
22 education law] title 25 of article 51 of the public health law, each  
23 member of such limited liability company must be licensed pursuant to  
24 [article 163 of the education law] title 25 of article 51 of the public  
25 health law to practice marriage and family therapy in this state. With  
26 respect to a professional service limited liability company formed to  
27 provide mental health counseling services as such services are defined  
28 in [article 163 of the education law] title 25 of article 51 of the

1 public health law, each member of such limited liability company must be  
2 licensed pursuant to [article 163 of the education law] title 25 of  
3 article 51 of the public health law to practice mental health counseling  
4 in this state. With respect to a professional service limited liability  
5 company formed to provide psychoanalysis services as such services are  
6 defined in [article 163 of the education law] title 25 of article 51 of  
7 the public health law, each member of such limited liability company  
8 must be licensed pursuant to [article 163 of the education law] title 25  
9 of article 51 of the public health law to practice psychoanalysis in  
10 this state. With respect to a professional service limited liability  
11 company formed to provide applied behavior analysis services as such  
12 services are defined in [article 167 of the education law] title 29 of  
13 article 51 of the public health law, each member of such limited liabil-  
14 ity company must be licensed or certified pursuant to [article 167 of  
15 the education law] title 29 of article 51 of the public health law to  
16 practice applied behavior analysis in this state. In addition to engag-  
17 ing in such profession or professions, a professional service limited  
18 liability company may engage in any other business or activities as to  
19 which a limited liability company may be formed under section two  
20 hundred one of this chapter. Notwithstanding any other provision of  
21 this section, a professional service limited liability company (i)  
22 authorized to practice law may only engage in another profession or  
23 business or activities or (ii) which is engaged in a profession or other  
24 business or activities other than law may only engage in the practice of  
25 law, to the extent not prohibited by any other law of this state or any  
26 rule adopted by the appropriate appellate division of the supreme court  
27 or the court of appeals.

1 § 6. Subdivision (b) of section 1207 of the limited liability company  
2 law, as amended by chapter 475 of the laws of 2014, is amended to read  
3 as follows:

4 (b) With respect to a professional service limited liability company  
5 formed to provide medical services as such services are defined in  
6 [article 131 of the education law] title 2 of article 51 of the public  
7 health law, each member of such limited liability company must be  
8 licensed pursuant to [article 131 of the education law] title 2 of arti-  
9 cle 51 of the public health law to practice medicine in this state. With  
10 respect to a professional service limited liability company formed to  
11 provide dental services as such services are defined in [article 133 of  
12 the education law] title 7 of article 51 of the public health law, each  
13 member of such limited liability company must be licensed pursuant to  
14 [article 133 of the education law] title 7 of article 51 of the public  
15 health law to practice dentistry in this state. With respect to a  
16 professional service limited liability company formed to provide veteri-  
17 nary services as such services are defined in article 135 of the educa-  
18 tion law, each member of such limited liability company must be licensed  
19 pursuant to article 135 of the education law to practice veterinary  
20 medicine in this state. With respect to a professional service limited  
21 liability company formed to provide professional engineering, land  
22 surveying, architectural, landscape architectural and/or geological  
23 services as such services are defined in article 145, article 147 and  
24 article 148 of the education law, each member of such limited liability  
25 company must be licensed pursuant to article 145, article 147 and/or  
26 article 148 of the education law to practice one or more of such  
27 professions in this state. With respect to a professional service limit-  
28 ed liability company formed to provide licensed clinical social work

1 services as such services are defined in [article 154 of the education  
2 law] title 18 of article 51 of the public health law, each member of  
3 such limited liability company shall be licensed pursuant to [article  
4 154 of the education law] title 18 of article 51 of the public health  
5 law to practice licensed clinical social work in this state. With  
6 respect to a professional service limited liability company formed to  
7 provide creative arts therapy services as such services are defined in  
8 [article 163 of the education law] title 25 of article 51 of the public  
9 health law, each member of such limited liability company must be  
10 licensed pursuant to [article 163 of the education law] title 25 of  
11 article 51 of the public health law to practice creative arts therapy in  
12 this state. With respect to a professional service limited liability  
13 company formed to provide marriage and family therapy services as such  
14 services are defined in [article 163 of the education law] title 25 of  
15 article 51 of the public health law, each member of such limited liabil-  
16 ity company must be licensed pursuant to [article 163 of the education  
17 law] title 25 of article 51 of the public health law to practice  
18 marriage and family therapy in this state. With respect to a profes-  
19 sional service limited liability company formed to provide mental health  
20 counseling services as such services are defined in [article 163 of the  
21 education law] title 25 of article 51 of the public health law, each  
22 member of such limited liability company must be licensed pursuant to  
23 [article 163 of the education law] title 25 of article 51 of the public  
24 health law to practice mental health counseling in this state. With  
25 respect to a professional service limited liability company formed to  
26 provide psychoanalysis services as such services are defined in [article  
27 163 of the education law] title 25 of article 51 of the public health  
28 law, each member of such limited liability company must be licensed

1 pursuant to [article 163 of the education law] title 25 of article 51 of  
2 the public health law to practice psychoanalysis in this state. With  
3 respect to a professional service limited liability company formed to  
4 provide applied behavior analysis services as such services are defined  
5 in [article 167 of the education law] title 29 of article 51 of the  
6 public health law, each member of such limited liability company must be  
7 licensed or certified pursuant to [article 167 of the education law]  
8 title 29 of article 51 of the public health law to practice applied  
9 behavior analysis in this state.

10 § 7. Subdivisions (a), (b), (c) and (f) of section 1301 of the limited  
11 liability company law, subdivisions (a) and (f) as amended by chapter  
12 475 of the laws of 2014, are amended to read as follows:

13 (a) "Foreign professional service limited liability company" means a  
14 professional service limited liability company, whether or not denomi-  
15 nated as such, organized under the laws of a jurisdiction other than  
16 this state, (i) each of whose members and managers, if any, is a profes-  
17 sional authorized by law to render a professional service within this  
18 state and who is or has been engaged in the practice of such profession  
19 in such professional service limited liability company or a predecessor  
20 entity, or will engage in the practice of such profession in the profes-  
21 sional service limited liability company within thirty days of the date  
22 such professional becomes a member, or each of whose members and manag-  
23 ers, if any, is a professional at least one of such members is author-  
24 ized by law to render a professional service within this state and who  
25 is or has been engaged in the practice of such profession in such  
26 professional service limited liability company or a predecessor entity,  
27 or will engage in the practice of such profession in the professional  
28 service limited liability company within thirty days of the date such

1 professional becomes a member, or (ii) authorized by, or holding a  
2 license, certificate, registration or permit issued by the licensing  
3 authority pursuant to, the education law to render a professional  
4 service within this state; except that all members and managers, if any,  
5 of a foreign professional service limited liability company that  
6 provides health services in this state shall be licensed in this state.  
7 With respect to a foreign professional service limited liability company  
8 which provides veterinary services as such services are defined in arti-  
9 cle 135 of the education law, each member of such foreign professional  
10 service limited liability company shall be licensed pursuant to article  
11 135 of the education law to practice veterinary medicine. With respect  
12 to a foreign professional service limited liability company which  
13 provides medical services as such services are defined in [article 131  
14 of the education law] title 2 of article 51 of the public health law,  
15 each member of such foreign professional service limited liability  
16 company must be licensed pursuant to [article 131 of the education law]  
17 title 2 of article 51 of the public health law to practice medicine in  
18 this state. With respect to a foreign professional service limited  
19 liability company which provides dental services as such services are  
20 defined in [article 133 of the education law] title 7 of article 51 of  
21 the public health law, each member of such foreign professional service  
22 limited liability company must be licensed pursuant to [article 133 of  
23 the education law] title 7 of article 51 of the public health law to  
24 practice dentistry in this state. With respect to a foreign professional  
25 service limited liability company which provides professional engineer-  
26 ing, land surveying, geologic, architectural and/or landscape architec-  
27 tural services as such services are defined in article 145, article 147  
28 and article 148 of the education law, each member of such foreign

1 professional service limited liability company must be licensed pursuant  
2 to article 145, article 147 and/or article 148 of the education law to  
3 practice one or more of such professions in this state. With respect to  
4 a foreign professional service limited liability company which provides  
5 licensed clinical social work services as such services are defined in  
6 [article 154 of the education law] title 18 of article 51 of the public  
7 health law, each member of such foreign professional service limited  
8 liability company shall be licensed pursuant to [article 154 of the  
9 education law] title 18 of article 51 of the public health law to prac-  
10 tice clinical social work in this state. With respect to a foreign  
11 professional service limited liability company which provides creative  
12 arts therapy services as such services are defined in [article 163 of  
13 the education law] title 25 of article 51 of the public health law, each  
14 member of such foreign professional service limited liability company  
15 must be licensed pursuant to [article 163 of the education law] title 25  
16 of article 51 of the public health law to practice creative arts therapy  
17 in this state. With respect to a foreign professional service limited  
18 liability company which provides marriage and family therapy services as  
19 such services are defined in [article 163 of the education law] title 25  
20 of article 51 of the public health law, each member of such foreign  
21 professional service limited liability company must be licensed pursuant  
22 to [article 163 of the education law] title 25 of article 51 of the  
23 public health law to practice marriage and family therapy in this state.  
24 With respect to a foreign professional service limited liability company  
25 which provides mental health counseling services as such services are  
26 defined in [article 163 of the education law] title 25 of article 51 of  
27 the public health law, each member of such foreign professional service  
28 limited liability company must be licensed pursuant to [article 163 of

1 the education law] title 25 of article 51 of the public health law to  
2 practice mental health counseling in this state. With respect to a  
3 foreign professional service limited liability company which provides  
4 psychoanalysis services as such services are defined in [article 163 of  
5 the education law] title 25 of article 51 of the public health law, each  
6 member of such foreign professional service limited liability company  
7 must be licensed pursuant to [article 163 of the education law] title 25  
8 of article 51 of the public health law to practice psychoanalysis in  
9 this state. With respect to a foreign professional service limited  
10 liability company which provides applied behavior analysis services as  
11 such services are defined in [article 167 of the education law] title 29  
12 of article 51 of the public health law, each member of such foreign  
13 professional service limited liability company must be licensed or  
14 certified pursuant to [article 167 of the education law] title 29 of  
15 article 51 of the public health law to practice applied behavior analy-  
16 sis in this state.

17 (b) "Licensing authority" means the regents of the university of the  
18 state of New York or the state education department, as the case may be,  
19 in the case of all professions licensed under title eight of the educa-  
20 tion law, the department of health in the case of all professions  
21 licensed under article fifty-one of the public health law, and the  
22 appropriate appellate division of the supreme court in the case of the  
23 profession of law.

24 (c) "Profession" includes any practice as an attorney and counselor-  
25 at-law, or as a licensed physician, and those professions designated in  
26 title eight of the education law or article fifty-one of the public  
27 health law.

1 (f) "Professional partnership" means (1) a partnership without limited  
2 partners each of whose partners is a professional authorized by law to  
3 render a professional service within this state, (2) a partnership with-  
4 out limited partners each of whose partners is a professional, at least  
5 one of whom is authorized by law to render a professional service within  
6 this state or (3) a partnership without limited partners authorized by,  
7 or holding a license, certificate, registration or permit issued by the  
8 licensing authority pursuant to the education law to render a profes-  
9 sional service within this state; except that all partners of a profes-  
10 sional partnership that provides medical services in this state must be  
11 licensed pursuant to [article 131 of the education law] title 2 of arti-  
12 cle 51 of the public health law to practice medicine in this state and  
13 all partners of a professional partnership that provides dental services  
14 in this state must be licensed pursuant to [article 133 of the education  
15 law] title 7 of article 51 of the public health law to practice dentis-  
16 try in this state; except that all partners of a professional partner-  
17 ship that provides veterinary services in this state must be licensed  
18 pursuant to article 135 of the education law to practice veterinary  
19 medicine in this state; and further except that all partners of a  
20 professional partnership that provides professional engineering, land  
21 surveying, geologic, architectural, and/or landscape architectural  
22 services in this state must be licensed pursuant to article 145, article  
23 147 and/or article 148 of the education law to practice one or more of  
24 such professions.

25 § 8. The tenth, twelfth, fourteenth, and sixteenth undesignated para-  
26 graphs of section 2 of the partnership law, the tenth, twelfth, and  
27 sixteenth undesignated paragraphs as added by chapter 576 of the laws of

1 1994, and the fourteenth undesignated paragraph as amended by chapter  
2 475 of the laws of 2014, are amended to read as follows:

3 "Licensing authority" means the regents of the university of the state  
4 of New York or the state education department, as the case may be, in  
5 the case of all professions licensed under title eight of the education  
6 law, the department of health in the case of all professions licensed  
7 under article fifty-one of the public health law and the appropriate  
8 appellate division of the supreme court in the case of the profession of  
9 law.

10 "Profession" includes any practice as an attorney and counsellor-at-  
11 law or as a licensed physician, and those professions designated in  
12 title eight of the education law or article fifty-one of the public  
13 health law.

14 "Professional partnership" means (1) a partnership without limited  
15 partners each of whose partners is a professional authorized by law to  
16 render a professional service within this state, (2) a partnership with-  
17 out limited partners each of whose partners is a professional, at least  
18 one of whom is authorized by law to render a professional service within  
19 this state or (3) a partnership without limited partners authorized by,  
20 or holding a license, certificate, registration or permit issued by the  
21 licensing authority pursuant to the education law to render a profes-  
22 sional service within this state; except that all partners of a profes-  
23 sional partnership that provides medical services in this state must be  
24 licensed pursuant to [article 131 of the education law] title 2 of arti-  
25 cle 51 of the public health law to practice medicine in this state and  
26 all partners of a professional partnership that provides dental services  
27 in this state must be licensed pursuant to [article 133 of the education  
28 law] title 7 of article 51 of the public health law to practice dentis-

1 try in this state; and further except that all partners of a profes-  
2 sional partnership that provides professional engineering, land survey-  
3 ing, geologic, architectural and/or landscape architectural services in  
4 this state must be licensed pursuant to article 145, article 147 and/or  
5 article 148 of the education law to practice one or more of such  
6 professions in this state.

7 "Professional service corporation" means (i) a corporation organized  
8 under article fifteen of the business corporation law and (ii) any other  
9 corporation organized under the business corporation law or any prede-  
10 cessor statute, which is authorized by, or holds a license, certificate,  
11 registration or permit issued by, the licensing authority pursuant to  
12 the education law or the public health law to render professional  
13 services within this state.

14 § 9. Subdivision (q) of section 121-1500 of the partnership law, as  
15 amended by chapter 475 of the laws of 2014, is amended to read as  
16 follows:

17 (q) Each partner of a registered limited liability partnership formed  
18 to provide medical services in this state must be licensed pursuant to  
19 [article 131 of the education law] title 2 of article 51 of the public  
20 health law to practice medicine in this state and each partner of a  
21 registered limited liability partnership formed to provide dental  
22 services in this state must be licensed pursuant to [article 133 of the  
23 education law] title 7 of article 51 of the public health law to prac-  
24 tice dentistry in this state. Each partner of a registered limited  
25 liability partnership formed to provide veterinary services in this  
26 state must be licensed pursuant to article 135 of the education law to  
27 practice veterinary medicine in this state. Each partner of a registered  
28 limited liability partnership formed to provide professional engineer-

1 ing, land surveying, geological services, architectural and/or landscape  
2 architectural services in this state must be licensed pursuant to arti-  
3 cle 145, article 147 and/or article 148 of the education law to practice  
4 one or more of such professions in this state. Each partner of a regis-  
5 tered limited liability partnership formed to provide licensed clinical  
6 social work services in this state must be licensed pursuant to [article  
7 154 of the education law] title 18 of article 51 of the public health  
8 law to practice clinical social work in this state. Each partner of a  
9 registered limited liability partnership formed to provide creative arts  
10 therapy services in this state must be licensed pursuant to [article 163  
11 of the education law] title 25 of article 51 of the public health law to  
12 practice creative arts therapy in this state. Each partner of a regis-  
13 tered limited liability partnership formed to provide marriage and fami-  
14 ly therapy services in this state must be licensed pursuant to [article  
15 163 of the education law] title 25 of article 51 of the public health  
16 law to practice marriage and family therapy in this state. Each partner  
17 of a registered limited liability partnership formed to provide mental  
18 health counseling services in this state must be licensed pursuant to  
19 [article 163 of the education law] title 25 of article 51 of the public  
20 health law to practice mental health counseling in this state. Each  
21 partner of a registered limited liability partnership formed to provide  
22 psychoanalysis services in this state must be licensed pursuant to  
23 [article 163 of the education law] title 25 of article 51 of the public  
24 health law to practice psychoanalysis in this state. Each partner of a  
25 registered limited liability partnership formed to provide applied  
26 behavior analysis service in this state must be licensed or certified  
27 pursuant to [article 167 of the education law] title 29 of article 51 of

1 the public health law to practice applied behavior analysis in this  
2 state.

3 § 10. Subdivision (q) of section 121-1502 of the partnership law, as  
4 amended by chapter 475 of the laws of 2014, is amended to read as  
5 follows:

6 (q) Each partner of a foreign limited liability partnership which  
7 provides medical services in this state must be licensed pursuant to  
8 [article 131 of the education law] title 2 of article 51 of the public  
9 health law to practice medicine in the state and each partner of a  
10 foreign limited liability partnership which provides dental services in  
11 the state must be licensed pursuant to [article 133 of the education  
12 law] title 7 of article 51 of the public health law to practice dentis-  
13 try in this state. Each partner of a foreign limited liability partner-  
14 ship which provides veterinary service in the state shall be licensed  
15 pursuant to article 135 of the education law to practice veterinary  
16 medicine in this state. Each partner of a foreign limited liability  
17 partnership which provides professional engineering, land surveying,  
18 geological services, architectural and/or landscape architectural  
19 services in this state must be licensed pursuant to article 145, article  
20 147 and/or article 148 of the education law to practice one or more of  
21 such professions. Each partner of a foreign limited liability partner-  
22 ship which provides licensed clinical social work services in this state  
23 must be licensed pursuant to [article 154 of the education law] title 18  
24 of article 51 of the public health law to practice licensed clinical  
25 social work in this state. Each partner of a foreign limited liability  
26 partnership which provides creative arts therapy services in this state  
27 must be licensed pursuant to [article 163 of the education law] title 25  
28 of article 51 of the public health law to practice creative arts therapy

1 in this state. Each partner of a foreign limited liability partnership  
2 which provides marriage and family therapy services in this state must  
3 be licensed pursuant to [article 163 of the education law] title 25 of  
4 article 51 of the public health law to practice marriage and family  
5 therapy in this state. Each partner of a foreign limited liability part-  
6 nership which provides mental health counseling services in this state  
7 must be licensed pursuant to [article 163 of the education law] title 25  
8 of article 51 of the public health law to practice mental health coun-  
9 seling in this state. Each partner of a foreign limited liability part-  
10 nership which provides psychoanalysis services in this state must be  
11 licensed pursuant to [article 163 of the education law] title 25 of  
12 article 51 of the public health law to practice psychoanalysis in this  
13 state. Each partner of a foreign limited liability partnership which  
14 provides applied behavior analysis services in this state must be  
15 licensed or certified pursuant to [article 167 of the education law]  
16 title 29 of article 51 of the public health law to practice applied  
17 behavior analysis in this state.

18 § 11. Section 24-a of the corrections law, as amended by chapter 322  
19 of the laws of 2021, is amended to read as follows:

20 § 24-a. Actions against persons rendering health care services at the  
21 request of the department; defense and indemnification. The provisions  
22 of section seventeen of the public officers law shall apply to any  
23 person holding a license to practice a profession pursuant to [article  
24 one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-  
25 two, one hundred thirty-three, one hundred thirty-six, one hundred thir-  
26 ty-seven, one hundred thirty-nine, one hundred forty-one, one hundred  
27 forty-three, one hundred fifty-six or one hundred fifty-nine of the  
28 education law] titles two, four, six, seven, nine, ten, twelve, four-

1 teen, fifteen, twenty, and twenty-two of article fifty-one of the public  
2 health law, who is rendering or has rendered professional services  
3 authorized under such license while acting at the request of the depart-  
4 ment or a facility of the department in providing health care and treat-  
5 ment or professional consultation to incarcerated individuals of state  
6 correctional facilities, or to the infant children of incarcerated indi-  
7 viduals while such infants are cared for in facility nurseries pursuant  
8 to section six hundred eleven of this chapter, without regard to whether  
9 such health care and treatment or professional consultation is provided  
10 within or without a correctional facility.

11 § 12. Section 910 of the education law, as amended by chapter 477 of  
12 the laws of 2004, is amended to read as follows:

13 § 910. Choice of method of treatment. Whenever affected by the  
14 requirements of this article, the school employee so affected, and, in  
15 the case of a child, the parent of, or person in parental relation to,  
16 such child, shall have the right to determine the form or manner of  
17 treatment or remedial care to be prescribed or applied, but the treat-  
18 ment or remedial care must be in accordance with and as allowed under  
19 the provisions of [article one hundred thirty-one of this chapter] title  
20 two of article fifty-one of the public health law.

21 § 13. Section 522 of the executive law, as added by chapter 552 of the  
22 laws of 1993, is amended to read as follows:

23 § 522. Actions against persons rendering health care services at the  
24 request of the division; defense and indemnification. The provisions of  
25 section seventeen of the public officers law shall apply to any person  
26 holding a license to practice a profession pursuant to [article one  
27 hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two,  
28 one hundred thirty-three, one hundred thirty-six, one hundred thirty-

1 seven, one hundred thirty-nine, one hundred forty-one, one hundred  
2 forty-three, one hundred fifty-six or one hundred fifty-nine of the  
3 education law] titles two, four, six, seven, nine, ten, twelve, four-  
4 teen, fifteen, twenty, and twenty-two of article fifty-one of the public  
5 health law, who is rendering or has rendered professional services  
6 authorized under such license while acting at the request of the divi-  
7 sion or a facility of the division in providing health care and treat-  
8 ment or professional consultation to residents of division facilities,  
9 or to infants of residents while such infants are cared for in division  
10 facilities pursuant to section five hundred sixteen of this [article]  
11 subtitle, without regard to whether such health care and treatment or  
12 professional consultation is provided within or without a division  
13 facility.

14 § 14. Paragraph 4 of subdivision (a) of section 33.16 of the mental  
15 hygiene law, as amended by chapter 226 of the laws of 1991, is amended  
16 to read as follows:

17 4. "Mental health practitioner" or "practitioner" means a person  
18 employed by or rendering a service at a facility maintaining the clin-  
19 ical record licensed under [article one hundred thirty-one of the educa-  
20 tion law] title two of article fifty-one of the public health law who  
21 practices psychiatry or a person licensed under [article one hundred  
22 thirty-nine, one hundred fifty-three or one hundred fifty-four of the  
23 education law] titles twelve, seventeen, or eighteen of article fifty-  
24 one of the public health law or any other person not prohibited by law  
25 from providing mental health or developmental disabilities services.

26 § 15. Section 14 of the public health law, as amended by chapter 2 of  
27 the laws of 1998, is amended to read as follows:

1 § 14. Actions against persons rendering professional services at the  
2 request of the department; defense and indemnification. The provisions  
3 of section seventeen of the public officers law shall apply to any  
4 physician, dentist, nurse or other health care professional who: (i) is  
5 licensed to practice pursuant to [article one hundred thirty-one, one  
6 hundred thirty-one-B, one hundred thirty-three, one hundred thirty-six,  
7 one hundred thirty-seven, one hundred thirty-nine, one hundred forty-  
8 three, one hundred fifty-six, one hundred fifty-seven, one hundred  
9 fifty-nine or one hundred sixty-four of the education law] titles two,  
10 four, six, seven, nine, ten, twelve, fifteen, twenty, twenty-one, twen-  
11 ty-two and twenty-six of article fifty-one of this chapter and who is  
12 rendering professional treatment or consultation in connection with  
13 professional treatment authorized under such license at the request of  
14 the department, or at a departmental facility, including clinical prac-  
15 tice provided pursuant to a clinical practice plan established pursuant  
16 to subdivision fourteen of section two hundred six of this chapter, to  
17 patients receiving care or professional consultation from the department  
18 while rendering such professional treatment or consultation; (ii) is  
19 rendering consultation in connection with an audit or prepayment review  
20 of claims or treatment requests under the medical assistance program; or  
21 (iii) assists the department as consultants or expert witnesses in the  
22 investigation or prosecution of alleged violations of article twenty-  
23 eight, thirty-six, forty-four or forty-seven of this chapter or rules  
24 and regulations adopted pursuant thereto.

25 § 16. Paragraph (d) of subdivision 1 of section 18 of the public  
26 health law, as added by chapter 497 of the laws of 1986, is amended to  
27 read as follows:

1 (d) "Health care practitioner" or "practitioner" means a person  
2 licensed under [article one hundred thirty-one, one hundred  
3 thirty-one-B, one hundred thirty-two, one hundred thirty-three, one  
4 hundred thirty-six, one hundred thirty-nine, one hundred forty-one, one  
5 hundred forty-three, one hundred forty-four, one hundred fifty-three,  
6 one hundred fifty-four, one hundred fifty-six or one hundred fifty-nine  
7 of the education law] titles two, four, six, seven, nine, twelve, four-  
8 teen, fifteen, sixteen, seventeen, eighteen, twenty, and twenty-two of  
9 article fifty-one of this chapter or a person certified under former  
10 section twenty-five hundred sixty of this chapter.

11 § 17. The opening paragraph of subdivision 1 of section 19 of the  
12 public health law, as added by chapter 572 of the laws of 1990, is  
13 amended to read as follows:

14 No physician licensed under [article one hundred thirty-one of the  
15 education law] title two of article fifty-one of this chapter shall  
16 charge from a beneficiary of health insurance under title XVIII of the  
17 federal social security act (medicare) any amount in excess of the  
18 following limitations:

19 § 18. Subdivisions 1 and 9-b, clause 2 of subparagraph (ii) of para-  
20 graph (h) and paragraph (p) of subdivision 10, paragraph (a) of subdivi-  
21 sion 11, paragraphs (a) and (b) of subdivision 13, and paragraph (c) of  
22 subdivision 17 of section 230 of the public health law, subdivision 1 as  
23 amended by chapter 537 of the laws of 1998, subdivision 9-b as amended  
24 by chapter 11 of the laws of 2015, clause 2 of subparagraph (ii) of  
25 paragraph (h) of subdivision 10 as amended by chapter 477 of the laws of  
26 2008, paragraph (p) of subdivision 10 as amended by chapter 599 of the  
27 laws of 1996, paragraph (a) of subdivision 11 as amended by chapter 627  
28 of the laws of 1996, paragraphs (a) and (b) of subdivision 13 as added

1 by and paragraph (c) of subdivision 17 as amended by chapter 606 of the  
2 laws of 1991, are amended to read as follows:

3 1. A state board for professional medical conduct is hereby created in  
4 the department in matters of professional misconduct as defined in  
5 sections sixty-five hundred thirty and sixty-five hundred thirty-one of  
6 [the education law] this chapter. Its physician members shall be  
7 appointed by the commissioner at least eighty-five percent of whom shall  
8 be from among nominations submitted by the medical society of the state  
9 of New York, the New York state osteopathic society, the New York acade-  
10 my of medicine, county medical societies, statewide specialty societies  
11 recognized by the council of medical specialty societies, and the hospi-  
12 tal association of New York state. Its lay members shall be appointed by  
13 the commissioner with the approval of the governor. The board of regents  
14 shall also appoint twenty percent of the members of the board. Not less  
15 than sixty-seven percent of the members appointed by the board of  
16 regents shall be physicians. Not less than eighty-five percent of the  
17 physician members appointed by the board of regents shall be from among  
18 nominations submitted by the medical society of the state of New York,  
19 the New York state osteopathic society, the New York academy of medi-  
20 cine, county medical societies, statewide medical societies recognized  
21 by the council of medical specialty societies, and the hospital associ-  
22 ation of New York state. Any failure to meet the percentage thresholds  
23 stated in this subdivision shall not be grounds for invalidating any  
24 action by or on authority of the board for professional medical conduct  
25 or a committee or a member thereof. The board for professional medical  
26 conduct shall consist of not fewer than eighteen physicians licensed in  
27 the state for at least five years, two of whom shall be doctors of  
28 osteopathy, not fewer than two of whom shall be physicians who dedicate

1 a significant portion of their practice to the use of non-conventional  
2 medical treatments who may be nominated by New York state medical asso-  
3 ciations dedicated to the advancement of such treatments, at least one  
4 of whom shall have expertise in palliative care, and not fewer than  
5 seven lay members. An executive secretary shall be appointed by the  
6 chairperson and shall be a licensed physician. Such executive secretary  
7 shall not be a member of the board, shall hold office at the pleasure  
8 of, and shall have the powers and duties assigned and the annual salary  
9 fixed by, the chairperson. The chairperson shall also assign such secre-  
10 taries or other persons to the board as are necessary.

11 9-b. Neither the board for professional medical conduct nor the office  
12 of professional medical conduct shall charge a licensee with misconduct  
13 as defined in sections sixty-five hundred thirty and sixty-five hundred  
14 thirty-one of [the education law] this chapter, or cause a report made  
15 to the director of such office to be investigated beyond a preliminary  
16 review as set forth in clause (A) of subparagraph (i) of paragraph (a)  
17 of subdivision ten of this section, where such report is determined to  
18 be based solely upon the recommendation or provision of a treatment  
19 modality to a particular patient by such licensee that is not  
20 universally accepted by the medical profession, including but not limit-  
21 ed to, varying modalities used in the treatment of Lyme disease and  
22 other tick-borne diseases. When a licensee, acting in accordance with  
23 paragraph e of subdivision four of section sixty-five hundred twenty-  
24 seven of [the education law] this chapter, recommends or provides a  
25 treatment modality that effectively treats human disease, pain, injury,  
26 deformity or physical condition for which the licensee is treating a  
27 patient, the recommendation or provision of that modality to a partic-  
28 ular patient shall not, by itself, constitute professional misconduct.

1 The licensee shall otherwise abide by all other applicable professional  
2 requirements.

3 (2) make arrangements for the transfer and maintenance of the medical  
4 records of his or her former patients. Records shall be either trans-  
5 ferred to the licensee's former patients consistent with the provisions  
6 of sections seventeen and eighteen of this chapter or to another physi-  
7 cian or health care practitioner as provided in clause (1) of this  
8 subparagraph who shall expressly assume responsibility for their care  
9 and maintenance and for providing access to such records, as provided in  
10 subdivisions twenty-two and thirty-two of section sixty-five hundred  
11 thirty of [the education law] this chapter, the rules of the [board of  
12 regents] department or the regulations of the commissioner of [educa-  
13 tion] health and sections seventeen and eighteen of this chapter. When  
14 records are not transferred to the licensee's former patients or to  
15 another physician or health care practitioner, the licensee whose  
16 license has been revoked, annulled, surrendered, suspended or restricted  
17 shall remain responsible for the care and maintenance of the medical  
18 records of his or her former patients and shall be subject to additional  
19 proceedings pursuant to subdivisions twenty-two, thirty-two and forty of  
20 section sixty-five hundred thirty of [the education law] this chapter in  
21 the event that the licensee fails to maintain those medical records or  
22 fails to make them available to a former patient.

23 (p) Convictions of crimes or administrative violations. In cases of  
24 professional misconduct based solely upon a violation of subdivision  
25 nine of section sixty-five hundred thirty of [the education law] this  
26 chapter, the director may direct that charges be prepared and served and  
27 may refer the matter to a committee on professional conduct for its  
28 review and report of findings, conclusions as to guilt, and determi-

1 nation. In such cases, the notice of hearing shall state that the licen-  
2 see shall file a written answer to each of the charges and allegations  
3 in the statement of charges no later than ten days prior to the hearing,  
4 and that any charge or allegation not so answered shall be deemed admit-  
5 ted, that the licensee may wish to seek the advice of counsel prior to  
6 filing such answer that the licensee may file a brief and affidavits  
7 with the committee on professional conduct, that the licensee may appear  
8 personally before the committee on professional conduct, may be repres-  
9 ented by counsel and may present evidence or sworn testimony in his or  
10 her behalf, and the notice may contain such other information as may be  
11 considered appropriate by the director. The department may also present  
12 evidence or sworn testimony and file a brief at the hearing. A steno-  
13 graphic record of the hearing shall be made. Such evidence or sworn  
14 testimony offered to the committee on professional conduct shall be  
15 strictly limited to evidence and testimony relating to the nature and  
16 severity of the penalty to be imposed upon the licensee. Where the  
17 charges are based on the conviction of state law crimes in other juris-  
18 dictions, evidence may be offered to the committee which would show that  
19 the conviction would not be a crime in New York state. The committee on  
20 professional conduct may reasonably limit the number of witnesses whose  
21 testimony will be received and the length of time any witness will be  
22 permitted to testify. The determination of the committee shall be served  
23 upon the licensee and the department in accordance with the provisions  
24 of paragraph (h) of this subdivision. A determination pursuant to this  
25 subdivision may be reviewed by the administrative review board for  
26 professional medical conduct.

27 (a) The medical society of the state of New York, the New York state  
28 osteopathic society or any district osteopathic society, any statewide

1 medical specialty society or organization, and every county medical  
2 society, every person licensed pursuant to [articles one hundred thir-  
3 ty-one, one hundred thirty-one-B, one hundred thirty-three, one hundred  
4 thirty-seven and one hundred thirty-nine of the education law] titles  
5 two, four, seven, ten, and twelve of article fifty-one of this chapter,  
6 and the chief executive officer, the chief of the medical staff and the  
7 chairperson of each department of every institution which is established  
8 pursuant to article twenty-eight of this chapter and a comprehensive  
9 health services plan pursuant to article forty-four of this chapter or  
10 article forty-three of the insurance law, shall, and any other person  
11 may, report to the board any information which such person, medical  
12 society, organization institution or plan has which reasonably appears  
13 to show that a licensee is guilty of professional misconduct as defined  
14 in sections sixty-five hundred thirty and sixty-five hundred thirty-one  
15 of [the education law] this chapter. Such reports shall remain confiden-  
16 tial and shall not be admitted into evidence in any administrative or  
17 judicial proceeding except that the board, its staff, or the members of  
18 its committees may begin investigations on the basis of such reports and  
19 may use them to develop further information.

20 (a) Temporary surrender. The license and registration of a licensee  
21 who may be temporarily incapacitated for the active practice of medicine  
22 and whose alleged incapacity has not resulted in harm to a patient may  
23 be voluntarily surrendered to the board for professional medical  
24 conduct, which may accept and hold such license during the period of  
25 such alleged incapacity or the board for professional medical conduct  
26 may accept the surrender of such license after agreement to conditions  
27 to be met prior to the restoration of the license. The board shall give  
28 prompt written notification of such surrender to the division of profes-

1 sional licensing services of the state education department, and to each  
2 hospital at which the licensee has privileges. The licensee whose  
3 license is so surrendered shall notify all patients and all persons who  
4 request medical services that the licensee has temporarily withdrawn  
5 from the practice of medicine. The licensure status of each such licen-  
6 see shall be "inactive" and the licensee shall not be authorized to  
7 practice medicine. The temporary surrender shall not be deemed to be an  
8 admission of disability or of professional misconduct, and shall not be  
9 used as evidence of a violation of subdivision seven or eight of section  
10 sixty-five hundred thirty of [the education law] this chapter unless the  
11 licensee practices while the license is "inactive". Any such practice  
12 shall constitute a violation of subdivision twelve of section sixty-five  
13 hundred thirty of [the education law] this chapter. The surrender of a  
14 license under this subdivision shall not bar any disciplinary action  
15 except action based solely upon the provisions of subdivision seven or  
16 eight of section sixty-five hundred thirty of [the education law] this  
17 chapter and where no harm to a patient has resulted, and shall not bar  
18 any civil or criminal action or proceeding which might be brought with-  
19 out regard to such surrender. A surrendered license shall be restored  
20 upon a showing to the satisfaction of a committee of professional  
21 conduct of the state board for professional medical conduct that the  
22 licensee is not incapacitated for the active practice of medicine  
23 provided, however, that the committee may impose reasonable conditions  
24 on the licensee, if it determined that due to the nature and extent of  
25 the licensee's former incapacity such conditions are necessary to  
26 protect the health of the people. The chairperson of the committee shall  
27 issue a restoration order adopting the decision of the committee. Prompt  
28 written notification of such restoration shall be given to the division

1 of professional licensing services of the [state education] department  
2 and to all hospitals which were notified of the surrender of the  
3 license.

4 (b) Permanent surrender. The license and registration of a licensee  
5 who may be permanently incapacitated for the active practice of medi-  
6 cine, and whose alleged incapacity has not resulted in harm to a  
7 patient, may be voluntarily surrendered to the board for professional  
8 medical conduct. The board shall give prompt written notification of  
9 such surrender to the division of professional licensing services of the  
10 state education department, and to each hospital at which the licensee  
11 has privileges. The licensee whose license is so surrendered shall noti-  
12 fy all patients and all persons who request medical services that the  
13 licensee has permanently withdrawn from the practice of medicine. The  
14 permanent surrender shall not be deemed to be an admission of disability  
15 of or professional misconduct, and shall not be used as evidence of a  
16 violation of subdivision seven or eight of section sixty-five hundred  
17 thirty of [the education law] this chapter. The surrender shall not bar  
18 any civil or criminal action or proceeding which might be brought with-  
19 out regard to such surrender. There shall be no restoration of a license  
20 that has been surrendered pursuant to this subdivision.

21 (c) If the committee determines that reasonable cause exists as speci-  
22 fied in paragraph (a) of this subdivision and that there is insufficient  
23 evidence for the matter to constitute misconduct as defined in sections  
24 sixty-five hundred thirty and section sixty-five hundred thirty-one of  
25 [the education law] this chapter, the committee may issue an order  
26 directing that the licensee's practice of medicine be monitored for a  
27 period specified in the order, which shall in no event exceed one year,  
28 by a licensee approved by the director, which may include members of

1 county medical societies or district osteopathic societies designated by  
2 the commissioner. The licensee responsible for monitoring the licensee  
3 shall submit regular reports to the director. If the licensee refuses to  
4 cooperate with the licensee responsible for monitoring or if the moni-  
5 toring licensee submits a report that the licensee is not practicing  
6 medicine with reasonable skill and safety to his or her patients, the  
7 committee may refer the matter to the director for further proceedings  
8 pursuant to subdivision ten of this section. An order pursuant to this  
9 paragraph shall be kept confidential and shall not be subject to discov-  
10 ery or subpoena, unless the licensee refuses to comply with the order.

11 § 19. Paragraph (i) of subdivision 1 of section 230-d of the public  
12 health law, as amended by chapter 438 of the laws of 2012, is amended to  
13 read as follows:

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

20 § 20. Subdivision 5 of section 230-d of the public health law, as  
21 added by chapter 365 of the laws of 2007, is amended to read as follows:

22 5. The commissioner shall make, adopt, promulgate and enforce such  
23 rules and regulations, as he or she may deem appropriate, to effectuate  
24 the purposes of this section. Where any rule or regulation under this  
25 section would affect the scope of practice of a health care practitioner  
26 licensed, registered or certified under title eight of the education law  
27 other than those licensed under [articles one hundred thirty-one or one  
28 hundred thirty-one-B of the education law] article fifty-one of this

1 chapter, the rule or regulation shall be made with the concurrence of  
2 the commissioner of education.

3 § 21. Paragraph (a) of subdivision 3 of section 260 of the public  
4 health law, as amended by chapter 84 of the laws of 2006, is amended to  
5 read as follows:

6 (a) is licensed, or exempt from licensure, pursuant to [articles one  
7 hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two,  
8 one hundred thirty-three, one hundred thirty-six, one hundred thirty-  
9 seven, one hundred thirty-nine, one hundred forty, one hundred forty-  
10 one, one hundred forty-three, one hundred forty-four, one hundred  
11 fifty-three, one hundred fifty-four, one hundred fifty-five, one hundred  
12 fifty-six, one hundred fifty-seven, one hundred fifty-nine, one hundred  
13 sixty, one hundred sixty-two, or one hundred sixty-four of the education  
14 law] titles two, four, six, seven, nine, ten, twelve, thirteen, four-  
15 teen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty and twen-  
16 ty-six of article fifty-one of this chapter;

17 § 22. Subdivision 1 of section 462 of the public health law, as  
18 amended by chapter 562 of the laws of 2001, is amended to read as  
19 follows:

20 1. This article shall not apply to or affect a physician duly licensed  
21 under [article one hundred thirty-one of the education law] title two of  
22 article fifty-one of this chapter or x-ray technicians.

23 § 23. Subdivision 2 of section 470 of the public health law, as added  
24 by chapter 514 of the laws of 2004, is amended to read as follows:

25 2. No person shall perform a tongue-splitting on another person,  
26 unless the person performing such tongue-splitting is licensed to prac-  
27 tice medicine pursuant to [article one hundred thirty-one of the educa-  
28 tion law] title two of article fifty-one of this chapter or licensed to

1 practice dentistry pursuant to [article one hundred thirty-three of the  
2 education law] title seven of article fifty-one of this chapter.

3 § 24. Section 2509-c of the public health law, as added by section 5  
4 of subpart A of part JJ of chapter 56 of the laws of 2021, is amended to  
5 read as follows:

6 § 2509-c. Availability of adverse childhood experiences services.  
7 Every pediatrics health care provider licensed pursuant to [article one  
8 hundred thirty-one of the education law] title two of article fifty-one  
9 of this chapter shall be required to provide the parent, guardian,  
10 custodian or other authorized individual of a child that the pediatri-  
11 cian sees in their official capacity, with educational materials devel-  
12 oped pursuant to subdivision two of section three hundred seventy-c of  
13 the social services law. Such materials may be provided electronically  
14 and shall be used to inform and educate them about adverse childhood  
15 experiences, the importance of protective factors and the availability  
16 of services for children at risk for or experiencing adverse childhood  
17 experiences.

18 § 25. Subdivision 17 of section 2511 of the public health law, as  
19 added by chapter 2 of the laws of 1998, is amended to read as follows:

20 17. The commissioner, in consultation with the superintendent, is  
21 authorized to establish and operate a child health information service  
22 which shall utilize advanced telecommunications technologies to meet the  
23 health information and support needs of children, parents and medical  
24 professionals, which shall include, but not be limited to, treatment  
25 guidelines for children, treatment protocols, research articles and  
26 standards for the care of children from birth through eighteen years of  
27 age. Such information shall not constitute the practice of medicine, as

1 defined in [article one hundred thirty-one of the education law] title  
2 two of article fifty-one of this chapter.

3 § 26. Paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j),  
4 (k), (l), (m) and (y) of subdivision 2 of section 2999-cc of the public  
5 health law, paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j),  
6 (k), and (l) as amended and paragraph (m) as added by chapter 454 of the  
7 laws of 2015, and paragraph (y) as amended by section 1 of part V of  
8 chapter 57 of the laws of 2022, are amended to read as follows:

9 (a) a physician licensed pursuant to [article one hundred thirty-one  
10 of the education law] title two of article fifty-one of this chapter;

11 (b) a physician assistant licensed pursuant to [article one hundred  
12 thirty-one-B of the education law] title four of article fifty-one of  
13 this chapter;

14 (c) a dentist licensed pursuant to [article one hundred thirty-three  
15 of the education law] title seven of article fifty-one of this chapter;

16 (d) a nurse practitioner licensed pursuant to [article one hundred  
17 thirty-nine of the education law] title twelve of article fifty-one of  
18 this chapter;

19 (e) a registered professional nurse licensed pursuant to [article one  
20 hundred thirty-nine of the education law] title twelve of article  
21 fifty-one of this chapter only when such nurse is receiving patient-  
22 specific health information or medical data at a distant site by means  
23 of remote patient monitoring;

24 (f) a podiatrist licensed pursuant to [article one hundred forty-one  
25 of the education law] title fourteen of article fifty-one of this chap-  
26 ter;

1 (g) an optometrist licensed pursuant to [article one hundred forty-  
2 three of the education law] title fifteen of article fifty-one of this  
3 chapter;

4 (h) a psychologist licensed pursuant to [article one hundred fifty-  
5 three of the education law] title seventeen of article fifty-one of  
6 this chapter;

7 (i) a social worker licensed pursuant to [article one hundred fifty-  
8 four of the education law] title eighteen of article fifty-one of this  
9 chapter;

10 (j) a speech language pathologist or audiologist licensed pursuant to  
11 [article one hundred fifty-nine of the education law] title twenty-two  
12 of article fifty-one of this chapter;

13 (k) a midwife licensed pursuant to [article one hundred forty of the  
14 education law] title thirteen of article fifty-one of this chapter;

15 (l) a physical therapist licensed pursuant to [article one hundred  
16 thirty-six of the education law] title nine of article fifty-one of  
17 this chapter;

18 (m) an occupational therapist licensed pursuant to [article one  
19 hundred fifty-six of the education law] title twenty of article fifty-  
20 one of this chapter;

21 (y) a mental health practitioner licensed pursuant to [article one  
22 hundred sixty-three of the education law] title twenty-five of article  
23 fifty-one of this chapter; and

24 § 27. Subdivision 7 of section 2999-cc of the public health law, as  
25 amended by section 3 of subpart C of part S of chapter 57 of the laws of  
26 2018, is amended to read as follows:

27 7. "Remote patient monitoring" means the use of synchronous or asyn-  
28 chronous electronic information and communication technologies to

1 collect personal health information and medical data from a patient at  
2 an originating site that is transmitted to a telehealth provider at a  
3 distant site for use in the treatment and management of medical condi-  
4 tions that require frequent monitoring. Such technologies may include  
5 additional interaction triggered by previous transmissions, such as  
6 interactive queries conducted through communication technologies or by  
7 telephone. Such conditions shall include, but not be limited to, conges-  
8 tive heart failure, diabetes, chronic obstructive pulmonary disease,  
9 wound care, polypharmacy, mental or behavioral problems, and technolo-  
10 gy-dependent care such as continuous oxygen, ventilator care, total  
11 parenteral nutrition or enteral feeding. Remote patient monitoring shall  
12 be ordered by a physician licensed pursuant to [article one hundred  
13 thirty-one of the education law] title two of article fifty-one of this  
14 chapter, a nurse practitioner licensed pursuant to [article one hundred  
15 thirty-nine of the education law] title twelve of article fifty-one of  
16 this chapter, or a midwife licensed pursuant to [article one hundred  
17 forty of the education law] title thirteen of article fifty-one of this  
18 chapter, with which the patient has a substantial and ongoing relation-  
19 ship.

20 § 28. The opening paragraph of paragraph c of subdivision 1 and subdivi-  
21 sion 4 of section 3383 of the public health law, as added by chapter  
22 494 of the laws of 1982, are amended to read as follows:

23 "Imitation controlled substance" means a substance, other than a drug  
24 for which a prescription is required pursuant to [article one hundred  
25 thirty-seven of the education law] title ten of article fifty-one of  
26 this chapter, that is not a controlled substance, which by dosage unit  
27 appearance, including color, shape and size and by a representation is  
28 represented to be a controlled substance, as defined in the penal law.

1 Evidence of representations that the substance is a controlled substance  
2 may include but is not limited to oral or written representations by the  
3 manufacturer or seller, as the case may be, about the substance with  
4 regard to:

5 4. No liability shall be imposed by virtue of this section on any  
6 person licensed pursuant to [article one hundred thirty-one of the  
7 education law] title two of article fifty-one of this chapter or  
8 licensed under this article who manufactures, [distributed] distributes,  
9 sells, prescribes, dispenses or possesses an imitation controlled  
10 substance for use as a placebo or for use in clinical research conducted  
11 pursuant to the federal food, drug and cosmetic act.

12 § 29. Section 3700 of the public health law, as amended by chapter 48  
13 of the laws of 2012, is amended to read as follows:

14 § 3700. Definitions. As used in this article:

15 1. Physician assistant. The term "physician assistant" means a person  
16 who is licensed as a physician assistant pursuant to section sixty-five  
17 hundred forty-one of the [education] public health law.

18 2. Physician. The term "physician" means a practitioner of medicine  
19 licensed to practice medicine pursuant to [article one hundred thirty-  
20 one of the education law] title two of article fifty-one of this  
21 chapter.

22 3. Hospital. The term "hospital" means an institution or facility  
23 possessing a valid operating certificate issued pursuant to article  
24 twenty-eight of this chapter and authorized to employ physician assist-  
25 ants in accordance with rules and regulations of the public health and  
26 health planning council.

1 4. Approved program. The term "approved program" means a program for  
2 the education of physician assistants which has been formally approved  
3 by the [education] department.

4 § 30. Section 3710 of the public health law, as amended by chapter 48  
5 of the laws of 2012, is amended to read as follows:

6 § 3710. Definitions. As used in this article:

7 1. Specialist assistant. The term "specialist assistant" means a  
8 person who is registered pursuant to section sixty-five hundred forty-  
9 eight of the [education] public health law as a specialist assistant for  
10 a particular medical speciality as defined by regulations promulgated by  
11 the commissioner pursuant to section thirty-seven hundred eleven of this  
12 article.

13 2. Physician. The term "physician" means a practitioner of medicine  
14 licensed to practice medicine pursuant to [article one hundred thirty-  
15 one of the education law] title two of article fifty-one of this  
16 chapter.

17 3. Hospital. The term "hospital" means an institution or facility  
18 possessing a valid operating certificate issued pursuant to article  
19 twenty-eight of this chapter and authorized to employ specialist assist-  
20 ants in accordance with rules and regulations of the public health and  
21 health planning council.

22 4. Approved program. The term "approved program" means a program for  
23 the education of specialist assistants which has been formally approved  
24 by the [education] department.

25 § 31. Subdivision 2 of section 4702 of the public health law, as  
26 amended by chapter 805 of the laws of 1984, is amended to read as  
27 follows:

1 2. "Shared health facility" or "facility" means any arrangement where-  
2 in four or more practitioners licensed under the provisions of [article  
3 one hundred thirty-one, one hundred thirty-one-a, one hundred thirty-  
4 two, one hundred thirty-three, one hundred thirty-seven, one hundred  
5 thirty-nine, one hundred forty-one, one hundred forty-three, one hundred  
6 forty-four, one hundred fifty-six or one hundred fifty-nine of the  
7 education law] titles two, three, six, seven, twelve, fourteen, fifteen,  
8 sixteen, twenty or twenty-two of article fifty-one of this chapter, one  
9 or more of whom receives payment under the program and whose total  
10 aggregate monthly remuneration from such program is in excess of five  
11 thousand dollars for any one month during the preceding twelve months,  
12 (a) practice their professions at a common physical location; and (b)  
13 share (i) common waiting areas, examining rooms, treatment rooms or  
14 other space, or (ii) the services of supporting staff, or (iii) equip-  
15 ment; and (c) a person, whether such person is a practitioner or not, is  
16 in charge of, controls, manages or supervises substantial aspects of the  
17 arrangement or operation for the delivery of health or medical services  
18 at said common physical location, other than the direct furnishing of  
19 professional services by the practitioners to their patients, or a  
20 person makes available to the practitioners the services of supporting  
21 staff who are not employees of the practitioners. "Shared health facil-  
22 ity" does not mean or include practitioners practicing their profession  
23 as a partnership provided that members of the supporting staff are  
24 employees of such legal entity and if there is an office manager, or  
25 person with similar title, he or she is an employee of the legal entity  
26 whose compensation is customary and not excessive for such services and  
27 there is no person described in paragraph (c) of this subdivision.  
28 "Shared health facility" does not mean or include any entity organized

1 pursuant to the provisions of article twenty-eight of this chapter or  
2 operating under a certificate issued pursuant to the provisions of arti-  
3 cle thirteen of the mental hygiene law; nor shall it mean or include a  
4 facility wherein ambulatory medical services are provided by an organ-  
5 ized group of physicians pursuant to an arrangement between such group  
6 and a health services corporation operating under article forty-three of  
7 the insurance law or a health maintenance organization operating under  
8 article forty-four of the public health law, and where the health  
9 services corporation or the health maintenance organization is reim-  
10 bursed on a prepaid capitation basis for the provision of health care  
11 services under New York state's medical assistance program.

12 § 32. Subdivision 12 of section 130.00 of the penal law, as added by  
13 chapter 1 of the laws of 2000, is amended to read as follows:

14 12. "Health care provider" means any person who is, or is required to  
15 be, licensed or registered or holds himself or herself out to be  
16 licensed or registered, or provides services as if he or she were  
17 licensed or registered in the profession of medicine, chiropractic,  
18 dentistry or podiatry under any of the following: [article one hundred  
19 thirty-one, one hundred thirty-two, one hundred thirty-three, or one  
20 hundred forty-one of the education law] titles two, six, seven and four-  
21 teen of article fifty-one of the public health law.

22 § 33. Paragraph (iv) of subdivision 5 of section 1750-b of the surro-  
23 gate's court procedure act, as amended by chapter 198 of the laws of  
24 2016, is amended to read as follows:

25 (iv) any other health care practitioner providing services to the  
26 person who is intellectually disabled, who is licensed pursuant to  
27 [article one hundred thirty-one, one hundred thirty-one-B, one hundred  
28 thirty-two, one hundred thirty-three, one hundred thirty-six, one

1 hundred thirty-nine, one hundred forty-one, one hundred forty-three, one  
2 hundred forty-four, one hundred fifty-three, one hundred fifty-four, one  
3 hundred fifty-six, one hundred fifty-nine or one hundred sixty-four of  
4 the education law] titles two, four, six, seven, nine, twelve, fourteen,  
5 fifteen, sixteen, twenty and twenty-two of article fifty-one of the  
6 public health law; or

7 § 34. Subparagraph (iii) of paragraph (d) of subdivision 1 of section  
8 367-a of the social services law, as amended by section 31 of part B of  
9 chapter 57 of the laws of 2015, is amended to read as follows:

10 (iii) With respect to items and services provided to eligible persons  
11 who are also beneficiaries under part B of title XVIII of the federal  
12 social security act and items and services provided to qualified medi-  
13 care beneficiaries under part B of title XVIII of the federal social  
14 security act, the amount payable for services covered under this title  
15 shall be the amount of any co-insurance liability of such eligible  
16 persons pursuant to federal law were they not eligible for medical  
17 assistance or were they not qualified medicare beneficiaries with  
18 respect to such benefits under such part B, but shall not exceed the  
19 amount that otherwise would be made under this title if provided to an  
20 eligible person other than a person who is also a beneficiary under part  
21 B or is a qualified medicare beneficiary minus the amount payable under  
22 part B; provided, however, amounts payable under this title for items  
23 and services provided to eligible persons who are also beneficiaries  
24 under part B or to qualified medicare beneficiaries by an ambulance  
25 service under the authority of an operating certificate issued pursuant  
26 to article thirty of the public health law, a psychologist licensed  
27 under [article one hundred fifty-three of the education law] title  
28 seventeen of article fifty-one of the public health law, or a facility

1 under the authority of an operating certificate issued pursuant to arti-  
2 cle sixteen, thirty-one or thirty-two of the mental hygiene law and with  
3 respect to outpatient hospital and clinic items and services provided by  
4 a facility under the authority of an operating certificate issued pursu-  
5 ant to article twenty-eight of the public health law, shall not be less  
6 than the amount of any co-insurance liability of such eligible persons  
7 or such qualified medicare beneficiaries, or for which such eligible  
8 persons or such qualified medicare beneficiaries would be liable under  
9 federal law were they not eligible for medical assistance or were they  
10 not qualified medicare beneficiaries with respect to such benefits under  
11 part B.

12 § 35. Subdivisions 2 and 3 of section 2999-r of the public health law,  
13 as amended by chapter 461 of the laws of 2012, are amended to read as  
14 follows:

15 2. With respect to the planning, implementation, and operation of  
16 ACOs, the commissioner, by regulation, shall specifically delineate safe  
17 harbors that exempt ACOs from the application of the following statutes:

18 (a) article twenty-two of the general business law relating to  
19 arrangements and agreements in restraint of trade;

20 (b) [article one hundred thirty-one-A of the education law] title  
21 three of article fifty-one of this chapter relating to fee-splitting  
22 arrangements; and

23 (c) title two-D of article two of this chapter relating to health care  
24 practitioner referrals.

25 3. For the purposes of this article, an ACO shall be deemed to be a  
26 hospital for purposes of sections twenty-eight hundred five-j, twenty-  
27 eight hundred five-k, twenty-eight hundred five-l and twenty-eight  
28 hundred five-m of this chapter and subdivisions three and five of

1 section sixty-five hundred twenty-seven of [the education law] this  
2 chapter.

3 § 36. Paragraph (b) of subdivision 1 of section 4405-b of the public  
4 health law, as amended by chapter 542 of the laws of 2000, is amended to  
5 read as follows:

6 (b) An organization shall make a report to be made to the appropriate  
7 professional disciplinary agency within thirty days of obtaining know-  
8 ledge of any information that reasonably appears to show that a health  
9 professional is guilty of professional misconduct as defined in [article  
10 one hundred thirty or one hundred thirty-one-A of the education law]  
11 title one or three of article fifty-one of this chapter. A violation of  
12 this subdivision shall not be subject to the provisions of section  
13 twelve-b of this chapter.

14 § 37. Section 923 of the public health law, as added by section 23 of  
15 part D of chapter 56 of the laws of 2012, is amended to read as follows:

16 § 923. Definitions. The following words or phrases as used in this  
17 section shall have the following meanings:

18 1. "Underserved area" means an area or medically underserved popu-  
19 lation designated by the commissioner as having a shortage of primary  
20 care physicians, other primary care practitioners, dental practitioners  
21 or mental health practitioners.

22 2. "Primary care service corps practitioner" means a physician assist-  
23 ant, nurse practitioner, midwife, general or pedodontic dentist, dental  
24 hygienist, clinical psychologist, licensed clinical social worker,  
25 psychiatric nurse practitioner, licensed marriage and family therapist,  
26 or a licensed mental health counselor, who is licensed, registered, or  
27 certified to practice in New York state and who provides coordinated  
28 primary care services, including, but not limited to, oral health and

1 mental health services and meets the national health service corps state  
2 loan repayment program eligibility criteria.

3 3. "Physician assistant" means a person who has been registered as  
4 such pursuant to [article one hundred thirty-one-B of the education law]  
5 title four of article fifty-one of this chapter and meets the national  
6 health service corps state loan repayment program eligibility criteria.

7 4. "Nurse practitioner" means a person who has been certified as such  
8 pursuant to section sixty-nine hundred ten of [the education law] this  
9 chapter and meets the national health service corps state loan repayment  
10 program eligibility criteria.

11 5. "Midwife" means a person who has been licensed as such pursuant to  
12 section sixty-nine hundred fifty-five of [the education law] this chap-  
13 ter and meets the national health service corps state loan repayment  
14 program eligibility criteria.

15 6. "Psychologist" means a person who has been licensed as such pursu-  
16 ant to section seventy-six hundred three of [the education law] this  
17 chapter and meets the national health service corps state loan repayment  
18 program eligibility criteria.

19 7. "Licensed clinical social worker" means a person who has been  
20 licensed as such pursuant to section seventy-seven hundred two of [the  
21 education law] this chapter and meets the national health service corps  
22 state loan repayment program eligibility criteria.

23 8. "Psychiatric nurse practitioner" means a nurse practitioner who, by  
24 reason of training and experience, provides a full spectrum of psychiat-  
25 ric care, assessing, diagnosing, and managing the prevention and treat-  
26 ment of psychiatric disorders and mental health problems and meets the  
27 national health service corps state loan repayment program eligibility  
28 criteria.

1 9. "Licensed marriage and family therapist" means a person who has  
2 been licensed as such pursuant to section eighty-four hundred three of  
3 [the education law] this chapter and meets the national health service  
4 corps state loan repayment program eligibility criteria.

5 10. "Licensed mental health counselor" means a person who has been  
6 licensed as such pursuant to section eighty-four hundred two of [the  
7 education law] this chapter and meets the national health service corps  
8 state loan repayment program eligibility criteria.

9 11. "General or pedodontic dentist" means a person who has been  
10 licensed or otherwise authorized to practice dentistry pursuant to  
11 [article one hundred thirty-three of the education law] title seven of  
12 article fifty-one of this chapter excluding orthodontists, endodontists  
13 and periodontists and meets the national health service corps state loan  
14 repayment program eligibility criteria.

15 12. "Dental hygienist" means a person who is licensed to practice  
16 dental hygiene pursuant to section sixty-six hundred nine of [the educa-  
17 tion law] this chapter and meets the national health service corps state  
18 loan repayment program eligibility criteria.

19 § 38. Subdivision 3 of section 2998-e of the public health law, as  
20 added by chapter 365 of the laws of 2007, is amended to read as follows:

21 3. The commissioner shall make, adopt, promulgate and enforce such  
22 rules and regulations, as he or she may deem appropriate, to effectuate  
23 the purposes of this section. [Where any rule or regulation under this  
24 section would affect the scope of practice of a health care practitioner  
25 licensed, registered or certified under title eight of the education law  
26 other than those licensed under articles one hundred thirty-one or one  
27 hundred thirty-one-B of the education law, the rule or regulation shall  
28 be made with the concurrence of the commissioner of education.]

1 § 39. Subdivision 3 of section 838 of the executive law, as amended by  
2 chapter 708 of the laws of 1983, is amended to read as follows:

3 3. In addition to the foregoing provisions of this section, the county  
4 medical examiner or coroner shall cause a dentist authorized to practice  
5 pursuant to [article one hundred thirty-three of the education law]  
6 title four of article fifty-one of the public health law or a dental  
7 student in a registered school of dentistry in this state to carry out a  
8 dental examination of the deceased. The medical examiner or coroner  
9 shall forward the dental examination records to the division on a form  
10 supplied by the division for that purpose.

11 § 40. Subdivisions 1 and 2 of section 1394-c of the public health law,  
12 as amended by chapter 142 of the laws of 2022, are amended to read as  
13 follows:

14 1. Camps for children with developmental disabilities, as defined in  
15 regulations, and in compliance with the justice center for the  
16 protection of people with special needs, shall be authorized to employ  
17 or contract with any of the individuals licensed under [articles one  
18 hundred thirty-two, one hundred thirty-six, one hundred fifty-six, one  
19 hundred fifty-nine, one hundred sixty-two and one hundred sixty-seven of  
20 the education law] titles four, nine, twenty, twenty-two, twenty-four  
21 and twenty-nine of article fifty-one of this chapter, to provide profes-  
22 sional services for any period during which the camp has a valid permit  
23 to operate. Individuals hired under this section shall communicate with  
24 the camp health director when medically necessary for the sole purpose  
25 of providing health services that benefit campers and staff at the camp  
26 while the camp is in operation. In cases where the camp health direc-  
27 tor's lawful scope of practice is more limited than that of the licensed  
28 professional providing services, the camp health director shall not

1 supervise the provision of such treatment, but shall be informed of such  
2 treatment as medically necessary to ensure the well-being of the camper  
3 and staff.

4 2. All decisions, identification or coordination of professional  
5 services, or other professional interactions with campers and staff,  
6 must be made based on the professional judgment of such licensees to  
7 provide professional services within his or her lawful scope of practice  
8 for the purpose of treating campers and staff during their attendance or  
9 employment at such camp, pursuant to applicable regulations [promulgated  
10 by the commissioner in consultation with the commissioner of education].

11 § 41. Subparagraphs (iii) and (iv) of paragraph (d) of subdivision 3  
12 of section 13-c of the workers' compensation law, subparagraph (iii) as  
13 added by chapter 803 of the laws of 1983 and subparagraph (iv) as added  
14 by chapter 649 of the laws of 1985, are amended to read as follows:

15 (iii) When physical therapy care is required it shall be rendered by a  
16 duly licensed physical therapist upon the referral which may be direc-  
17 tive as to treatment of an authorized physician or podiatrist within the  
18 scope of such physical therapist's specialized training and qualifica-  
19 tions as defined in [article one hundred thirty-six of the education  
20 law] title nine of article fifty-one of the public health law. Reports  
21 of such treatment and records of instruction for treatment, if any,  
22 shall be maintained by the physical therapist and referring professional  
23 and submitted to the chairman on such forms and at such times as the  
24 chairman may require.

25 (iv) When occupational therapy care is required it shall be rendered  
26 by a duly licensed and registered occupational therapist upon the  
27 prescription or referral of an authorized physician within the scope of  
28 such occupational therapist's specialized training and qualifications as

1 defined in [article one hundred fifty-six of the education law] title  
2 twenty of article fifty-one of the public health law. Reports of such  
3 treatment and records of instruction for treatment, if any, shall be  
4 maintained by the occupational therapist and referring professional and  
5 submitted to the chairman on such forms and at such times as the chair-  
6 man may require.

7 § 42. Subparagraphs (iii) and (iv) of paragraph (d) of subdivision 4  
8 of section 13-c of the workers' compensation law, as added by chapter  
9 362 of the laws of 1986, are amended to read as follows:

10 (iii) When physical therapy care is required it shall be rendered by a  
11 duly licensed physical therapist upon the referral which may be direc-  
12 tive as to treatment of an authorized physician or podiatrist within the  
13 scope of such physical therapist's specialized training and qualifica-  
14 tions as defined in [article one hundred thirty-six of the education  
15 law] title nine of article fifty-one of the public health law. Reports  
16 of such treatment and records of instruction for treatment, if any,  
17 shall be maintained by the physical therapist and referring professional  
18 and submitted to the chairman of such forms and at such times as the  
19 chairman may require.

20 (iv) When occupational therapy care is required it shall be rendered  
21 by a duly licensed and registered occupational therapist upon the  
22 prescription or referral of an authorized physician within the scope of  
23 such occupational therapist's specialized training and qualifications as  
24 defined in [article one hundred fifty-six of the education law] title  
25 twenty of article fifty-one of the public health law. Reports of such  
26 treatment and records of instruction for treatment, if any, shall be  
27 maintained by the occupational therapist and referring professional and

1 submitted to the chairman on such forms and at such times as the chair-  
2 man may require.

3 Reports of such treatment and supervision shall be made by such physi-  
4 cian to the chairman on such forms and at such times as the chairman may  
5 require.

6 § 43. Subdivision 2 of section 40 of the cannabis law is amended to  
7 read as follows:

8 2. Medical cannabis shall not be deemed to be a "drug" for purposes of  
9 [article one hundred thirty-seven of the education law] title ten of  
10 article fifty-one of the public health law.

11 § 44. Subdivision 25 of section 206 of the public health law, as added  
12 by chapter 563 of the laws of 2008, is amended to read as follows:

13 25. (a) In assessing and reporting on the impact of section sixty-  
14 eight hundred one of [the education law] this chapter, pursuant to  
15 subdivision four of such section the commissioner may use: (1) influenza  
16 vaccine supply data from the federal centers for disease control and  
17 prevention; (2) pneumococcal vaccine supply data provided by manufactur-  
18 ers and distributors of such vaccine; and (3) data from a third party  
19 entity that engages in the collection of data and tracking of pharmaceu-  
20 tical sales and distribution. Manufacturers and distributors of pneumo-  
21 coccal vaccine shall provide or arrange for the timely provision to the  
22 commissioner of such data as the commissioner may reasonably request to  
23 complete the report. Provider and customer identifiable information  
24 submitted pursuant to this paragraph shall be confidential, unless the  
25 information provider consents to its release or the commissioner deter-  
26 mines disclosure is necessary to respond to an imminent public health  
27 emergency.

1 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
2 sion, the commissioner may require reporting by entities licensed pursu-  
3 ant to article twenty-eight or thirty-six of this chapter, pharmacies  
4 registered pursuant to [article one hundred thirty-seven of the educa-  
5 tion law] title ten of article fifty-one of the this chapter, manufac-  
6 turers and distributors of adult immunizing agents doing business in  
7 this state, and others possessing such adult immunizing agents of addi-  
8 tional information needed to respond to an imminent public health emer-  
9 gency.

10 § 45. Subdivisions 3 and 41 of section 3302 of the public health law,  
11 as amended by chapter 92 of the laws of 2021, are amended to read as  
12 follows:

13 3. "Agent" means an authorized person who acts on behalf of or at the  
14 direction of a manufacturer, distributor, or dispenser. No person may be  
15 authorized to so act if under [title VIII of the education law] article  
16 fifty-one of this chapter such person would not be permitted to engage  
17 in such conduct. It does not include a common or contract carrier,  
18 public warehouseman, or employee of the carrier or warehouseman when  
19 acting in the usual and lawful course of the carrier's or warehouseman's  
20 business.

21 41. "Outsourcing facility" means a facility that:

22 (a) is engaged in the compounding of sterile drugs as defined in  
23 section sixty-eight hundred two of [the education law] this chapter;

24 (b) is currently registered as an outsourcing facility pursuant to  
25 [article one hundred thirty-seven of the education law] title ten of  
26 article fifty-one of this chapter; and

27 (c) complies with all applicable requirements of federal and state  
28 law, including the Federal Food, Drug and Cosmetic Act.

1 Notwithstanding any other provision of law to the contrary, when an  
2 outsourcing facility distributes or dispenses any drug to any person  
3 pursuant to a prescription, such outsourcing facility shall be deemed to  
4 be providing pharmacy services and shall be subject to all laws, rules  
5 and regulations governing pharmacies and pharmacy services.

6 § 46. Subdivision 2 and subparagraphs (ii) and (iii) of paragraph (a)  
7 of subdivision 3 of section 3309 of the public health law, as amended by  
8 chapter 42 of the laws of 2014, are amended to read as follows:

9 2. Notwithstanding any inconsistent provisions of section sixty-five  
10 hundred twelve of [the education law] this chapter or any other law, the  
11 purchase, acquisition, possession or use of an opioid antagonist pursu-  
12 ant to this section shall not constitute the unlawful practice of a  
13 profession or other violation under title eight of the education law,  
14 article fifty-one of this chapter, or this article.

15 (ii) "Health care professional" means a person licensed, registered or  
16 authorized pursuant to [title eight of the education law] article  
17 fifty-one of this chapter to prescribe prescription drugs.

18 (iii) "Pharmacist" means a person licensed or authorized to practice  
19 pharmacy pursuant to [article one hundred thirty-seven of the education  
20 law] title ten of article fifty-one this chapter.

21 § 46-a. Paragraph (b) of subdivision 2 of section 3368 of the public  
22 health law, as added by chapter 90 of the laws of 2014, is amended to  
23 read as follows:

24 (b) Medical marihuana shall not be deemed to be a "drug" for purposes  
25 of [article one hundred thirty-seven of the education law] title ten of  
26 article fifty-one of this chapter.

1 § 47. Subdivisions 1 and 4 of section 3381 of the public health law,  
2 as amended by chapter 433 of the laws of 2021, are amended to read as  
3 follows:

4 1. It shall be unlawful for any person to sell or furnish to another  
5 person or persons, a hypodermic syringe or hypodermic needle except:

6 (a) pursuant to a prescription of a practitioner, which for the  
7 purposes of this section shall include a patient specific prescription  
8 form as provided for in [the education law] this chapter; or

9 (b) to persons who have been authorized by the commissioner to obtain  
10 and possess such instruments; or

11 (c) by a pharmacy licensed under [article one hundred thirty-seven of  
12 the education law] title ten of article fifty-one of this chapter,  
13 health care facility licensed under article twenty-eight of this chapter  
14 or a health care practitioner who is otherwise authorized to prescribe  
15 the use of hypodermic needles or syringes within his or her scope of  
16 practice; provided, however, that such sale or furnishing: (i) shall  
17 only be to a person eighteen years of age or older; and (ii) shall be in  
18 accordance with subdivision four of this section; or

19 (d) under subdivision three of this section.

20 4. (a) A person eighteen years of age or older may obtain and possess  
21 a hypodermic syringe or hypodermic needle pursuant to paragraph (c) of  
22 subdivision one of this section.

23 (b) Subject to regulations of the commissioner, a pharmacy licensed  
24 under [article one hundred thirty-seven of the education law] title ten  
25 of article fifty-one of this chapter, a health care facility licensed  
26 under article twenty-eight of this chapter or a health care practitioner  
27 who is otherwise authorized to prescribe the use of hypodermic needles  
28 or syringes within his or her scope of practice, may obtain and possess

1 hypodermic needles or syringes for the purpose of selling or furnishing  
2 them pursuant to paragraph (c) of subdivision one of this section or for  
3 the purpose of disposing of them.

4 (c) Sale or furnishing of hypodermic syringes or hypodermic needles to  
5 direct consumers pursuant to this subdivision by a pharmacy, health care  
6 facility, or health care practitioner shall be accompanied by a safety  
7 insert. Such safety insert shall be developed or approved by the commis-  
8 sioner and shall include, but not be limited to, (i) information on the  
9 proper use of hypodermic syringes and hypodermic needles; (ii) the risk  
10 of blood borne diseases that may result from the use of hypodermic  
11 syringes and hypodermic needles; (iii) methods for preventing the trans-  
12 mission or contraction of blood borne diseases; (iv) proper hypodermic  
13 syringe and hypodermic needle disposal practices; (v) information on the  
14 dangers of injection drug use, and how to access drug treatment; (vi) a  
15 toll-free phone number for information on the human immunodeficiency  
16 virus; and (vii) information on the safe disposal of hypodermic syringes  
17 and hypodermic needles including the relevant provisions of the environ-  
18 mental conservation law relating to the unlawful release of regulated  
19 medical waste. The safety insert shall be attached to or included in the  
20 hypodermic syringe and hypodermic needle packaging, or shall be given to  
21 the purchaser at the point of sale or furnishing in brochure form.

22 (d) In addition to the requirements of paragraph (c) of subdivision  
23 one of this section, a pharmacy licensed under [article one hundred  
24 thirty-seven of the education law] title ten of article fifty-one of  
25 this chapter may sell or furnish hypodermic needles or syringes only if  
26 such pharmacy stores such needles and syringes in a manner that makes  
27 them available only to authorized personnel and not openly available to  
28 customers.

1 (e) A pharmacy registered under [article one hundred thirty-seven of  
2 the education law] title ten of article fifty-one of this chapter may  
3 offer counseling and referral services to customers purchasing hypoderm-  
4 ic syringes for the purpose of: preventing injection drug abuse; the  
5 provision of drug treatment; preventing and treating hepatitis C;  
6 preventing drug overdose; testing for the human immunodeficiency virus;  
7 and providing pre-exposure prophylaxis and non-occupational post-expo-  
8 sure prophylaxis. The content of such counseling and referral shall be  
9 at the professional discretion of the pharmacist.

10 (f) The commissioner shall promulgate rules and regulations necessary  
11 to implement the provisions of this subdivision which shall include: (i)  
12 standards for advertising to the public the availability for retail sale  
13 or furnishing of hypodermic syringes or needles; and (ii) a requirement  
14 that such pharmacies, health care facilities and health care practition-  
15 ers cooperate in a safe disposal of used hypodermic needles or syringes.

16 (g) The commissioner may, upon the finding of a violation of this  
17 section, suspend for a determinate period of time the sale or furnishing  
18 of syringes by a specific entity.

19 § 48. The opening paragraph of paragraph 15 of subdivision a of  
20 section 265.20 of the penal law, as added by chapter 354 of the laws of  
21 1996, is amended to read as follows:

22 Possession and sale of a self-defense spray device as defined in para-  
23 graph fourteen of this subdivision by a dealer in firearms licensed  
24 pursuant to section 400.00 of this chapter, a pharmacist licensed pursu-  
25 ant to [article one hundred thirty-seven of the education law] title ten  
26 of article fifty-one of the public health law or by such other vendor as  
27 may be authorized and approved by the superintendent of state police.

28 § 49. Intentionally omitted.

1 § 50. Section 182 of the general business law, as added by chapter 731  
2 of the laws of 1952 and as renumbered by chapter 893 of the laws of  
3 1958, is amended to read as follows:

4 § 182. Cards to be furnished nurses; registry records. A nurses'  
5 registry shall send out to practice nursing only persons duly licensed  
6 pursuant to [article one hundred thirty-nine of the education law] title  
7 twelve of article fifty-one of the public health law as a registered  
8 professional nurse or licensed practical nurse. Every nurses' registry,  
9 before sending a person out to practice nursing, shall investigate such  
10 person's educational qualifications and verify such person's licensure  
11 and current registration. At least two current written references shall  
12 be required of such person. The record of such investigation and  
13 verification shall be kept on file in the registry.

14 Every nurses' registry that sends out any such person shall at such  
15 time give to such person and send to the employer of such person a card  
16 stating (1) such person's name, address and salary, (2) whether such  
17 person is a registered professional nurse or licensed practical nurse,  
18 (3) the number of the current registration certificate issued to such  
19 person by the [education] department of health, and (4) a statement that  
20 the record of such person's educational qualifications and experience in  
21 the practice of nursing is on file in such registry and that a copy  
22 thereof will be sent to such employer on request. A copy of such card  
23 shall be kept on file in the registry.

24 The record of investigation and verification and the card-copy  
25 required by this section to be kept on file shall be open to inspection  
26 by any duly authorized agent of the university of the state of New York,  
27 and every nurses' registry shall furnish a complete list of its regis-  
28 trants on request of such agent.

1 § 51. Subdivision 4 of section 185 of the general business law, as  
2 amended by chapter 998 of the laws of 1960, is amended to read as  
3 follows:

4 4. Types of employment. For the purpose of placing a ceiling over the  
5 fees charged by persons conducting employment agencies, types of employ-  
6 ment shall be classified as follows:

7 Class "A"--domestics, household employees, unskilled or untrained  
8 manual workers and laborers, including agricultural workers;

9 Class "A1"--non-professional trained or skilled industrial workers or  
10 mechanics;

11 Class "B"--commercial, clerical, executive, administrative and profes-  
12 sional employment, all employment outside the continental United States,  
13 and all other employment not included in classes "A", "A1", "C" and "D";

14 Class "C"--theatrical engagements;

15 Class "D"--nursing engagements as defined in title twelve of article  
16 [one hundred thirty-nine of the education] fifty-one of the public  
17 health law.

18 § 52. Item (i) of subparagraph (A) of paragraph 10 of subsection (i)  
19 of section 3216 of the insurance law, as amended by chapter 238 of the  
20 laws of 2010, is amended to read as follows:

21 (i) Every policy which provides hospital, surgical or medical coverage  
22 shall provide coverage for maternity care, including hospital, surgical  
23 or medical care to the same extent that hospital, surgical or medical  
24 coverage is provided for illness or disease under the policy. Such  
25 maternity care coverage, other than coverage for perinatal compli-  
26 cations, shall include inpatient hospital coverage for mother and for  
27 newborn for at least forty-eight hours after childbirth for any delivery  
28 other than a caesarean section, and for at least ninety-six hours after

1 a caesarean section. Such coverage for maternity care shall include the  
2 services of a midwife licensed pursuant to title thirteen of article  
3 [one hundred forty of the education] fifty-one of the public health law,  
4 practicing consistent with section sixty-nine hundred fifty-one of the  
5 [education] public health law and affiliated or practicing in conjunc-  
6 tion with a facility licensed pursuant to article twenty-eight of the  
7 public health law, but no insurer shall be required to pay for duplica-  
8 tive routine services actually provided by both a licensed midwife and a  
9 physician.

10 § 53. Item (i) of subparagraph (A) of paragraph 5 of subsection (k)  
11 of section 3221 of the insurance law, as amended by chapter 238 of the  
12 laws of 2010, is amended to read as follows:

13 (i) Every group or blanket policy delivered or issued for delivery in  
14 this state which provides hospital, surgical or medical coverage shall  
15 include coverage for maternity care, including hospital, surgical or  
16 medical care to the same extent that coverage is provided for illness or  
17 disease under the policy. Such maternity care coverage, other than  
18 coverage for perinatal complications, shall include inpatient hospital  
19 coverage for mother and newborn for at least forty-eight hours after  
20 childbirth for any delivery other than a caesarean section, and for at  
21 least ninety-six hours after a caesarean section. Such coverage for  
22 maternity care shall include the services of a midwife licensed pursuant  
23 to title thirteen of article [one hundred forty of the education]  
24 fifty-one of the public health law, practicing consistent with section  
25 sixty-nine hundred fifty-one of the [education] public health law and  
26 affiliated or practicing in conjunction with a facility licensed pursu-  
27 ant to article twenty-eight of the public health law, but no insurer

1 shall be required to pay for duplicative routine services actually  
2 provided by both a licensed midwife and a physician.

3 § 54. Subparagraph (A) of paragraph 1 of subsection (c) of section  
4 4303 of the insurance law, as amended by chapter 238 of the laws of  
5 2010, is amended to read as follows:

6 (A) Every contract issued by a corporation subject to the provisions  
7 of this article which provides hospital service, medical expense indem-  
8 nity or both shall provide coverage for maternity care including hospi-  
9 tal, surgical or medical care to the same extent that hospital service,  
10 medical expense indemnity or both are provided for illness or disease  
11 under the contract. Such maternity care coverage, other than coverage  
12 for perinatal complications, shall include inpatient hospital coverage  
13 for mother and for newborn for at least forty-eight hours after child-  
14 birth for any delivery other than a caesarean section, and for at least  
15 ninety-six hours following a caesarean section. Such coverage for mater-  
16 nity care shall include the services of a midwife licensed pursuant to  
17 article [one hundred forty of the education] title thirteen of article  
18 fifty-one of the public health law, practicing consistent with section  
19 sixty-nine hundred fifty-one of the [education] public health law and  
20 affiliated or practicing in conjunction with a facility licensed pursu-  
21 ant to article twenty-eight of the public health law, but no insurer  
22 shall be required to pay for duplicative routine services actually  
23 provided by both a licensed midwife and a physician.

24 § 55. Intentionally omitted.

25 § 56. Paragraph b of subdivision 1 of section 167 of the labor law,  
26 as amended by chapter 815 of the laws of 2022, is amended to read as  
27 follows:

1 b. "Nurse" shall mean a registered professional nurse or a licensed  
2 practical nurse as defined by title twelve of article [one hundred thir-  
3 ty-nine] fifty-one of the [education] public health law who provides  
4 direct patient care.

5 § 57. Subdivision 13 of section 700 of the county law, as added by  
6 chapter 358 of the laws of 2012, is amended to read as follows:

7 13. In order to provide services to crime victims, witnesses, and  
8 other persons involved in the criminal justice system, and to support  
9 crime prevention programs, the district attorney may employ or contract  
10 with persons licensed and registered to practice or otherwise authorized  
11 under [article one hundred fifty-three, one hundred fifty-four, or one  
12 hundred sixty-three of the education] title seventeen, eighteen, or  
13 twenty-five of article fifty-one of the public health law, or contract  
14 with entities authorized to provide the services specified in such arti-  
15 cles, in connection with the provision of any services that such persons  
16 or entities are authorized to provide and that are authorized by the  
17 district attorney.

18 § 58. Paragraph (vi) of subparagraph 1 of subdivision (e) of section  
19 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of  
20 2005, is amended to read as follows:

21 (vi) a psychologist, licensed pursuant to title seventeen of article  
22 [one hundred fifty-three of the education] fifty-one of the public  
23 health law, or a social worker, licensed pursuant to title eighteen of  
24 article [one hundred fifty-four of the education] fifty-one of the  
25 public health law, who is treating the subject of the petition for a  
26 mental illness; or

1 § 59. Paragraph (b) of subdivision 1 of section 2828 of the public  
2 health law, as added by section 1 of part GG of chapter 57 of the laws  
3 of 2021, is amended to read as follows:

4 (b) Fifteen percent of costs associated with resident-facing staffing  
5 contracted out by a facility for services provided by registered profes-  
6 sional nurses or licensed practical nurses licensed pursuant to title  
7 twelve of article [one hundred thirty-nine of the education law] fifty-  
8 one of this chapter or certified nurse aides who have completed certif-  
9 ication and training approved by the department shall be deducted from  
10 the calculation of the amount spent on resident-facing staffing and  
11 direct resident care.

12 § 60. Paragraph (b) of subdivision 1 of section 2895-b of the public  
13 health law, as added by chapter 156 of the laws of 2021, is amended to  
14 read as follows:

15 (b) "Licensed nurse" means a registered professional nurse or licensed  
16 practical nurse licensed pursuant to title twelve of article [one  
17 hundred thirty-nine of the education law] fifty-one of this chapter.

18 § 61. Paragraph (a) of subdivision 2, and subdivisions 5 and 8 of  
19 section 13-m of the workers' compensation law, paragraph (a) of subdivi-  
20 sion 2 as amended by section 6 of part CC of chapter 55 of the laws of  
21 2019, and subdivisions 5 and 8 as added by chapter 589 of the laws of  
22 1989, are amended to read as follows:

23 (a) An injured employee, injured under circumstances which make such  
24 injury compensable under this article, may lawfully be treated by a  
25 psychologist, duly registered and licensed by the state of New York,  
26 authorized by the chair to render psychological care pursuant to section  
27 thirteen-b of this article. Such services shall be within the scope of  
28 such psychologist's specialized training and qualifications as defined

1 in title seventeen of article [one hundred fifty-three of the education]  
2 fifty-one of the public health law.

3 5. Fees for psychological services shall be payable only to a duly  
4 authorized psychologist as licensed in title seventeen of article [one  
5 hundred fifty-three of the education] fifty-one of the public health  
6 law, or to the agent, executor or administrator of the estate of such  
7 psychologist. No psychologist rendering treatment to a compensation  
8 claimant shall collect or receive a fee from such claimant within this  
9 state, but shall have recourse for payment of services rendered only to  
10 the employer under the provisions of this section.

11 8. Within the limits prescribed by the [education] public health law  
12 for psychological care and treatment, the report or testimony of an  
13 authorized psychologist concerning the condition of an injured employee  
14 and treatment thereof shall be deemed competent evidence and the profes-  
15 sional opinion of the psychologist as to causal relation and as to  
16 required treatment shall be deemed competent but shall not be control-  
17 ling. Nothing in this section shall be deemed to deprive any employer or  
18 insurance carrier of any right to a medical examination or presentation  
19 of medical testimony now conferred by law.

20 § 62. Subdivision 1 of section 794 of the general business law, as  
21 amended by chapter 301 of the laws of 2000, is amended to read as  
22 follows:

23 1. Prior to the expiration of a certificate of registration and as a  
24 condition of renewal, each hearing aid dispenser registered pursuant to  
25 subdivision one of section seven hundred ninety of this article shall  
26 submit documentation showing successful completion of twenty continuing  
27 education credits through a course or courses approved by the secretary  
28 in consultation with the advisory board, or, in relation to audiologists

1 licensed pursuant to title twenty-two of article [one hundred fifty-nine  
2 of the education] fifty-one of the public health law, the office of the  
3 professions in the [education] department of health. Such formal courses  
4 of learning shall include, but not be limited to, collegiate level of  
5 credit in non-credit courses, professional development programs and  
6 technical sessions offered by national, state and local professional  
7 associations and other organizations acceptable to the secretary and any  
8 other organized educational and technical programs acceptable to the  
9 secretary. The secretary may, in his or her discretion, and as needed to  
10 contribute to the health and welfare of the public, require the  
11 completion of continuing education courses in specific subjects to  
12 fulfill this mandatory continuing education requirement. Courses shall  
13 be taken from a sponsor approved by the secretary pursuant to regu-  
14 lations promulgated pursuant to this section.

15 § 63. Subdivision 2 of section 794 of the general business law, as  
16 amended by chapter 301 of the laws of 2000, is amended to read as  
17 follows:

18 2. A hearing aid dispenser registered under paragraph (b) of subdivi-  
19 sion one of section seven hundred ninety of this article may satisfy the  
20 requirements of subdivision one of this section by demonstrating to the  
21 secretary compliance with such continuing competency requirements as are  
22 prescribed by title twenty-two of article [one hundred fifty-nine of the  
23 education] fifty-one of the public health law, provided, however, that,  
24 such persons shall submit documentation showing the successful  
25 completion of four continuing education credits relating to the dispens-  
26 ing of hearing aids.

27 § 64. Paragraph (f) of subdivision 4, subdivision 10, and paragraph  
28 (a) of subdivision 15 of section 798 of the general business law, para-

1 graph (f) of subdivision 4 as added by chapter 599 of the laws of 1998,  
2 subdivision 10 as amended by chapter 301 of the laws of 2000, and para-  
3 graph (a) of subdivision 15 as amended by chapter 133 of the laws of  
4 1999 are amended to read as follows:

5 (f) if applicable, requirements otherwise provided under title twen-  
6 ty-two of article [one hundred fifty-nine of the education] fifty-one of  
7 the public health law.

8 10. (a) A hearing aid dispenser, not otherwise licensed pursuant to  
9 title twenty-two of article [one hundred fifty-nine of the education]  
10 fifty-one of the public health law, shall provide any prospective hear-  
11 ing aid users with a copy of their audiogram which shall include pure-  
12 tone (air and bone conduction) and speech audiometry test results, upon  
13 completion of such audiometric tests. Such audiogram shall clearly and  
14 conspicuously contain the following statement: "This information is  
15 intended for the sole purpose of fitting or selecting a hearing aid and  
16 is not a medical examination or audiological evaluation".

17 (b) Hearing aid dispensers licensed under title twenty-two of article  
18 [one hundred fifty-nine of the education] fifty-one of the public health  
19 law shall comply with the provisions of such article in the conduct of  
20 audiological evaluations and shall further provide a copy of the results  
21 of any audiological evaluation to any prospective hearing aid users with  
22 the following statement: "This is an audiological evaluation and is not  
23 a medical examination".

24 (a) no hearing aid dispenser shall, through advertisement, indicate or  
25 imply that any type of medical examination or audiological evaluation  
26 will be provided or that the dispenser has been recommended by anyone  
27 other than an individual licensed to perform such examination or evalu-  
28 ation; provided, however, that nothing in this paragraph shall restrict

1 or limit any person licensed under title twenty-two of article [one  
2 hundred fifty-nine of the education] fifty-one of the public health law  
3 from performing any activity thereunder or from stating in an advertise-  
4 ment that an audiological evaluation will be provided where an audiolog-  
5 ical evaluation is to be provided;

6 § 65. Subdivision 2 of section 789 of the general business law, as  
7 amended by chapter 301 of the laws of 2000, is amended to read as  
8 follows:

9 2. "Audiologist" means an individual who is licensed under title twen-  
10 ty-two of article [one hundred fifty-nine of the education] fifty-one of  
11 the public health law to evaluate hearing, and hearing and communication  
12 disorders and to engage in those practices defined in section eighty-two  
13 hundred three of the [education] public health law.

14 § 66. Subdivision 9 of section 789 of the general business law, as  
15 added by chapter 599 of the laws of 1998, is amended to read as follows:

16 9. "Otolaryngologist" means a physician licensed under title two of  
17 article [one hundred thirty-one of the education] fifty-one of the  
18 public health law, who practices that branch of medicine which treats  
19 diseases of the ear, nose and throat.

20 § 67. Subdivisions 1, 3 and 4 of section 790 of the general business  
21 law, subdivision 1 as added by chapter 599 of the laws of 1998, subdivi-  
22 sion 3 as amended by chapter 133 of the laws of 1999 and subdivision 4  
23 as amended by chapter 301 of the laws of 2000, are amended to read as  
24 follows:

25 1. Any person desiring to be engaged in the dispensing of hearing aids  
26 in this state shall be registered biennially pursuant to this article.  
27 Such person shall file with the secretary an application to be regis-  
28 tered as a hearing aid dispenser. The secretary shall examine each

1 application and issue a certificate of registration if either of the  
2 following criteria are satisfied:

3 (a) (i) the applicant is twenty-one years of age or older;

4 (ii) is of good moral character;

5 (iii) has received a high school diploma or its equivalent;

6 (iv) has two years college accredited coursework or its equivalent;

7 (v) has fully completed the required training program;

8 (vi) has achieved a passing score on the required examination;

9 (vii) has not had a registration, license or other authorization to  
10 dispense hearing aids suspended or revoked;

11 (viii) has paid the appropriate fees according to the provisions of  
12 section seven hundred ninety-seven of this article; and

13 (ix) on or after January first, two thousand three, the applicant  
14 shall demonstrate the successful completion of post-secondary coursework  
15 approved by the secretary in conjunction with the advisory board; or

16 (b) (i) the applicant has submitted proof of licensure under [article  
17 one hundred fifty-nine of the education law] title twenty-two of article  
18 fifty-one of the public health law as a licensed audiologist;

19 (ii) has paid the appropriate fees according to the provisions of  
20 section seven hundred ninety-seven of this article;

21 (iii) has achieved a passing score on the practical test of proficien-  
22 cy required pursuant to subdivision six of section seven hundred nine-  
23 ty-six of this article or who submits evidence satisfactory to the  
24 secretary of experience in dispensing hearing aids; and

25 (iv) has not had a registration, license or other authorization to  
26 dispense hearing aids suspended or revoked according to the provisions  
27 of section seven hundred ninety-nine of this article.

1 3. (a) Any person who has been continuously registered as a hearing  
2 aid dealer pursuant to the former article thirty-seven-A of this chapter  
3 for the three years immediately preceding January first, two thousand or  
4 who submits evidence satisfactory to the secretary of experience in the  
5 business of dispensing hearing aids in this state for the three years  
6 immediately preceding January first, two thousand, upon payment of  
7 applicable fees, shall be registered as a hearing aid dispenser and  
8 shall be exempt from requirements set forth in subparagraphs (iv), (v),  
9 (vi) and (ix) of paragraph (a) of subdivision one of this section.

10 (b) Any person who has been continuously registered as a hearing aid  
11 dealer pursuant to the former article thirty-seven-A of this chapter for  
12 less than three years but more than one year immediately preceding Janu-  
13 ary first, two thousand, or who submits evidence satisfactory to the  
14 secretary of less than three years but more than one year's continuous  
15 experience in the business of dispensing hearing aids in this state  
16 immediately preceding January first, two thousand, may pay the applica-  
17 ble fees and register as a hearing aid dispenser. Such registrant shall  
18 be exempt from the requirements set forth in subparagraphs (iv), (v) and  
19 (ix) of paragraph (a) of subdivision one of this section. Such regis-  
20 trant shall achieve a passing score on the required registration exam-  
21 ination by December thirty-first, two thousand; provided further that,  
22 upon failing to achieve a passing score such person shall continue under  
23 the supervision of a registered hearing aid dispenser until such time as  
24 a passing score is achieved, provided that such passing score is  
25 achieved on an examination administered within twelve months of the  
26 first examination.

27 (c) Any individual who has been continuously registered as a hearing  
28 aid dealer pursuant to the former article thirty-seven-A of this chapter

1 for less than twelve months immediately preceding January first, two  
2 thousand or any individual with less than twelve months experience in  
3 the business of dispensing hearing aids in this state immediately  
4 preceding January first, two thousand shall be required to comply with  
5 all the requirements set forth in subdivision one of this section.

6 (d) Any person licensed pursuant to [article one hundred fifty-nine of  
7 the education law] title twenty-two of article fifty-one of the public  
8 health law, who submits evidence satisfactory to the secretary of expe-  
9 rience of dispensing hearing aids in this state for the period imme-  
10 diately preceding January first, two thousand, upon payment of applica-  
11 ble fees shall be registered as a hearing aid dispenser and shall be  
12 exempt from requirements set forth in subparagraph (iii) of paragraph  
13 (b) of subdivision one of this section.

14 4. Upon application to the secretary, a temporary certificate of  
15 registration authorized under section seven hundred ninety-five of this  
16 article shall be issued to: (i) individuals who prove to the satisfac-  
17 tion of the secretary that he or she will be supervised and trained by  
18 one or more registered hearing aid dispensers for a period of twelve  
19 months or (ii) individuals who are candidates for licensure under [arti-  
20 cle one hundred fifty-nine of the education] title twenty-two of article  
21 fifty-one of the public health law, have satisfied the educational  
22 requirement in subdivision two of section eighty-two hundred six of the  
23 [education] public health law, and are actively engaged in completing  
24 the experience requirement in subdivision three of section eighty-two  
25 hundred six of the [education] public health law. A temporary certif-  
26 icate of registration may be renewed only once.

27 (a) A person holding a temporary certificate of registration shall not  
28 be the sole proprietor of, manage, or independently operate a business

1 which engages in the business of dispensing hearing aids unless such  
2 business employs a registered hearing aid dispenser.

3 (b) A person holding a temporary certificate of registration shall not  
4 advertise or otherwise represent that he or she holds a certificate of  
5 registration as a hearing aid dispenser.

6 (c) A person holding a temporary certificate of registration who is a  
7 candidate for licensure under [article one hundred fifty-nine of the  
8 education law] title twenty-two of article fifty-one of the public  
9 health law shall be exempt from the requirement to complete the course  
10 of instruction prescribed by section seven hundred ninety-six of this  
11 article.

12 § 68. Clause (E) of subparagraph (iii) of paragraph (a) of subdivi-  
13 sion 4 of section 364-j of the social services law, as added by chapter  
14 37 of the laws of 2010, is amended to read as follows:

15 (E) the services are optometric services, as defined in [article one  
16 hundred forty-three of the education law] title fifteen of article  
17 fifty-one of the public health law, and are provided by a diagnostic and  
18 treatment center licensed under article twenty-eight of the public  
19 health law which is affiliated with the college of optometry of the  
20 state university of New York and which has been granted an operating  
21 certificate pursuant to article twenty-eight of the public health law to  
22 provide such optometric services. Any diagnostic and treatment center  
23 providing optometric services pursuant to this clause shall prior to  
24 June first of each year report to the governor, temporary president of  
25 the senate and speaker of the assembly on the following: the total  
26 number of visits made by medical assistance recipients during the imme-  
27 diately preceding calendar year; the number of visits made by medical  
28 assistance recipients during the immediately preceding calendar year by

1 recipients who were enrolled in managed care programs; the number of  
2 visits made by medical assistance recipients during the immediately  
3 preceding calendar year by recipients who were enrolled in managed care  
4 programs that provide optometric benefits as a covered service; and the  
5 number of visits made by the uninsured during the immediately preceding  
6 calendar year; or

7 § 69. Subdivision 3 of section 250.10 of the criminal procedure law,  
8 as added by chapter 548 of the laws of 1980, is amended to read as  
9 follows:

10 3. When a defendant, pursuant to subdivision two of this section,  
11 serves notice of intent to present psychiatric evidence, the district  
12 attorney may apply to the court, upon notice to the defendant, for an  
13 order directing that the defendant submit to an examination by a psychi-  
14 atrist or licensed psychologist as defined in [article one hundred  
15 fifty-three of the education law] title seventeen of article fifty-one  
16 of the public health law designated by the district attorney. If the  
17 application is granted, the psychiatrist or psychologist designated to  
18 conduct the examination must notify the district attorney and counsel  
19 for the defendant of the time and place of the examination. Defendant  
20 has a right to have his counsel present at such examination. The  
21 district attorney may also be present. The role of each counsel at such  
22 examination is that of an observer, and neither counsel shall be permit-  
23 ted to take an active role at the examination.

24 § 70. Paragraph (r) of subdivision 1 of section 330.20 of the crimi-  
25 nal procedure law, as added by chapter 548 of the laws of 1980, is  
26 amended to read as follows:

1 (r) "Licensed psychologist" means a person who is registered as a  
2 psychologist under [article one hundred fifty-three of the education  
3 law] title seventeen of article fifty-one of the public health law.

4 § 71. Subdivision 6 of section 730.10 of the criminal procedure law,  
5 as renumbered by chapter 629 of the laws of 1974, is amended to read as  
6 follows:

7 6. "Certified psychologist" means a person who is registered as a  
8 certified psychologist under [article one hundred fifty-three of the  
9 education law] title seventeen of article fifty-one of the public health  
10 law.

11 § 72. Section 4507 of the civil practice law and rules, as amended by  
12 chapter 913 of the laws of 1984, is amended to read as follows:

13 § 4507. Psychologist. The confidential relations and communications  
14 between a psychologist registered under the provisions of [article one  
15 hundred fifty-three of the education law] title seventeen of article  
16 fifty-one of the public health law and his client are placed on the same  
17 basis as those provided by law between attorney and client, and nothing  
18 in such article shall be construed to require any such privileged commu-  
19 nications to be disclosed.

20 A client who, for the purpose of obtaining insurance benefits, author-  
21 izes the disclosure of any such privileged communication to any person  
22 shall not be deemed to have waived the privilege created by this  
23 section. For purposes of this section:

24 1. "person" shall mean any individual, insurer or agent thereof, peer  
25 review committee, public or private corporation, political subdivision,  
26 government agency, department or bureau of the state, municipality,  
27 industry, co-partnership, association, firm, trust, estate or any other  
28 legal entity whatsoever; and

1 2. "insurance benefits" shall include payments under a self-insured  
2 plan.

3 § 73. The opening paragraph of subdivision (a) of section 4508 of the  
4 civil practice law and rules, as amended by chapter 230 of the laws of  
5 2004, is amended to read as follows:

6 Confidential information privileged. A person licensed as a licensed  
7 master social worker or a licensed clinical social worker under the  
8 provisions of [article one hundred fifty-four of the education law]  
9 title eighteen of article fifty-one of the public health law shall not  
10 be required to disclose a communication made by a client, or his or her  
11 advice given thereon, in the course of his or her professional employ-  
12 ment, nor shall any clerk, stenographer or other person working for the  
13 same employer as such social worker or for such social worker be allowed  
14 to disclose any such communication or advice given thereon; except

15 § 74. Paragraphs (g-1), (q), (r), (y), (z) and subparagraph (i) of  
16 paragraph (x) of subdivision 2 of section 365-a of the social services  
17 law, paragraph (g-1) as amended by section 9 of part D of chapter 57 of  
18 the laws of 2017, paragraph (q) as amended by section 35 of part B of  
19 chapter 58 of the laws of 2010, paragraph (r) as added by section 32 of  
20 part C of chapter 58 of the laws of 2008, paragraphs (y) and (z) as  
21 added by section 6 of part D of chapter 56 of the laws of 2012 and  
22 subparagraph (i) of paragraph (x) as amended by chapter 61 of the laws  
23 of 2020, are amended to read as follows:

24 (g-1) drugs provided on an in-patient basis, those drugs contained on  
25 the list established by regulation of the commissioner of health pursu-  
26 ant to subdivision four of this section, and those drugs which may not  
27 be dispensed without a prescription as required by section sixty-eight  
28 hundred ten of the [education] public health law and which the commis-

1 sioner of health shall determine to be reimbursable based upon such  
2 factors as the availability of such drugs or alternatives at low cost if  
3 purchased by a medicaid recipient, or the essential nature of such drugs  
4 as described by such commissioner in regulations, provided, however,  
5 that such drugs, exclusive of long-term maintenance drugs, shall be  
6 dispensed in quantities no greater than a thirty day supply or one  
7 hundred doses, whichever is greater; provided further that the commis-  
8 sioner of health is authorized to require prior authorization for any  
9 refill of a prescription when more than a ten day supply of the previ-  
10 ously dispensed amount should remain were the product used as normally  
11 indicated, or in the case of a controlled substance, as defined in  
12 section thirty-three hundred two of the public health law, when more  
13 than a seven day supply of the previously dispensed amount should remain  
14 were the product used as normally indicated; provided further that the  
15 commissioner of health is authorized to require prior authorization of  
16 prescriptions of opioid analgesics in excess of four prescriptions in a  
17 thirty-day period in accordance with section two hundred seventy-three  
18 of the public health law; medical assistance shall not include any drug  
19 provided on other than an in-patient basis for which a recipient is  
20 charged or a claim is made in the case of a prescription drug, in excess  
21 of the maximum reimbursable amounts to be established by department  
22 regulations in accordance with standards established by the secretary of  
23 the United States department of health and human services, or, in the  
24 case of a drug not requiring a prescription, in excess of the maximum  
25 reimbursable amount established by the commissioner of health pursuant  
26 to paragraph (a) of subdivision four of this section;

27 (q) diabetes self-management training services for persons diagnosed  
28 with diabetes when such services are ordered by a physician, registered

1 physician assistant, registered nurse practitioner, or licensed midwife  
2 and provided by a licensed, registered, or certified health care profes-  
3 sional, as determined by the commissioner of health, who is certified as  
4 a diabetes educator by the National Certification Board for Diabetes  
5 Educators, or a successor national certification board, or provided by  
6 such a professional who is affiliated with a program certified by the  
7 American Diabetes Association, the American Association of Diabetes  
8 Educators, the Indian Health Services, or any other national accredi-  
9 tation organization approved by the federal centers for medicare and  
10 medicaid services; provided, however, that the provisions of this para-  
11 graph shall not take effect unless all necessary approvals under federal  
12 law and regulation have been obtained to receive federal financial  
13 participation in the costs of health care services provided pursuant to  
14 this paragraph. Nothing in this paragraph shall be construed to modify  
15 any licensure, certification or scope of practice provision under [title  
16 eight of the education law] article fifty-one of the public health law.

17 (r) asthma self-management training services for persons diagnosed  
18 with asthma when such services are ordered by a physician, registered  
19 physician's assistant, registered nurse practitioner, or licensed  
20 midwife and provided by a licensed, registered, or certified health care  
21 professional, as determined by the commissioner of health, who is certi-  
22 fied as an asthma educator by the National Asthma Educator Certification  
23 Board, or a successor national certification board; provided, however,  
24 that the provisions of this paragraph shall not take effect unless all  
25 necessary approvals under federal law and regulation have been obtained  
26 to receive federal financial participation in the costs of health care  
27 services provided pursuant to this paragraph. Nothing in this paragraph  
28 shall be construed to modify any licensure, certification or scope of

1 practice provision under [title eight of the education law] article  
2 fifty-one of the public health law.

3 (i) lactation counseling services for pregnant and postpartum women  
4 when such services are ordered by a physician, physician assistant,  
5 nurse practitioner, or midwife and provided by a qualified lactation  
6 care provider, as determined by the commissioner of health; provided,  
7 however, that the provisions of this paragraph shall not take effect  
8 unless all necessary approvals under federal law and regulation have  
9 been obtained to receive federal financial participation in the costs of  
10 health care services provided pursuant to this paragraph. Nothing in  
11 this paragraph shall be construed to modify any licensure, certification  
12 or scope of practice provision under [title eight of the education law]  
13 article fifty-one of the public health law.

14 (y) harm reduction counseling and services to reduce or minimize the  
15 adverse health consequences associated with drug use, provided by a  
16 qualified drug treatment program or community-based organization, as  
17 determined by the commissioner of health; provided, however, that the  
18 provisions of this paragraph shall not take effect unless all necessary  
19 approvals under federal law and regulation have been obtained to receive  
20 federal financial participation in the costs of health care services  
21 provided pursuant to this paragraph. Nothing in this paragraph shall be  
22 construed to modify any licensure, certification or scope of practice  
23 provision under [title eight of the education law] article fifty-one of  
24 the public health law.

25 (z) hepatitis C wrap-around services to promote care coordination and  
26 integration when ordered by a physician, registered physician assistant,  
27 registered nurse practitioner, or licensed midwife, and provided by a  
28 qualified professional, as determined by the commissioner of health.

1 Such services may include client outreach, identification and recruit-  
2 ment, hepatitis C education and counseling, coordination of care and  
3 adherence to treatment, assistance in obtaining appropriate entitlement  
4 services, peer support and other supportive services; provided, however,  
5 that the provisions of this paragraph shall not take effect unless all  
6 necessary approvals under federal law and regulation have been obtained  
7 to receive federal financial participation in the costs of health care  
8 services provided pursuant to this paragraph. Nothing in this paragraph  
9 shall be construed to modify any licensure, certification or scope of  
10 practice provision under [title eight of the education law] article  
11 fifty-one of the public health law.

12 § 75. Paragraph (e) of subdivision 6 of section 384-b of the social  
13 services law, as amended by chapter 691 of the laws of 1991, is amended  
14 to read as follows:

15 (e) In every proceeding upon a ground set forth in paragraph (c) of  
16 subdivision four of this section the judge shall order the parent to be  
17 examined by, and shall take the testimony of, a qualified psychiatrist  
18 or a psychologist licensed pursuant to [article one hundred fifty-three  
19 of the education law] title seventeen of article fifty-one of the public  
20 health law as defined in section 730.10 of the criminal procedure law in  
21 the case of a parent alleged to be mentally ill or retarded, such  
22 psychologist or psychiatrist to be appointed by the court pursuant to  
23 section thirty-five of the judiciary law. The parent and the authorized  
24 agency shall have the right to submit other psychiatric, psychological  
25 or medical evidence. If the parent refuses to submit to such court-ord-  
26 ered examination, or if the parent renders himself unavailable therefor  
27 whether before or after the initiation of a proceeding under this  
28 section, by departing from the state or by concealing himself therein,

1 the appointed psychologist or psychiatrist, upon the basis of other  
2 available information, including, but not limited to, agency, hospital  
3 or clinic records, may testify without an examination of such parent,  
4 provided that such other information affords a reasonable basis for his  
5 opinion.

6 § 76. Subdivision (c) of section 9.37 of the mental hygiene law, as  
7 amended by chapter 230 of the laws of 2004, is amended to read as  
8 follows:

9 (c) Notwithstanding the provisions of subdivision (b) of this section,  
10 in counties with a population of less than two hundred thousand, a  
11 director of community services who is a licensed psychologist pursuant  
12 to [article one hundred fifty-three of the education law] title seven-  
13 teen of article fifty-one of the public health law or a licensed clin-  
14 ical social worker pursuant to [article one hundred fifty-four of the  
15 education law] title eighteen of article fifty-one of the public health  
16 law but who is not a physician may apply for the admission of a patient  
17 pursuant to this section without a medical examination by a designated  
18 physician, if a hospital approved by the commissioner pursuant to  
19 section 9.39 of this article is not located within thirty miles of the  
20 patient, and the director of community services has made a reasonable  
21 effort to locate a designated examining physician but such a designee is  
22 not immediately available and the director of community services, after  
23 personal observation of the person, reasonably believes that he may have  
24 a mental illness which is likely to result in serious harm to himself or  
25 others and inpatient care and treatment of such person in a hospital may  
26 be appropriate. In the event of an application pursuant to this subdivi-  
27 sion, a physician of the receiving hospital shall examine the patient  
28 and shall not admit the patient unless he or she determines that the

1 patient has a mental illness for which immediate inpatient care and  
2 treatment in a hospital is appropriate and which is likely to result in  
3 serious harm to himself or others. If the patient is admitted, the need  
4 for hospitalization shall be confirmed by another staff physician within  
5 twenty-four hours. An application pursuant to this subdivision shall be  
6 in writing and shall be filed with the director of such hospital at the  
7 time of the patient's reception, together with a statement in a form  
8 prescribed by the commissioner giving such information as he may deem  
9 appropriate, including a statement of the efforts made by the director  
10 of community services to locate a designated examining physician prior  
11 to making an application pursuant to this subdivision.

12 § 77. Subdivision (h) of section 10.03 of the mental hygiene law, as  
13 added by chapter 7 of the laws of 2007, is amended to read as follows:

14 (h) "Licensed psychologist" means a person who is registered as a  
15 psychologist under [article one hundred fifty-three of the education  
16 law] title seventeen of article fifty-one of the public health law.

17 § 78. Paragraphs (b-4), (b-5), (b-7), (d) and (g) of section 1503 of  
18 the business corporation law, paragraph (b-4) as added and paragraph (d)  
19 as amended by chapter 550 of the laws of 2011, paragraph (b-5) as  
20 amended by chapter 9 of the laws of 2013, the opening paragraph of para-  
21 graph (b-5) as amended by chapter 475 of the laws of 2014, paragraph  
22 (b-7) as added by chapter 260 of the laws of 2016, the opening paragraph  
23 of subparagraph 1 of paragraph (b-7) as amended by chapter 302 of the  
24 laws of 2018, and paragraph (g) as added by chapter 676 of the laws of  
25 2002, are amended to read as follows:

26 (b-4) The certificate of incorporation of a design professional  
27 service corporation shall also have attached thereto a certificate or  
28 certificates issued by the licensing authority certifying that each of

1 the shareholders, officers, directors and owners have been deemed to  
2 have been of good moral character as may be established by the regu-  
3 lations of the commissioner of education or the commissioner of health.

4 (b-5) On or after January first, two thousand twelve, the state educa-  
5 tion department and the department of state shall allow an existing  
6 professional service corporation organized under this article and prac-  
7 ticing professional engineering, architecture, landscape architecture,  
8 geology or land surveying, or practicing any combination of such  
9 professions to become a design professional service corporation as  
10 defined in this article, provided the professional service corporation  
11 meets all of the requirements to become a design professional service  
12 corporation, including that its name shall end with the words "design  
13 professional corporation" or the abbreviation "D.P.C.", by amending its  
14 certificate of incorporation so that it contains the following state-  
15 ments:

16 (1) the names and residence addresses of all individuals or ESOPs who  
17 will be the shareholders, directors and officers of the original design  
18 professional service corporation; and

19 (2) the profession or professions of each shareholder, director and  
20 officer who is a design professional of the original design professional  
21 service corporation; and

22 (3) the ownership interest of each shareholder of the original design  
23 professional service corporation; and

24 (4) the names of the officers and directors who will be the president,  
25 the chairperson of the board of directors and the chief executive offi-  
26 cer or officers of the original design professional service corporation.

27 (i) The certificate of amendment shall have attached thereto a certif-  
28 icate or certificates issued by the licensing authority certifying that

1 each of the proposed shareholders, directors and officers who is listed  
2 as a design professional is authorized by law to practice a profession  
3 which the corporation is organized to practice and, if applicable, that  
4 one or more of such individuals is authorized to practice each profes-  
5 sion which the corporation will be authorized to practice. The attached  
6 certificate or certificates shall also certify that the proposed presi-  
7 dent, the chairperson of the board of directors and the chief executive  
8 officer or officers are authorized by law to practice a profession which  
9 the corporation is organized to practice.

10 (ii) The certificate of amendment shall also have attached thereto a  
11 certificate or certificates issued by the licensing authority certifying  
12 that each of the proposed shareholders, officers, directors and owners  
13 listed have been deemed to have been of good moral character as may be  
14 established by the regulations of the commissioner of education or the  
15 commissioner of health.

16 (iii) The certificate of amendment shall also have attached thereto:  
17 (A) a tax clearance issued by the department of taxation and finance  
18 certifying that the existing professional service corporation is current  
19 with respect to payment of its state tax liabilities and (B) a certif-  
20 icate of good standing from the state education department or the  
21 department of health certifying that the existing professional service  
22 corporation is authorized to provide professional services without  
23 restriction.

24 (b-7) (1) Prior to the first day of March, two thousand nineteen, the  
25 state education department and the department of state shall allow an  
26 existing business corporation organized under article four of this chap-  
27 ter to become a design professional service corporation as defined in  
28 this article for the purpose of practicing professional geology,

1 provided that the surviving corporation meet all of the requirements to  
2 become a design professional service corporation, including that the  
3 name shall end with the words "design professional service corporation"  
4 or the abbreviation "D.P.C." by amending its certificate of incorpo-  
5 ration so that it contains the following:

6 (i) the names and residence addresses of all individuals or ESOPs who  
7 will be the original shareholders, directors and officers of the profes-  
8 sional service corporation;

9 (ii) a statement that the design professional service corporation is  
10 formed pursuant to this section;

11 (iii) the profession or profession of each shareholder, director and  
12 officer who is a design professional of the original design professional  
13 service corporation;

14 (iv) the names of the officers and directors who will be the presi-  
15 dent, the chairperson of the board of directors and the chief executive  
16 officer or officers of the original design professional service corpo-  
17 ration;

18 (v) the ownership interest of each shareholder of the original design  
19 professional service corporation; and

20 (vi) a statement that the amendment shall not effect a dissolution of  
21 the corporation, but shall be deemed a continuation of its corporate  
22 existence, without affecting its then existing property rights or  
23 liabilities or the liabilities of its members or officers as such, but  
24 thereafter it shall have only such rights, powers and privileges, and be  
25 subject only to such other duties and liabilities, as a corporation  
26 created for the same purposes under this article.

1 (2) The certificate of amendment shall have attached thereto a certifi-  
2 cate or certificates issued by the licensing authority certifying that  
3 each of the proposed shareholders, directors and officers listed:

4 (i) is authorized by law to practice a profession which the corpo-  
5 ration is organized to practice and, if applicable, that one or more of  
6 such individuals is authorized to practice each profession which the  
7 corporation will be authorized to practice; and

8 (ii) has been deemed to be of good moral character as may be estab-  
9 lished by the regulations of the commissioner of education and the  
10 commissioner of health.

11 (3) The certificate of amendment shall also have attached thereto a  
12 tax clearance issued by the department of taxation and finance certifi-  
13 ing that the existing business corporation is current with respect to  
14 payment of its state tax liabilities.

15 (4) Notwithstanding any provision of law to the contrary, any corpo-  
16 ration formed under this section shall be required to comply with all  
17 applicable laws, rules, or regulations relating to the practice of a  
18 profession under title eight of the education law or article fifty-one  
19 of the public health law.

20 (d) A professional service corporation, including a design profes-  
21 sional service corporation, other than a corporation authorized to prac-  
22 tice law, shall be under the supervision of the regents of the universi-  
23 ty of the state of New York or the department of health and be subject  
24 to disciplinary proceedings and penalties, and its certificate of incor-  
25 poration shall be subject to suspension, revocation or annulment for  
26 cause, in the same manner and to the same extent as is provided with  
27 respect to individuals and their licenses, certificates, and registra-  
28 tions in title eight of the education law or article fifty-one of the

1 public health law relating to the applicable profession. Notwithstanding  
2 the provisions of this paragraph, a professional service corporation  
3 authorized to practice medicine shall be subject to the prehearing  
4 procedures and hearing procedures as is provided with respect to indi-  
5 vidual physicians and their licenses in title II-A of article two of the  
6 public health law.

7 (g) The practices of creative arts therapy, marriage and family thera-  
8 py, mental health counseling, and psychoanalysis shall not be deemed the  
9 same professional service for the purpose of paragraph (a) of this  
10 section, notwithstanding that such practices are all licensed under  
11 [article one hundred sixty-three of the education law] title twenty-five  
12 of article fifty-one of the public health law.

13 § 79. Subparagraph 1 of paragraph (a) of subdivision 4 of section  
14 1194 of the vehicle and traffic law, as amended by chapter 169 of the  
15 laws of 2010, is amended to read as follows:

16 (1) At the request of a police officer, the following persons may  
17 withdraw blood for the purpose of determining the alcoholic or drug  
18 content therein: (i) a physician, a registered professional nurse, a  
19 registered physician assistant, a certified nurse practitioner, or an  
20 advanced emergency medical technician as certified by the department of  
21 health; or (ii) under the supervision and at the direction of a physi-  
22 cian, registered physician assistant or certified nurse practitioner  
23 acting within his or her lawful scope of practice, or upon the express  
24 consent of the person eighteen years of age or older from whom such  
25 blood is to be withdrawn: a clinical laboratory technician or clinical  
26 laboratory technologist licensed pursuant to [article one hundred  
27 sixty-five of the education law] title twenty-seven of article fifty-one  
28 of the public health law; a phlebotomist; or a medical laboratory tech-

1 nician or medical technologist employed by a clinical laboratory  
2 approved under title five of article five of the public health law. This  
3 limitation shall not apply to the taking of a urine, saliva or breath  
4 specimen.

5 § 80. Subdivisions 11 and 12 of section 3501 of the public health law,  
6 as added by chapter 175 of the laws of 2006, are amended to read as  
7 follows:

8 11. "Licensed practitioner" means a person licensed or otherwise  
9 authorized under [the education law] this chapter to practice medicine,  
10 dentistry, podiatry, or chiropractic.

11 12. "Professional medical physicist" means a person licensed or other-  
12 wise authorized to practice medical physics in accordance with [article  
13 one hundred sixty-six of the education law] title twenty-eight of arti-  
14 cle fifty-one of this chapter.

15 § 81. Subdivision a of section 17-199.15 of the administrative code of  
16 the city of New York, as added by local law number 30 of the city of New  
17 York for the year 2021, is amended to read as follows:

18 a. Definitions. For the purposes of this section, the following terms  
19 have the following meanings:

20 Covered health care services. The term "covered health care services"  
21 means professional medical services by primary care practitioners,  
22 including preventive, primary, diagnostic and specialty services; diag-  
23 nostic and laboratory services, including therapeutic radiological  
24 services; prescription drugs, excluding drugs for uncovered services;  
25 and any other services determined by the department.

26 Direct care worker. The term "direct care worker" means any employee  
27 of a hospital that is responsible for patient handling or patient

1 assessment as a regular or incident part of their employment, including  
2 any licensed or unlicensed health care worker.

3 Doctor. The term "doctor" means a practitioner of medicine licensed to  
4 practice medicine pursuant to [article 131 of the education law] title  
5 two of article fifty-one of the public health law.

6 Hospital. The term "hospital" means an institution or facility operat-  
7 ing in New York city possessing a valid operating certificate issued  
8 pursuant to [article 28 of the public health law] title twelve of arti-  
9 cle fifty-one of the public health law.

10 Nurse. The term "nurse" means a practitioner of nursing licensed to  
11 practice nursing pursuant to [article 139 of the education law] title  
12 twelve of article fifty-one of the public health law.

13 Physician assistant. The term "physician assistant" means a person  
14 licensed as a physician assistant pursuant to [article 131-b of the New  
15 York state education law] title two of article fifty-one of the public  
16 health law.

17 § 82. Subdivision b of section 17-357 of the administrative code of  
18 the city of New York, as added by local law number 12 of the city of New  
19 York for the year 1997, is amended to read as follows:

20 b. The provisions of this subchapter shall not apply to a physician  
21 licensed under [article one hundred thirty-one of the New York state  
22 education law] title two of article fifty-one of the public health law.

23 § 83. Subdivision e of section 20-815 of the administrative code of  
24 the city of New York, as added by local law number 17 of the city of New  
25 York for the year 2011, is amended to read as follows:

26 e. "Licensed medical provider" shall mean a person licensed or other-  
27 wise authorized under the provisions of [articles one hundred thirty-  
28 one, one hundred thirty-one-a, one hundred thirty-one-b, one hundred

1 thirty-nine or one hundred forty of the education law of New York] title  
2 two, three, four, twelve, or thirteen of article fifty-one of the public  
3 health law, to provide medical services.

4 § 84. Section 308-b of the military law, as amended by chapter 418 of  
5 the laws of 2004, is amended to read as follows:

6 § 308-b. Extension of license, certificate or registration. Notwith-  
7 standing any other provision of general, special or local law, code or  
8 ordinance, or rule or regulation to the contrary, military personnel  
9 serving on active duty, who were licensed, certified or registered to  
10 engage in a profession or occupation prior to being called to active  
11 duty, and whose license, certificate or registration shall expire during  
12 such period of active duty, shall have such license, certificate or  
13 registration automatically extended for the period of active duty and  
14 for twelve months after such military personnel have been released from  
15 active duty, provided that with regard to professions subject to title  
16 VIII of the education law or article fifty-one of the public health law,  
17 this section shall not apply to limited permits or other credentials  
18 issued for a period of two months or less and shall not extend the term  
19 of a limited permit that expires for reasons other than the passage of  
20 time, including but not limited to failure on a licensure examination,  
21 and further provided that this section shall not be construed to permit  
22 any individual whose authority to engage in a profession or occupation  
23 has been revoked or suspended to engage in such profession or occupa-  
24 tion.

25 § 85. Subdivision 6 of section 2441 of the public health law, as added  
26 by chapter 450 of the laws of 1975, is amended to read as follows:

27 6. "Researcher" means any person licensed under [title VIII of the  
28 education law] article fifty-one of this chapter to perform diagnosis,

1 treatment, medical services, prescription or therapeutic exercises with  
2 regard to or upon human beings, or any other person deemed appropriately  
3 competent and qualified by a human research review committee as provided  
4 by section twenty-four hundred forty-four of this chapter.

5 § 86. Subdivision 1 of section 3000-a of the public health law, as  
6 amended by chapter 69 of the laws of 1994, is amended to read as  
7 follows:

8 1. Except as provided in subdivision six of section six thousand six  
9 hundred eleven, subdivision two of section six thousand five hundred  
10 twenty-seven, subdivision one of section six thousand nine hundred nine  
11 and sections six thousand five hundred forty-seven and six thousand  
12 seven hundred thirty-seven of [the education law] this chapter, any  
13 person who voluntarily and without expectation of monetary compensation  
14 renders first aid or emergency treatment at the scene of an accident or  
15 other emergency outside a hospital, doctor's office or any other place  
16 having proper and necessary medical equipment, to a person who is uncon-  
17 scious, ill, or injured, shall not be liable for damages for injuries  
18 alleged to have been sustained by such person or for damages for the  
19 death of such person alleged to have occurred by reason of an act or  
20 omission in the rendering of such emergency treatment unless it is  
21 established that such injuries were or such death was caused by gross  
22 negligence on the part of such person. Nothing in this section shall be  
23 deemed or construed to relieve a licensed physician, dentist, nurse,  
24 physical therapist or registered physician's assistant from liability  
25 for damages for injuries or death caused by an act or omission on the  
26 part of such person while rendering professional services in the normal  
27 and ordinary course of his or her practice.

1 § 87. Paragraph (a) of subdivision 3 and paragraph (b) of subdivision  
2 4 of section 3000-b of the public health law, paragraph (a) of subdivi-  
3 sion 3 as amended by chapter 243 of the laws of 2010, and paragraph (b)  
4 of subdivision 4 as added by chapter 552 of the laws of 1998, are  
5 amended to read as follows:

6 (a) No person may operate an automated external defibrillator unless  
7 the person has successfully completed a training course in the operation  
8 of an automated external defibrillator approved by a nationally-recog-  
9 nized organization or the state emergency medical services council.  
10 However, this section shall not prohibit operation of an automated  
11 external defibrillator, (i) by a health care practitioner licensed or  
12 certified under [title VIII of the education law] article fifty-one of  
13 this chapter or a person certified under this article acting within his  
14 or her lawful scope of practice; (ii) by a person acting pursuant to a  
15 lawful prescription; or (iii) by a person who operates the automated  
16 external defibrillator other than as part of or incidental to his or her  
17 employment or regular duties, who is acting in good faith, with reason-  
18 able care, and without expectation of monetary compensation, to provide  
19 first aid that includes operation of an automated external defibrilla-  
20 tor; nor shall this section limit any good samaritan protections  
21 provided in section three thousand-a of this article.

22 (b) Operation of an automated external defibrillator pursuant to this  
23 section shall not constitute the unlawful practice of a profession under  
24 [title VIII of the education law] article fifty-one of this chapter.

25 § 88. Paragraph (c) of subdivision 2 of section 369-bb of the social  
26 services law, as amended by section 2 of part D of chapter 57 of the  
27 laws of 2017, is amended to read as follows:

1 (c) Two persons with expertise in drug utilization review who are  
2 health care professionals licensed under [Title VIII of the education  
3 law] article fifty-one of the public health law at least one of whom is  
4 a pharmacologist.

5 § 89. Paragraph (x) of subdivision 2 of section 496 of the social  
6 services law, as added by section 1 of part B of chapter 501 of the laws  
7 of 2012, is amended to read as follows:

8 (x) officers and employees of the education department and, where  
9 applicable, the department of health, for the purpose of investigating  
10 charges and maintaining professional discipline proceedings against the  
11 professional license of the subject of the report pursuant to [Title  
12 VIII of the education law] article fifty-one of the public health law,  
13 and to employees of the education department for the purpose of investi-  
14 gating charges and maintaining good moral character proceedings against  
15 the teaching, school administrator or school leader certificate or  
16 license of the subject of the report; and

17 § 90. Paragraph 2 of subdivision (a) of section 1212-a of the tax law,  
18 as amended by chapter 200 of the laws of 2009, is amended to read as  
19 follows:

20 (2) a tax, at the same uniform rate, but at a rate not to exceed four  
21 and one-half per centum, in multiples of one-half of one per centum, on  
22 the receipts from every sale of the following services: beauty, barber-  
23 ing, hair restoring, manicuring, pedicuring, electrolysis, massage  
24 services and similar services, and every sale of services by weight  
25 control salons, health salons, gymnasiums, turkish and sauna bath and  
26 similar establishments and every charge for the use of such facilities,  
27 whether or not any tangible personal property is transferred in conjunc-  
28 tion therewith; but excluding services rendered by a physician, osteo-

1 path, dentist, nurse, physiotherapist, chiropractor, podiatrist, optome-  
2 trist, ophthalmic dispenser or a person performing similar services  
3 licensed under [title VIII of the education law] article fifty-one of  
4 the public health law, as amended, and excluding such services when  
5 performed on pets and other animals.

6 § 91. Transfer of employees. All employees of the state education  
7 department deemed necessary to implement this act by the division of the  
8 budget, in consultation with the commissioner of health, shall be trans-  
9 ferred to the department of health. This transfer of employees shall be  
10 deemed to be a transfer of function pursuant to subdivision 2 of section  
11 70 of the civil service law. Such officers and employees of the state  
12 education department shall be transferred without further examination or  
13 qualification, and shall retain their respective civil service classi-  
14 fication, status and bargaining unit representation.

15 § 92. This act shall take effect on January 1, 2024; provided however  
16 that:

17 (a) effective immediately, the department of health and the state  
18 education department are authorized to adopt, repeal, or amend any rule  
19 or regulation necessary to effectuate the provisions of this act prior  
20 to its effective date;

21 (b) the amendments to paragraph (y) of subdivision 2 of section 2999-  
22 cc of the public health law made by section twenty-six of this act shall  
23 not affect the expiration of such paragraph and shall expire and be  
24 deemed repealed therewith;

25 (c) the amendments to section 3368 of the public health law made by  
26 section forty-six-a of this act shall not affect the expiration of such  
27 subdivision and shall be deemed repealed therewith;

1 (d) that if chapter 815 of the laws of 2022 shall not have taken  
2 effect on or before such date then section fifty-six of this act shall  
3 take effect on the same date and in the same manner as such chapter of  
4 the laws of 2022, takes effect;

5 (e) the amendments to subparagraph (vi) of paragraph 1 of subdivision  
6 (e) of section 9.60 of the mental hygiene law made by section fifty-  
7 eight of this act shall not affect the repeal of such section and shall  
8 be deemed repealed therewith; and

9 (f) the amendments to clause (E) of subparagraph (iii) of paragraph  
10 (a) of subdivision 4 of section 364-j of the social services law made by  
11 section sixty-eight of this act shall not affect the repeal of such  
12 section and shall be deemed repealed therewith.

13

## PART DD

14 Section 1. 1. Subject to available appropriations and approval of the  
15 director of the budget, the commissioners of the office of mental  
16 health, office for people with developmental disabilities, office of  
17 addiction services and supports, office of temporary and disability  
18 assistance, office of children and family services, and the state office  
19 for the aging shall establish a state fiscal year 2023-24 cost of living  
20 adjustment (COLA), effective April 1, 2023, for projecting for the  
21 effects of inflation upon rates of payments, contracts, or any other  
22 form of reimbursement for the programs and services listed in paragraphs  
23 (i), (ii), (iii), (iv), (v), and (vi) of subdivision four of this  
24 section. The COLA established herein shall be applied to the appropri-  
25 ate portion of reimbursable costs or contract amounts. Where appropri-

1 ate, transfers to the department of health (DOH) shall be made as  
2 reimbursement for the state share of medical assistance.

3 2. Notwithstanding any inconsistent provision of law, subject to the  
4 approval of the director of the budget and available appropriations  
5 therefore, for the period of April 1, 2023 through March 31, 2024, the  
6 commissioners shall provide funding to support a two and five-tenths  
7 percent (2.5%) cost of living adjustment under this section for all  
8 eligible programs and services as determined pursuant to subdivision  
9 four of this section.

10 3. Notwithstanding any inconsistent provision of law, and as approved  
11 by the director of the budget, the 2.5 percent cost of living adjustment  
12 (COLA) established herein shall be inclusive of all other cost of living  
13 type increases, inflation factors, or trend factors that are newly  
14 applied effective April 1, 2023. Except for the 2.5 percent cost of  
15 living adjustment (COLA) established herein, for the period commencing  
16 on April 1, 2023 and ending March 31, 2024 the commissioners shall not  
17 apply any other new cost of living adjustments for the purpose of estab-  
18 lishing rates of payments, contracts or any other form of reimbursement.  
19 The phrase "all other cost of living type increases, inflation factors,  
20 or trend factors" as defined in this subdivision shall not include  
21 payments made pursuant to the American Rescue Plan Act or other federal  
22 relief programs related to the Coronavirus Disease 2019 (COVID-19)  
23 pandemic Public Health Emergency. This subdivision shall not prevent  
24 the office of children and family services from applying additional  
25 trend factors or staff retention factors to eligible programs and  
26 services under paragraph (v) of subdivision four of this section.

27 4. Eligible programs and services. (i) Programs and services funded,  
28 licensed, or certified by the office of mental health (OMH) eligible for

1 the cost of living adjustment established herein, pending federal  
2 approval where applicable, include: office of mental health licensed  
3 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of  
4 the office of mental health regulations including clinic, continuing day  
5 treatment, day treatment, intensive outpatient programs and partial  
6 hospitalization; outreach; crisis residence; crisis stabilization,  
7 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric  
8 emergency program services; crisis intervention; home based crisis  
9 intervention; family care; supported single room occupancy; supported  
10 housing; supported housing community services; treatment congregate;  
11 supported congregate; community residence - children and youth;  
12 treatment/apartment; supported apartment; community residence single  
13 room occupancy; on-site rehabilitation; employment programs; recreation;  
14 respite care; transportation; psychosocial club; assertive community  
15 treatment; case management; care coordination, including health home  
16 plus services; local government unit administration; monitoring and  
17 evaluation; children and youth vocational services; single point of  
18 access; school-based mental health program; family support children and  
19 youth; advocacy/support services; drop in centers; recovery centers;  
20 transition management services; bridger; home and community based waiver  
21 services; behavioral health waiver services authorized pursuant to the  
22 section 1115 MRT waiver; self-help programs; consumer service dollars;  
23 conference of local mental hygiene directors; multicultural initiative;  
24 ongoing integrated supported employment services; supported education;  
25 mentally ill/chemical abuse (MICA) network; personalized recovery  
26 oriented services; children and family treatment and support services;  
27 residential treatment facilities operating pursuant to part 584 of title  
28 14-NYCRR; geriatric demonstration programs; community-based mental

1 health family treatment and support; coordinated children's service  
2 initiative; homeless services; and promises zone.

3 (ii) Programs and services funded, licensed, or certified by the  
4 office for people with developmental disabilities (OPWDD) eligible for  
5 the cost of living adjustment established herein, pending federal  
6 approval where applicable, include: local/unified services; chapter 620  
7 services; voluntary operated community residential services; article 16  
8 clinics; day treatment services; family support services; 100% day  
9 training; epilepsy services; traumatic brain injury services; hepatitis  
10 B services; independent practitioner services for individuals with  
11 intellectual and/or developmental disabilities; crisis services for  
12 individuals with intellectual and/or developmental disabilities; family  
13 care residential habilitation; supervised residential habilitation;  
14 supportive residential habilitation; respite; day habilitation; prevoca-  
15 tional services; supported employment; community habilitation; interme-  
16 diate care facility day and residential services; specialty hospital;  
17 pathways to employment; intensive behavioral services; basic home and  
18 community based services (HCBS) plan support; health home services  
19 provided by care coordination organizations; community transition  
20 services; family education and training; fiscal intermediary; support  
21 broker; and personal resource accounts.

22 (iii) Programs and services funded, licensed, or certified by the  
23 office of addiction services and supports (OASAS) eligible for the cost  
24 of living adjustment established herein, pending federal approval where  
25 applicable, include: medically supervised withdrawal services - residen-  
26 tial; medically supervised withdrawal services - outpatient; medically  
27 managed detoxification; medically monitored withdrawal; inpatient reha-  
28 bilitation services; outpatient opioid treatment; residential opioid

1 treatment; KEEP units outpatient; residential opioid treatment to absti-  
2 nence; problem gambling treatment; medically supervised outpatient;  
3 outpatient rehabilitation; specialized services substance abuse  
4 programs; home and community based waiver services pursuant to subdivi-  
5 sion 9 of section 366 of the social services law; children and family  
6 treatment and support services; continuum of care rental assistance case  
7 management; NY/NY III post-treatment housing; NY/NY III housing for  
8 persons at risk for homelessness; permanent supported housing; youth  
9 clubhouse; recovery community centers; recovery community organizing  
10 initiative; residential rehabilitation services for youth (RRSY); inten-  
11 sive residential; community residential; supportive living; residential  
12 services; job placement initiative; case management; family support  
13 navigator; local government unit administration; peer engagement; voca-  
14 tional rehabilitation; support services; HIV early intervention  
15 services; dual diagnosis coordinator; problem gambling resource centers;  
16 problem gambling prevention; prevention resource centers; primary  
17 prevention services; other prevention services; and community services.

18 (iv) Programs and services funded, licensed, or certified by the  
19 office of temporary and disability assistance (OTDA) eligible for the  
20 cost of living adjustment established herein, pending federal approval  
21 where applicable, include: nutrition outreach and education program  
22 (NOEP).

23 (v) Programs and services funded, licensed, or certified by the office  
24 of children and family services (OCFS) eligible for the cost of living  
25 adjustment established herein, pending federal approval where applica-  
26 ble, include: programs for which the office of children and family  
27 services establishes maximum state aid rates pursuant to section 398-a  
28 of the social services law and section 4003 of the education law; emer-

1 gency foster homes; foster family boarding homes and therapeutic foster  
2 homes; supervised settings as defined by subdivision twenty-two of  
3 section 371 of the social services law; adoptive parents receiving  
4 adoption subsidy pursuant to section 453 of the social services law; and  
5 congregate and scattered supportive housing programs and supportive  
6 services provided under the NY/NY III supportive housing agreement to  
7 young adults leaving or having recently left foster care.

8 (vi) Programs and services funded, licensed, or certified by the state  
9 office for the aging (SOFA) eligible for the cost of living adjustment  
10 established herein, pending federal approval where applicable, include:  
11 community services for the elderly; expanded in-home services for the  
12 elderly; and supplemental nutrition assistance program.

13 5. Each local government unit or direct contract provider receiving  
14 funding for the cost of living adjustment established herein shall  
15 submit a written certification, in such form and at such time as each  
16 commissioner shall prescribe, attesting how such funding will be or was  
17 used to first promote the recruitment and retention of non-executive  
18 direct care staff, non-executive direct support professionals, non-exe-  
19 cutive clinical staff, or respond to other critical non-personal service  
20 costs prior to supporting any salary increases or other compensation for  
21 executive level job titles.

22 6. Notwithstanding any inconsistent provision of law to the contrary,  
23 agency commissioners shall be authorized to recoup funding from a local  
24 governmental unit or direct contract provider for the cost of living  
25 adjustment established herein determined to have been used in a manner  
26 inconsistent with the appropriation, or any other provision of this  
27 section. Such agency commissioners shall be authorized to employ any  
28 legal mechanism to recoup such funds, including an offset of other funds

1 that are owed to such local governmental unit or direct contract provid-  
2 er.

3 § 2. This act shall take effect immediately and shall be deemed to  
4 have been in full force and effect on and after April 1, 2023.

5 PART EE

6 Section 1. Subdivision 1-a of section 84 of part A of chapter 56 of  
7 the laws of 2013, amending the social services law and other laws relat-  
8 ing to enacting the major components of legislation necessary to imple-  
9 ment the health and mental hygiene budget for the 2013-2014 state fiscal  
10 year, as amended by section 9 of part Z of chapter 57 of the laws of  
11 2018, is amended to read as follows:

12 1-a. sections seventy-three through eighty-a shall expire and be  
13 deemed repealed September 30, [2023] 2028;

14 § 2. This act shall take effect immediately.

15 PART FF

16 Section 1. Subparagraph (v) of paragraph (a) of subdivision 1 of  
17 section 6908 of the education law is renumbered subparagraph (vi) and a  
18 new subparagraph (v) is added to read as follows:

19 (v) tasks provided by a direct support staff in non-facility based  
20 programs certified, authorized or approved by the office for people with  
21 developmental disabilities, so long as such staff do not hold himself or  
22 herself out as one who accepts employment solely for performing such  
23 care, and where nursing services are under the instruction of a service  
24 recipient or family or household member determined by a registered

1 professional nurse to be capable of providing such instruction. In the  
2 event that the registered nurse determines that the service recipient,  
3 family, or household member is not capable of providing such instruc-  
4 tion, nursing tasks may be performed by direct support staff pursuant to  
5 subparagraph (vi) of this paragraph subject to the requirements set  
6 forth therein; or

7 § 2. This act shall take effect immediately.

8 PART GG

9 Section 1. Section 7.07 of the mental hygiene law is amended by adding  
10 a new subdivision (i) to read as follows:

11 (i) The office shall foster programs for the training and development  
12 of persons capable of providing the following services, including but  
13 not limited to a process of issuing, either directly or through  
14 contract, credentials for qualified mental health associates in accord-  
15 ance with the following:

16 (1) The office shall establish minimum qualifications for qualified  
17 mental health associates in all phases of delivery of services to  
18 persons who are suffering from mental health issues, as well as their  
19 families, that shall include, but not be limited to, completion of  
20 approved courses of study or equivalent on-the-job experience in working  
21 with individuals who suffer from mental illness. Such approved courses  
22 of study or equivalent on-the-job experience shall include, but not be  
23 limited to, providing trauma-informed, patient-centered care; referring  
24 individuals to appropriate treatments for co-occurring disorders;  
25 implicit bias training, and best practice approaches to serving margi-  
26 nalized and minority populations. Such courses shall be updated as need-

1 ed to reflect evolving best practices in treatment and long-term recov-  
2 ery. For the purposes of this subdivision, the term "implicit bias  
3 training" shall mean a form of training with the goal of making people  
4 more aware of their own biases, for the purpose of ensuring equity in  
5 care delivery.

6 (2) The office shall establish procedures for issuing, directly or  
7 through contract, credentials to associates who meet minimum qualifica-  
8 tions, including the establishment of appropriate fees, and shall  
9 further establish procedures to suspend, revoke, or annul such creden-  
10 tials for good cause. Such procedures shall be promulgated by the  
11 commissioner by rule or regulation.

12 (3) The commissioner shall establish a credentialing board which shall  
13 provide advice concerning the credentialing process under this subdivi-  
14 sion.

15 (4) No person shall use the title qualified mental health associate  
16 unless authorized pursuant to this subdivision.

17 (5) Failure to comply with the requirements of this subdivision shall  
18 constitute a violation as defined in the penal law.

19 § 2. Section 7.03 of the mental hygiene law is amended by adding a new  
20 subdivision 3 to read as follows:

21 3. "Qualified mental health associate" or "QMHA" means an official  
22 designation identifying an individual as one who holds a currently  
23 registered and valid credential issued by the office pursuant to section  
24 7.07 of this article which documents an individual's qualifications to  
25 provide counseling and supportive assistance to those with mental  
26 illness.

1 § 3. Paragraph (a) of subdivision 5 of section 7706 of the education  
2 law, as added by chapter 420 of the laws of 2002, is amended to read as  
3 follows:

4 (a) any individual who is credentialed under any law, including attor-  
5 neys, rape crisis counselors, credentialed alcoholism and substance  
6 abuse counselors, and qualified mental health associates as defined by  
7 section 7.03 of the mental hygiene law whose scope of practice includes  
8 the practices defined in section seventy-seven hundred one of this arti-  
9 cle from performing or claiming to perform work authorized by applicable  
10 provisions of this chapter and the mental hygiene law;

11 § 4. Subdivision 2 of section 8410 of the education law, as added by  
12 chapter 676 of the laws of 2002, is amended to read as follows:

13 2. Prohibit or limit any individual who is credentialed under any law,  
14 including attorneys, rape crisis counselors, certified alcoholism coun-  
15 selors [and], certified substance abuse counselors, and qualified mental  
16 health associates as defined by section 7.03 of the mental hygiene law  
17 from providing mental health services within their respective estab-  
18 lished authorities.

19 § 5. This act shall take effect immediately.

20 PART HH

21 Section 1. Sections 36.01, 36.02 and 36.03 of the mental hygiene law  
22 are renumbered sections 36.02, 36.03 and 36.04 and a new section 36.01  
23 is added to read as follows:

24 § 36.01 General applicability.

25 The office of mental health and the office of addiction services and  
26 supports shall be authorized to receive from the division of criminal

1 justice services criminal history information, as such term is defined  
2 in paragraph (c) of subdivision one of section eight hundred  
3 forty-five-b of the executive law, concerning each applicant to be a  
4 provider of services or operator of such provider of services, and shall  
5 securely exchange information with confidentiality between the office of  
6 mental health and the office of addiction services and supports to  
7 facilitate a single criminal history information process for providers  
8 of services licensed, certified, or otherwise authorized jointly or by  
9 both of the offices pursuant to this article or articles thirty-one and  
10 thirty-two of this title.

11 § 2. The mental hygiene law is amended by adding two new sections  
12 36.05 and 36.06 to read as follows:

13 § 36.05 Certified community behavioral health clinics.

14 (a) The commissioners are authorized to jointly certify community  
15 behavioral health clinics, subject to the availability of state and  
16 federal funding.

17 (b) Certified community behavioral health clinics shall provide coor-  
18 dated, comprehensive behavioral health care, including mental health  
19 and addiction services, primary care screening, and case management  
20 services, in accordance with certified community behavioral health clin-  
21 ic standards established by the United States department of health and  
22 human services substance abuse and mental health services administration  
23 and the commissioners of the office of mental health and the office of  
24 addiction services and supports.

25 (c) The commissioners shall require each proposed certified community  
26 behavioral health clinic to submit a plan, which shall be approved by  
27 the commissioners prior to the issuance of an operating certificate  
28 pursuant to this article. Such plan shall include:

1 (1) a description of the clinic's character and competency to provide  
2 certified community behavioral health clinic services across the lifes-  
3 pan, including how the clinic will ensure access to crisis services at  
4 all times and accept all patients regardless of ability to pay;

5 (2) a description of the clinic's catchment area;

6 (3) a statement indicating that the clinic has been included in an  
7 approved local services plan developed pursuant to article forty-one of  
8 this chapter for each local government located within the clinic's  
9 catchment area;

10 (4) where executed, agreements establishing formal relationships with  
11 designated collaborating organizations to provide certain certified  
12 community behavioral health clinic services, consistent with guidance  
13 issued by the United States department of health and human services  
14 substance abuse and mental health services administration and the office  
15 of mental health and the office of addiction services and supports;

16 (5) a staffing plan driven by local needs assessment, licensing, and  
17 training to support service delivery;

18 (6) a description of the clinic's data-driven approach to quality  
19 improvement;

20 (7) a description of how consumers are represented in governance of  
21 the clinic;

22 (8) all financial information in the form and format required by the  
23 office of mental health and the office of addiction services and  
24 supports; and

25 (9) any other information or agreements required by the commissioners.

26 (d) Where a certified community behavioral health clinic has been  
27 established and is participating on the effective date of this section  
28 in the federal certified community behavioral health clinic demon-

1 stration awarded to the state by the United States department of health  
2 and human services substance abuse and mental health services adminis-  
3 tration, the previously established clinic may be certified where the  
4 clinic demonstrates compliance with the certification standards estab-  
5 lished pursuant to this article.

6 (e) The commissioners shall promulgate any rule or regulation neces-  
7 sary to effectuate this section.

8 § 36.06 Certified community behavioral health clinics indigent care  
9 program.

10 (a) (1) For periods on and after July first, two thousand twenty-  
11 three, the commissioners are authorized to make payment to eligible  
12 certified community behavioral health clinics, to the extent of funds  
13 appropriated therefor to assist in meeting losses resulting from uncom-  
14 pensated care. In the event federal financial participation is not  
15 available for such payments to eligible certified community behavioral  
16 health clinics, payments shall be made solely on the basis of available  
17 state general fund appropriations for this purpose in amounts to be  
18 determined by the director of the division of the budget.

19 (2) For purposes of this section, "eligible certified community behav-  
20 ioral health clinics" shall mean voluntary non-profit certified communi-  
21 ty behavioral health clinics participating in the federal certified  
22 community behavioral health clinic demonstration awarded to the state by  
23 the United States department of health and human services substance  
24 abuse and mental health services administration and other certified  
25 community behavioral health clinics certified pursuant to section 36.05  
26 of this article, which demonstrate that a minimum of three percent of  
27 total visits reported during the applicable base year period, as deter-  
28 mined by the commissioners, were to uninsured individuals.

1 (3) For purposes of this section, "losses resulting from uncompensated  
2 care" shall mean losses from reported self-pay and free visits multi-  
3 plied by the clinic's medical assistance payment rate for the applicable  
4 distribution year, offset by payments received from such patients during  
5 the reporting period.

6 (b) A certified community behavioral health clinic qualifying for a  
7 distribution pursuant to this section shall provide assurances satisfac-  
8 tory to the commissioners that it shall undertake reasonable efforts to  
9 maintain financial support from community and public funding sources and  
10 reasonable efforts to collect payments for services from third-party  
11 insurance payors, governmental payors and self-paying patients.

12 (c) (1) Funding pursuant to this section shall be allocated to eligi-  
13 ble certified community behavioral health clinics based on actual,  
14 reported losses resulting from uncompensated care in a given base year  
15 period and shall not exceed one hundred percent of an eligible clinic's  
16 losses in the same period.

17 (2) If the sum of actual, reported losses resulting from uncompensated  
18 care for all certified community behavioral health clinics exceeds the  
19 amount appropriated therefor in a given base year period, allocations of  
20 funds for each eligible certified community behavioral health clinic  
21 shall be assessed proportionately based upon the percentage of the total  
22 number of uncompensated care visits for all clinics that each clinic  
23 provided during the base year and shall not exceed amounts appropriated  
24 in the aggregate.

25 (d) Except as provided in subdivision (e) of this section, for periods  
26 on and after July first, two thousand twenty-three through June thirti-  
27 eth, two thousand twenty-six, funds shall be made available for payments  
28 pursuant to this section for eligible certified community behavioral

1 health clinics for the following periods in the following aggregate  
2 amounts:

3 (1) For the period of July first, two thousand twenty-three through  
4 June thirtieth, two thousand twenty-four, up to twenty-two million five  
5 hundred thousand dollars;

6 (2) For the period of July first, two thousand twenty-four through  
7 June thirtieth, two thousand twenty-five, up to forty-one million two  
8 hundred fifty thousand dollars; and

9 (3) For the period of July first, two thousand twenty-five through  
10 June thirtieth, two thousand twenty-six, up to forty-five million  
11 dollars.

12 (e) In the event that federal financial participation is not available  
13 for rate adjustments pursuant to this section, funds available for  
14 payments pursuant to this section for each eligible certified community  
15 behavioral health clinic shall be limited to the non-federal share  
16 equivalent of the amounts specified in subdivision (d) of this section.

17 (f) Eligible certified community behavioral health clinics receiving  
18 funding under this section shall not be eligible for comprehensive diag-  
19 nostic and treatment centers indigent care program funding pursuant to  
20 section two thousand eight hundred seven-p of the public health law.

21 (g) The commissioners may require facilities receiving distributions  
22 pursuant to this section as a condition of participating in such  
23 distributions, to provide reports and data to the office of mental  
24 health and the office of addiction services and supports as the commis-  
25 sioners deem necessary to adequately implement the provisions of this  
26 section.

27 § 3. This act shall take effect immediately.

1

## PART II

2 Section 1. This Part enacts into law major components of legislation  
3 relating to improving access to behavioral health services. Each compo-  
4 nent is wholly contained within a Subpart identified as Subparts A  
5 through F. The effective date for each particular provision contained  
6 within such Subpart is set forth in the last section of such Subpart.  
7 Any provision in any section contained within a Subpart, including the  
8 effective date of the Subpart, which makes reference to a section "of  
9 this act", when used in connection with that particular component, shall  
10 be deemed to mean and refer to the corresponding section of the Subpart  
11 in which it is found. Section three of this act sets forth the general  
12 effective date of this Part.

13

## SUBPART A

14 Section 1. Item (i) of subparagraph (A) of paragraph 35 of subsection  
15 (i) of section 3216 of the insurance law, as amended by chapter 818 of  
16 the laws of 2022, is amended to read as follows:

17 (i) where the policy provides coverage for inpatient hospital care,  
18 such policy shall include benefits: for inpatient care in a hospital as  
19 defined by subdivision ten of section 1.03 of the mental hygiene law  
20 [and benefits for]; sub-acute care in a medically-monitored residential  
21 facility licensed, operated, or otherwise authorized by the office of  
22 mental health; outpatient care provided [in] by a facility issued an  
23 operating certificate by the commissioner of mental health pursuant to  
24 the provisions of article thirty-one of the mental hygiene law[, ] or  
25 [in] by a facility operated by the office of mental health[, or in];

1 outpatient care provided by a crisis stabilization center licensed  
2 pursuant to section 36.01 of the mental hygiene law[,]; outpatient care  
3 provided by a mobile crisis intervention services provider licensed,  
4 certified, or authorized by the office of mental health, office of  
5 addiction services and supports, office of children and family services,  
6 or department of health; outpatient care for care coordination services,  
7 critical time intervention services, and assertive community treatment  
8 services, provided by facilities licensed, operated, or otherwise  
9 authorized by the office of mental health, following discharge from a  
10 hospital as defined by subdivision ten of section 1.03 of the mental  
11 hygiene law or the emergency department of a hospital licensed pursuant  
12 to article twenty-eight of the public health law; or, for care provided  
13 in other states, to similarly licensed or certified hospitals [or],  
14 facilities, or providers; and

15 § 2. Items (iii) and (iv) of subparagraph (E) of paragraph 35 of  
16 subsection (i) of section 3216 of the insurance law, as added by section  
17 8 of subpart A of part BB of chapter 57 of the laws of 2019, are amended  
18 and two new items (v) and (vi) are added to read as follows:

19 (iii) "treatment limitation" means limits on the frequency of treat-  
20 ment, number of visits, days of coverage, or other similar limits on the  
21 scope or duration of treatment and includes nonquantitative treatment  
22 limitations such as: medical management standards limiting or excluding  
23 benefits based on medical necessity, or based on whether the treatment  
24 is experimental or investigational; formulary design for prescription  
25 drugs; network tier design; standards for provider admission to partic-  
26 ipate in a network, including reimbursement rates; methods for determin-  
27 ing usual, customary, and reasonable charges; fail-first or step therapy  
28 protocols; exclusions based on failure to complete a course of treat-

1 ment; and restrictions based on geographic location, facility type,  
2 provider specialty, and other criteria that limit the scope or duration  
3 of benefits for services provided under the policy; [and]

4 (iv) "mental health condition" means any mental health disorder as  
5 defined in the most recent edition of the diagnostic and statistical  
6 manual of mental disorders or the most recent edition of another gener-  
7 ally recognized independent standard of current medical practice such as  
8 the international classification of diseases[.];

9 (v) "assertive community treatment" means an evidence-based, mobile,  
10 psychiatric treatment intervention, designed for an individual with a  
11 serious mental health condition who is at risk for hospitalization, that  
12 includes psychotherapy, medication therapy, crisis intervention, psychi-  
13 atric rehabilitation, care coordination, and peer support services,  
14 provided assertively in the community; and

15 (vi) "critical time intervention services" means evidence-based, time-  
16 limited, therapeutic interventions that begin before an individual is  
17 discharged from an inpatient setting, that include intensive outreach,  
18 engagement, and care coordination services to stabilize the individual  
19 in the community.

20 § 3. Paragraph 35 of subsection (i) of section 3216 of the insurance  
21 law is amended by adding a new subparagraph (I) to read as follows:

22 (I) This subparagraph shall apply to mobile crisis intervention  
23 services providers licensed, certified, or authorized by the office of  
24 mental health, office of addiction services and supports, office of  
25 children and family services, or department of health. For purposes of  
26 this subparagraph, "mobile crisis intervention services" means mental  
27 health and substance use disorder services, including assessment and  
28 treatment services and peer support services, provided to an individual

1 experiencing an acute psychological crisis or acute emotional distress  
2 in relation to a mental health condition or substance use disorder,  
3 intended to ameliorate the crisis and stabilize the individual and  
4 ensure ongoing stabilization after the initial crisis response.

5 (i) Benefits for covered services provided by a mobile crisis inter-  
6 vention services provider shall not be subject to preauthorization.

7 (ii) Benefits for covered services provided by a mobile crisis inter-  
8 vention services provider shall be covered regardless of whether the  
9 mobile crisis intervention services provider is a participating provid-  
10 er.

11 (iii) If the covered services are provided by a non-participating  
12 mobile crisis intervention services provider, an insurer shall not  
13 impose any administrative requirement or limitation on coverage that is  
14 more restrictive than the requirements or limitations that apply to  
15 covered services received from a participating mobile crisis inter-  
16 vention services provider.

17 (iv) If the covered services are provided by a non-participating  
18 mobile crisis intervention services provider, the insured's copayment,  
19 coinsurance, and deductible shall be the same as would apply if such  
20 covered services were provided by a participating mobile crisis inter-  
21 vention services provider.

22 § 4. Paragraph 35 of subsection (i) of section 3216 of the insurance  
23 law is amended by adding a new subparagraph (J) to read as follows:

24 (J) This subparagraph shall apply to school-based mental health clin-  
25 ics that are licensed pursuant to article thirty-one of the mental  
26 hygiene law and provide outpatient care in pre-school, elementary, or  
27 secondary schools. An insurer shall provide reimbursement for covered  
28 outpatient care when provided by such school-based mental health clinics

1 at a pre-school, elementary, or secondary school, regardless of whether  
2 the school-based mental health clinic furnishing such services is a  
3 participating provider with respect to such services. Reimbursement for  
4 such covered services shall be at the rate negotiated between the insur-  
5 er and school-based mental health clinic or, in the absence of a negoti-  
6 ated rate, an amount no less than the rate that would be paid for such  
7 services pursuant to the medical assistance program under title eleven  
8 of article five of the social services law. Payment by an insurer pursu-  
9 ant to this section shall be payment in full for the services provided.  
10 The school-based mental health clinic reimbursed pursuant to this  
11 section shall not charge or seek any reimbursement from, or have any  
12 recourse against, an insured for the services provided pursuant to this  
13 subparagraph, except for the collection of in-network copayments, coin-  
14 surance, or deductibles for which the insured is responsible for under  
15 the terms of the policy.

16 § 5. Item (i) of subparagraph (A) of paragraph 5 of subsection (1) of  
17 section 3221 of the insurance law, as amended by section 14 of part AA  
18 of chapter 57 of the laws of 2021, is amended to read as follows:

19 (i) where the policy provides coverage for inpatient hospital care,  
20 benefits for: inpatient care in a hospital as defined by subdivision ten  
21 of section 1.03 of the mental hygiene law [and benefits for]; sub-acute  
22 care in a medically-monitored residential facility licensed, operated,  
23 or otherwise authorized by the office of mental health; outpatient care  
24 provided [in] by a facility issued an operating certificate by the  
25 commissioner of mental health pursuant to the provisions of article  
26 thirty-one of the mental hygiene law, or [in] by a facility operated by  
27 the office of mental health [or in]; outpatient care provided by a  
28 crisis stabilization center licensed pursuant to section 36.01 of the

1 mental hygiene law; outpatient care provided by a mobile crisis inter-  
2 vention services provider licensed, certified, or authorized by the  
3 office of mental health, office of addiction services and supports,  
4 office of children and family services, or department of health; outpa-  
5 tient care for care coordination services, critical time intervention  
6 services, and assertive community treatment services, provided by facil-  
7 ities licensed, operated, or otherwise authorized by the office of  
8 mental health or the department of health, following discharge from a  
9 hospital as defined by subdivision ten of section 1.03 of the mental  
10 hygiene law or the emergency department of a hospital licensed pursuant  
11 to article twenty-eight of the public health law; or, for care provided  
12 in other states, to similarly licensed or certified hospitals [or],  
13 facilities, or providers; and

14 § 6. Items (iii) and (iv) of subparagraph (E) of paragraph 5 of  
15 subsection (1) of section 3221 of the insurance law, as added by section  
16 14 of subpart A of part BB of chapter 57 of the laws of 2019, are  
17 amended and two new items (v) and (vi) are added to read as follows:

18 (iii) "treatment limitation" means limits on the frequency of treat-  
19 ment, number of visits, days of coverage, or other similar limits on the  
20 scope or duration of treatment and includes nonquantitative treatment  
21 limitations such as: medical management standards limiting or excluding  
22 benefits based on medical necessity, or based on whether the treatment  
23 is experimental or investigational; formulary design for prescription  
24 drugs; network tier design; standards for provider admission to partic-  
25 ipate in a network, including reimbursement rates; methods for determin-  
26 ing usual, customary, and reasonable charges; fail-first or step therapy  
27 protocols; exclusions based on failure to complete a course of treat-  
28 ment; and restrictions based on geographic location, facility type,

1 provider specialty, and other criteria that limit the scope or duration  
2 of benefits for services provided under the policy; [and]

3 (iv) "mental health condition" means any mental health disorder as  
4 defined in the most recent edition of the diagnostic and statistical  
5 manual of mental disorders or the most recent edition of another gener-  
6 ally recognized independent standard of current medical practice such as  
7 the international classification of diseases[.];

8 (v) "assertive community treatment" means an evidence-based, mobile,  
9 psychiatric treatment intervention, designed for people with a serious  
10 mental health condition who are at risk for hospitalization, that  
11 includes psychotherapy, medication therapy, crisis intervention, psychi-  
12 atric rehabilitation, care coordination, and peer support services,  
13 provided assertively in the community; and

14 (vi) "critical time intervention services" means evidence-based, time-  
15 limited, therapeutic interventions that begin before an individual is  
16 discharged from an inpatient setting, that include intensive outreach,  
17 engagement, and care coordination services to stabilize individuals in  
18 the community.

19 § 7. Paragraph 5 of subsection (1) of section 3221 of the insurance  
20 law is amended by adding a new subparagraph (I) to read as follows:

21 (I) This subparagraph shall apply to mobile crisis intervention  
22 services providers licensed, certified, or authorized by the office of  
23 mental health, office of addiction services and supports, office of  
24 children and family services, or department of health. For purposes of  
25 this subparagraph, "mobile crisis intervention services" means mental  
26 health and substance use disorder services, including assessment and  
27 treatment services and peer support services, provided to an individual  
28 experiencing an acute psychological crisis or acute emotional distress

1 in relation to a mental health condition or substance use disorder,  
2 intended to ameliorate the crisis and stabilize the individual and  
3 ensure ongoing stabilization after the initial crisis response.

4 (i) Benefits for covered services provided by a mobile crisis inter-  
5 vention services provider shall not be subject to preauthorization.

6 (ii) Benefits for covered services provided by a mobile crisis inter-  
7 vention services provider shall be covered regardless of whether the  
8 mobile crisis intervention services provider is a participating provid-  
9 er.

10 (iii) If the covered services are provided by a non-participating  
11 mobile crisis intervention services provider, an insurer shall not  
12 impose any administrative requirement or limitation on coverage that is  
13 more restrictive than the requirements or limitations that apply to  
14 covered services received from a participating mobile crisis inter-  
15 vention services provider.

16 (iv) If the covered services are provided by a non-participating  
17 mobile crisis intervention services provider, the insured's copayment,  
18 coinsurance, and deductible shall be the same as would apply if such  
19 covered services were provided by a participating mobile crisis inter-  
20 vention services provider.

21 § 8. Paragraph 5 of subsection (1) of section 3221 of the insurance  
22 law is amended by adding a new subparagraph (J) to read as follows:

23 (J) This subparagraph shall apply to school-based mental health clin-  
24 ics that are licensed pursuant to article thirty-one of the mental  
25 hygiene law and provide outpatient care in pre-school, elementary, or  
26 secondary schools. An insurer shall provide reimbursement for covered  
27 outpatient care when provided by such school-based mental health clinics  
28 at a pre-school, elementary, or secondary school, regardless of whether

1 the school-based mental health clinic furnishing such services is a  
2 participating provider with respect to such services. Reimbursement for  
3 such covered services shall be at the rate negotiated between the insur-  
4 er and school-based mental health clinic or, in the absence of a negoti-  
5 ated rate, an amount no less than the rate that would be paid for such  
6 services pursuant to the medical assistance program under title eleven  
7 of article five of the social services law. Payment by an insurer pursu-  
8 ant to this section shall be payment in full for the services provided.  
9 The school-based mental health clinic reimbursed pursuant to this  
10 section shall not charge or seek any reimbursement from or have any  
11 recourse against, an insured for the services provided pursuant to this  
12 subparagraph, except for the collection of in-network copayments, coin-  
13 surance, or deductibles for which the insured is responsible for under  
14 the terms of the policy.

15 § 9. Paragraph 1 of subsection (g) of section 4303 of the insurance  
16 law, as amended by section 18 of part AA of chapter 57 of the laws of  
17 2021, is amended to read as follows:

18 (1) where the contract provides coverage for inpatient hospital care,  
19 benefits for: in-patient care in a hospital as defined by subdivision  
20 ten of section 1.03 of the mental hygiene law [or for inpatient care  
21 provided in other states, to similarly licensed hospitals, and benefits  
22 for]; sub-acute care in a medically-monitored residential facility  
23 licensed, operated, or otherwise authorized by the office of mental  
24 health; [out-patient] outpatient care provided [in] by a facility issued  
25 an operating certificate by the commissioner of mental health pursuant  
26 to the provisions of article thirty-one of the mental hygiene law or  
27 [in] by a facility operated by the office of mental health [or in];  
28 outpatient care provided by a crisis stabilization center licensed

1 pursuant to section 36.01 of the mental hygiene law; outpatient care  
2 provided by a mobile crisis intervention services provider licensed,  
3 certified, or authorized by the office of mental health, office of  
4 addiction services and supports, office of children and family services,  
5 or department of health; outpatient care for care coordination services,  
6 critical time intervention services, and assertive community treatment  
7 services, provided by facilities licensed, operated, or otherwise  
8 authorized by the office of mental health or the department of health,  
9 following discharge from a hospital as defined by subdivision ten of  
10 section 1.03 of the mental hygiene law or the emergency department of a  
11 hospital licensed pursuant to article twenty-eight of the public health  
12 law; or for [out-patient] care provided in other states, to similarly  
13 licensed or certified hospitals, facilities, or providers; and

14 § 10. Subparagraphs (C) and (D) of paragraph 6 of subsection (g) of  
15 section 4303 of the insurance law, as added by section 23 of subpart A  
16 of part BB of chapter 57 of the laws of 2019, are amended and two new  
17 subparagraphs (E) and (F) are added to read as follows:

18 (C) "treatment limitation" means limits on the frequency of treatment,  
19 number of visits, days of coverage, or other similar limits on the scope  
20 or duration of treatment and includes nonquantitative treatment limita-  
21 tions such as: medical management standards limiting or excluding bene-  
22 fits based on medical necessity, or based on whether the treatment is  
23 experimental or investigational; formulary design for prescription  
24 drugs; network tier design; standards for provider admission to partic-  
25 ipate in a network, including reimbursement rates; methods for determin-  
26 ing usual, customary, and reasonable charges; fail-first or step therapy  
27 protocols; exclusions based on failure to complete a course of treat-  
28 ment; and restrictions based on geographic location, facility type,

1 provider specialty, and other criteria that limit the scope or duration  
2 of benefits for services provided under the contract; [and]

3 (D) "mental health condition" means any mental health disorder as  
4 defined in the most recent edition of the diagnostic and statistical  
5 manual of mental disorders or the most recent edition of another gener-  
6 ally recognized independent standard of current medical practice such as  
7 the international classification of diseases[.];

8 (E) "assertive community treatment" means an evidence-based, mobile,  
9 psychiatric treatment intervention, designed for an individual with a  
10 serious mental health condition who is at risk for hospitalization, that  
11 includes psychotherapy, medication therapy, crisis intervention, psychi-  
12 atric rehabilitation, care coordination, and peer support services,  
13 provided assertively in the community; and

14 (F) "critical time intervention services" means evidence-based, time-  
15 limited, therapeutic interventions that begin before an individual is  
16 discharged from an inpatient setting, that include intensive outreach,  
17 engagement, and care coordination services to stabilize individuals in  
18 the community.

19 § 11. Subsection (g) of section 4303 of the insurance law is amended  
20 by adding a new paragraph 10 to read as follows:

21 (10) This paragraph shall apply to mobile crisis intervention services  
22 providers licensed, certified, or authorized by the office of mental  
23 health, office of addiction services and supports, office of children  
24 and family services, or department of health. For purposes of this para-  
25 graph, "mobile crisis intervention services" means mental health and  
26 substance use disorder services, including assessment and treatment  
27 services and peer support services, provided to an individual experienc-  
28 ing an acute psychological crisis or acute emotional distress in

1 relation to a mental health condition or substance use disorder,  
2 intended to ameliorate the crisis and stabilize the individual and  
3 ensure ongoing stabilization after the initial crisis response.

4 (A) Benefits for covered services provided by a mobile crisis inter-  
5 vention services provider shall not be subject to preauthorization.

6 (B) Benefits for covered services provided by a mobile crisis inter-  
7 vention services provider shall be covered regardless of whether the  
8 mobile crisis intervention services provider is a participating provid-  
9 er.

10 (C) If the covered services are provided by a non-participating  
11 mobile crisis intervention services provider, a corporation shall not  
12 impose any administrative requirement or limitation on coverage that is  
13 more restrictive than the requirements or limitations that apply to  
14 covered services received from a participating mobile crisis inter-  
15 vention services provider.

16 (D) If the covered services are provided by a non-participating  
17 mobile crisis intervention services provider, the insured's copayment,  
18 coinsurance, and deductible shall be the same as would apply if such  
19 covered services were provided by a participating mobile crisis inter-  
20 vention services provider.

21 § 12. Subsection (g) of section 4303 of the insurance law is amended  
22 by adding a new paragraph 11 to read as follows:

23 (11) This paragraph shall apply to school-based mental health clinics  
24 that are licensed pursuant to article thirty-one of the mental hygiene  
25 law and provide outpatient care in pre-school, elementary, or secondary  
26 schools. A corporation shall provide reimbursement for covered outpa-  
27 tient care when provided by such school-based mental health clinics at a  
28 pre-school, elementary, or secondary school, regardless of whether the

1 school-based mental health clinic furnishing such services is a partic-  
2 ipating provider with respect to such services. Reimbursement for such  
3 covered services shall be at the rate negotiated between the corporation  
4 and school-based mental health clinic or, in the absence of a negotiated  
5 rate, an amount no less than the rate that would be paid for such  
6 services pursuant to the medical assistance program under title eleven  
7 of article five of the social services law. Payment by a corporation  
8 pursuant to this section shall be payment in full for the services  
9 provided. The school-based mental health clinic reimbursed pursuant to  
10 this section shall not charge or seek any reimbursement from, or have  
11 any recourse against, a corporation for the services provided pursuant  
12 to this paragraph, except for the collection of in-network copayments,  
13 coinsurance, or deductibles for which the insured is responsible for  
14 under the terms of the contract.

15 § 13. Paragraphs 1 and 2 of subsection (a) of section 605 of the  
16 financial services law, as amended by section 5 of subpart A of part AA  
17 of chapter 57 of the laws of 2022, are amended to read as follows:

18 (1) When a health care plan receives a bill for emergency services  
19 from a non-participating provider, including a bill for inpatient  
20 services which follow an emergency room visit, or a bill for services  
21 from a mobile crisis intervention services provider licensed, certified,  
22 or authorized by the office of mental health, office of addiction  
23 services and supports, office of children and family services, or  
24 department of health, the health care plan shall pay an amount that it  
25 determines is reasonable for the emergency services, including inpatient  
26 services which follow an emergency room visit or for the mobile crisis  
27 intervention services, rendered by the non-participating provider, in  
28 accordance with section three thousand two hundred twenty-four-a of the

1 insurance law, except for the insured's co-payment, coinsurance or  
2 deductible, if any, and shall ensure that the insured shall incur no  
3 greater out-of-pocket costs for the emergency services, including inpa-  
4 tient services which follow an emergency room visit or for the mobile  
5 crisis intervention services, than the insured would have incurred with  
6 a participating provider. The non-participating provider may bill the  
7 health care plan for the services rendered. Upon receipt of the bill,  
8 the health care plan shall pay the non-participating provider the amount  
9 prescribed by this section and any subsequent amount determined to be  
10 owed to the provider in relation to the emergency services provided,  
11 including inpatient services which follow an emergency room visit or  
12 for the mobile crisis intervention services.

13 (2) A non-participating provider or a health care plan may submit a  
14 dispute regarding a fee or payment for emergency services, including  
15 inpatient services which follow an emergency room visit, or for  
16 services rendered by a mobile crisis intervention services provider  
17 licensed, certified, or authorized by the office of mental health,  
18 office of addiction services and supports, office of children and family  
19 services, or department of health, for review to an independent dispute  
20 resolution entity.

21 § 14. Subsection (b) of section 606 of the financial services law, as  
22 amended by section 7 of subpart A of part AA of chapter 57 of the laws  
23 of 2022, is amended to read as follows:

24 (b) A non-participating provider shall not bill an insured for emer-  
25 gency services, including inpatient services which follow an emergency  
26 room visit, or for services rendered by a mobile crisis intervention  
27 services provider licensed, certified, or authorized by the office of  
28 mental health, office of addiction services and supports, office of

1 children and family services, or department of health, except for any  
2 applicable copayment, coinsurance or deductible that would be owed if  
3 the insured utilized a participating provider.

4 § 15. This act shall take effect January 1, 2024; provided, however,  
5 that sections one through twelve of this act shall apply to policies and  
6 contracts issued, renewed, amended, modified or altered on or after such  
7 date.

8 SUBPART B

9 Section 1. Subparagraphs (G) and (H) of paragraph 35 of subsection (i)  
10 of section 3216 of the insurance law, subparagraph (G) as added by  
11 section 8 of subpart A of part BB of chapter 57 of the laws of 2019 and  
12 subparagraph (H) as added by section 13 of part AA of chapter 57 of the  
13 laws of 2021, are amended to read as follows:

14 (G) This subparagraph shall apply to hospitals and medically-monitored  
15 crisis residential facilities in this state that are licensed, operated,  
16 or otherwise authorized by the office of mental health that are partic-  
17 ipating in the insurer's provider network. Where the policy provides  
18 coverage for inpatient hospital care, benefits for inpatient hospital  
19 care in a hospital as defined by subdivision ten of section 1.03 of the  
20 mental hygiene law [provided to individuals who have not attained the  
21 age of eighteen] and benefits for sub-acute care in a medically-moni-  
22 tored crisis residential facility licensed, operated, or otherwise  
23 authorized by the office of mental health shall not be subject to preau-  
24 thorization. Coverage provided under this subparagraph shall also not be  
25 subject to concurrent utilization review for individuals who have not  
26 attained the age of eighteen during the first fourteen days of the inpa-

1 tient admission, provided the facility notifies the insurer of both the  
2 admission and the initial treatment plan within two business days of the  
3 admission, performs daily clinical review of the [patient] insured, and  
4 participates in periodic consultation with the insurer to ensure that  
5 the facility is using the evidence-based and peer reviewed clinical  
6 review criteria utilized by the insurer which is approved by the office  
7 of mental health and appropriate to the age of the [patient] insured, to  
8 ensure that the inpatient care is medically necessary for the [patient]  
9 insured. For individuals who have attained age eighteen, coverage  
10 provided under this subparagraph shall also not be subject to concurrent  
11 review during the first thirty days of the inpatient or residential  
12 admission, provided the facility notifies the insurer of both the admis-  
13 sion and the initial treatment plan within two business days of the  
14 admission, performs daily clinical review of the insured, and partic-  
15 ipates in periodic consultation with the insurer to ensure that the  
16 facility is using the evidence-based and peer reviewed clinical review  
17 criteria utilized by the insurer which is approved by the office of  
18 mental health and appropriate to the age of the insured, to ensure that  
19 the inpatient or residential care is medically necessary for the  
20 insured. However, concurrent review may be performed during the first  
21 thirty days if an insured meets clinical criteria designated by the  
22 office of mental health or where the insured is admitted to a hospital  
23 or facility which has been designated by the office of mental health for  
24 concurrent review, in consultation with the commissioner of health and  
25 the superintendent. All treatment provided under this subparagraph may  
26 be reviewed retrospectively. Where care is denied retrospectively, an  
27 insured shall not have any financial obligation to the facility for any

1 treatment under this subparagraph other than any copayment, coinsurance,  
2 or deductible otherwise required under the policy.

3 (H) This subparagraph shall apply to crisis stabilization centers in  
4 this state that are licensed pursuant to section 36.01 of the mental  
5 hygiene law and participate in the insurer's provider network. Benefits  
6 for care [in] by a crisis stabilization center shall not be subject to  
7 preauthorization. All treatment provided under this subparagraph may be  
8 reviewed retrospectively. Where care is denied retrospectively, an  
9 insured shall not have any financial obligation to the facility for any  
10 treatment under this subparagraph other than any copayment, coinsurance,  
11 or deductible otherwise required under the policy.

12 § 2. Subparagraphs (G) and (H) of paragraph 5 of subsection (1) of  
13 section 3221 of the insurance law, subparagraph (G) as added by section  
14 14 of subpart A of part BB of chapter 57 of the laws of 2019 and subpar-  
15 agraph (H) as added by section 15 of part AA of chapter 57 of the laws  
16 of 2021, are amended to read as follows:

17 (G) This subparagraph shall apply to hospitals and medically-monitored  
18 crisis residential facilities in this state that are licensed, operated,  
19 or otherwise authorized by the office of mental health that are partic-  
20 ipating in the insurer's provider network. Where the policy provides  
21 coverage for inpatient hospital care, benefits for inpatient hospital  
22 care in a hospital as defined by subdivision ten of section 1.03 of the  
23 mental hygiene law [provided to individuals who have not attained the  
24 age of eighteen] and benefits for sub-acute care in a medically-moni-  
25 tored crisis residential facility, operated or otherwise authorized by  
26 the office of mental health shall not be subject to preauthorization.  
27 Coverage provided under this subparagraph shall also not be subject to  
28 concurrent utilization review for individuals who have not attained the

1 age of eighteen during the first fourteen days of the inpatient admis-  
2 sion, provided the facility notifies the insurer of both the admission  
3 and the initial treatment plan within two business days of the admis-  
4 sion, performs daily clinical review of the [patient] insured, and  
5 participates in periodic consultation with the insurer to ensure that  
6 the facility is using the evidence-based and peer reviewed clinical  
7 review criteria utilized by the insurer which is approved by the office  
8 of mental health and appropriate to the age of the [patient] insured to  
9 ensure that the inpatient care is medically necessary for the [patient]  
10 insured. For individuals who have attained age eighteen, coverage  
11 provided under this subparagraph shall also not be subject to concurrent  
12 review during the first thirty days of the inpatient or residential  
13 admission, provided the facility notifies the insurer of both the admis-  
14 sion and the initial treatment plan within two business days of the  
15 admission, performs daily clinical review of the insured, and partic-  
16 ipates in periodic consultation with the insurer to ensure that the  
17 facility is using the evidence-based and peer reviewed clinical review  
18 criteria utilized by the insurer which is approved by the office of  
19 mental health and appropriate to the age of the insured, to ensure that  
20 the inpatient or residential care is medically necessary for the  
21 insured. However, concurrent review may be performed during the first  
22 thirty days if an insured meets clinical criteria designated by the  
23 office of mental health or where the insured is admitted to a hospital  
24 or facility which has been designated by the office of mental health for  
25 concurrent review, in consultation with the commissioner of health and  
26 the superintendent. All treatment provided under this subparagraph may  
27 be reviewed retrospectively. Where care is denied retrospectively, an  
28 insured shall not have any financial obligation to the facility for any

1 treatment under this subparagraph other than any copayment, coinsurance,  
2 or deductible otherwise required under the policy.

3 (H) This subparagraph shall apply to crisis stabilization centers in  
4 this state that are licensed pursuant to section 36.01 of the mental  
5 hygiene law and participate in the insurer's provider network. Benefits  
6 for care [in] by a crisis stabilization center shall not be subject to  
7 preauthorization. All treatment provided under this subparagraph may be  
8 reviewed retrospectively. Where care is denied retrospectively, an  
9 insured shall not have any financial obligation to the facility for any  
10 treatment under this subparagraph other than any copayment, coinsurance,  
11 or deductible otherwise required under the policy.

12 § 3. Paragraphs 8 and 9 of subsection (g) of section 4303 of the  
13 insurance law, paragraph 8 as added by section 23 of subpart A of part  
14 BB of chapter 57 of the laws of 2019 and paragraph 9 as added by section  
15 19 of part AA of chapter 57 of the laws of 2021, are amended to read as  
16 follows:

17 (8) This paragraph shall apply to hospitals and medically-monitored  
18 crisis residential facilities in this state that are licensed, operated  
19 or otherwise authorized by the office of mental health that are partic-  
20 ipating in the corporation's provider network. Where the contract  
21 provides coverage for inpatient hospital care, benefits for inpatient  
22 hospital care in a hospital as defined by subdivision ten of section  
23 1.03 of the mental hygiene law [provided to individuals who have not  
24 attained the age of eighteen] and benefits for sub-acute care in a medi-  
25 cally-monitored crisis residential facility licensed, operated, or  
26 otherwise authorized by the office of mental health shall not be subject  
27 to preauthorization. Coverage provided under this paragraph shall also  
28 not be subject to concurrent utilization review for individuals who have

1 not attained the age of eighteen during the first fourteen days of the  
2 inpatient admission, provided the facility notifies the corporation of  
3 both the admission and the initial treatment plan within two business  
4 days of the admission, performs daily clinical review of the [patient]  
5 insured, and participates in periodic consultation with the corporation  
6 to ensure that the facility is using the evidence-based and peer  
7 reviewed clinical review criteria utilized by the corporation which is  
8 approved by the office of mental health and appropriate to the age of  
9 the [patient] insured, to ensure that the inpatient care is medically  
10 necessary for the [patient] insured. For individuals who have attained  
11 age eighteen, coverage provided under this paragraph shall also not be  
12 subject to concurrent review during the first thirty days of the inpa-  
13 tient or residential admission, provided the facility notifies the  
14 corporation of both the admission and the initial treatment plan within  
15 two business days of the admission, performs daily clinical review of  
16 the insured, and participates in periodic consultation with the corpo-  
17 ration to ensure that the facility is using the evidence-based and peer  
18 reviewed clinical review criteria utilized by the corporation which is  
19 approved by the office of mental health and appropriate to the age of  
20 the insured, to ensure that the inpatient or residential care is  
21 medically necessary for the insured. However, concurrent review may be  
22 performed during the first thirty days if an insured meets clinical  
23 criteria designated by the office of mental health or where the insured  
24 is admitted to a hospital or facility which has been designated by the  
25 office of mental health for concurrent review, in consultation with the  
26 commissioner of health and the superintendent. All treatment provided  
27 under this paragraph may be reviewed retrospectively. Where care is  
28 denied retrospectively, an insured shall not have any financial obli-

1 gation to the facility for any treatment under this paragraph other than  
2 any copayment, coinsurance, or deductible otherwise required under the  
3 contract.

4 (9) This paragraph shall apply to crisis stabilization centers in this  
5 state that are licensed pursuant to section 36.01 of the mental hygiene  
6 law and participate in the corporation's provider network. Benefits for  
7 care [in] by a crisis stabilization center shall not be subject to  
8 preauthorization. All treatment provided under this paragraph may be  
9 reviewed retrospectively. Where care is denied retrospectively, an  
10 insured shall not have any financial obligation to the facility for any  
11 treatment under this paragraph other than any copayment, coinsurance, or  
12 deductible otherwise required under the contract.

13 § 4. Paragraph 12 of subsection (a) of section 4902 of the insurance  
14 law, as added by section 38 of subpart A of part BB of chapter 57 of the  
15 laws of 2019, is amended to read as follows:

16 (12) When conducting utilization review for purposes of determining  
17 health care coverage for a mental health condition, a utilization review  
18 agent shall utilize evidence-based and peer reviewed clinical review  
19 criteria that is appropriate to the age of the patient. The utilization  
20 review agent shall use clinical review criteria designated by the  
21 commissioner of the office of mental health for level of care determi-  
22 nations, in consultation with the superintendent and commissioner of  
23 health. For coverage determinations outside the scope of the criteria  
24 designated for level of care determinations, the utilization review  
25 agent shall use clinical review criteria deemed appropriate and approved  
26 for such use by the commissioner of the office of mental health, in  
27 consultation with the commissioner of health and the superintendent.  
28 Approved clinical review criteria shall have inter rater reliability

1 testing completed [by December thirty-first, two thousand nineteen]  
2 prior to implementation.

3 § 5. Paragraph (j) of subdivision 1 of section 4902 of the public  
4 health law, as added by section 43 of subpart A of part BB of chapter 57  
5 of the laws of 2019, is amended to read as follows:

6 (j) When conducting utilization review for purposes of determining  
7 health care coverage for a mental health condition, a utilization review  
8 agent shall utilize evidence-based and peer reviewed clinical review  
9 criteria that is appropriate to the age of the patient. The utilization  
10 review agent shall use clinical review criteria designated by the  
11 commissioner of the office of mental health for level of care determi-  
12 nations, in consultation with the commissioner and the superintendent of  
13 financial services. For coverage determinations outside the scope of  
14 the criteria designated for level of care determinations, the utiliza-  
15 tion review agent shall use clinical review criteria deemed appropriate  
16 and approved for such use by the commissioner of the office of mental  
17 health, in consultation with the commissioner and the superintendent of  
18 financial services. Approved clinical review criteria shall have inter  
19 rater reliability testing completed [by December thirty-first, two thou-  
20 sand nineteen] prior to implementation.

21 § 6. This act shall take effect one year after it shall have become a  
22 law. Effective immediately, the addition, amendment and/or repeal of any  
23 rule or regulation necessary for the implementation of this act on its  
24 effective date are authorized to be made and completed on or before such  
25 effective date.

1 Section 1. Paragraph 2 of subsection (a) of section 3217-h of the  
2 insurance law, as added by section 3 of part V of chapter 57 of the laws  
3 of 2022, is amended to read as follows:

4 (2) An insurer that provides comprehensive coverage for hospital,  
5 medical or surgical care shall reimburse covered services delivered by  
6 means of telehealth on the same basis, at the same rate, and to the same  
7 extent that such services are reimbursed when delivered in person;  
8 provided that reimbursement of covered services delivered via telehealth  
9 shall not require reimbursement of costs not actually incurred in the  
10 provision of the telehealth services, including charges related to the  
11 use of a clinic or other facility when neither the originating site nor  
12 distant site occur within the clinic or other facility. Notwithstanding  
13 the provisions of this paragraph, services provided by facilities  
14 licensed, certified or otherwise authorized pursuant to article sixteen,  
15 thirty-one, thirty-two or thirty-six of the mental hygiene law, and  
16 deemed appropriate to be provided by telehealth by the commissioner of  
17 the office for people with developmental disabilities, the office of  
18 mental health, or the office of addiction services and supports, as  
19 applicable, shall be reimbursed at the same rate as is reimbursed when  
20 delivered in person.

21 § 2. Paragraph 2 of subsection (a) of section 4306-g of the insurance  
22 law, as added by section 4 of part V of chapter 57 of the laws of 2022,  
23 is amended to read as follows:

24 (2) A corporation that provides comprehensive coverage for hospital,  
25 medical or surgical care shall reimburse covered services delivered by  
26 means of telehealth on the same basis, at the same rate, and to the same  
27 extent that such services are reimbursed when delivered in person;  
28 provided that reimbursement of covered services delivered via telehealth

1 shall not require reimbursement of costs not actually incurred in the  
2 provision of the telehealth services, including charges related to the  
3 use of a clinic or other facility when neither the originating site nor  
4 the distant site occur within the clinic or other facility. The super-  
5 intendent may promulgate regulations to implement the provisions of this  
6 section. Notwithstanding the provisions of this paragraph, services  
7 provided by facilities licensed, certified or otherwise authorized  
8 pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the  
9 mental hygiene law, and deemed appropriate to be provided by telehealth  
10 by the commissioner of the office for people with developmental disabil-  
11 ities, the office of mental health, or the office of addiction services  
12 and supports, as applicable, shall be reimbursed at the same rate as is  
13 reimbursed when delivered in person.

14 § 3. Subdivision 3 of section 4406-g of the public health law, as  
15 added by section 5 of part V of chapter 57 of the laws of 2022, is  
16 amended to read as follows:

17 3. A health maintenance organization that provides comprehensive  
18 coverage for hospital, medical or surgical care shall reimburse covered  
19 services delivered via telehealth on the same basis, at the same rate,  
20 and to the extent that such services are reimbursed when delivered in  
21 person; provided that reimbursement of covered services delivered by  
22 means of telehealth shall not require reimbursement of costs not actual-  
23 ly incurred in the provision of the telehealth services, including  
24 charges related to the use of a clinic or other facility when neither  
25 the originating site nor the distant site occur within the clinic or  
26 other facility. The commissioner, in consultation with the superinten-  
27 dent, may promulgate regulations to implement the provisions of this  
28 section. Notwithstanding the provisions of this subdivision, services

1 provided by facilities licensed, certified or otherwise authorized  
2 pursuant to article sixteen, thirty-one, thirty-two or thirty-six of the  
3 mental hygiene law, and deemed appropriate to be provided by telehealth  
4 by the commissioner of the office for people with developmental disabil-  
5 ities, the office of mental health, or the office of addiction services  
6 and supports, as applicable, shall be reimbursed at the same rate as is  
7 reimbursed when delivered in person.

8 § 4. This act shall take effect immediately, and shall apply to claims  
9 submitted on or after such date; provided that:

10 (a) the amendments made to subsection (a) of section 3217-h of the  
11 insurance law made by section one of this act shall not affect the expi-  
12 ration and reversion of such subsection and shall be deemed to expire  
13 therewith;

14 (b) the amendments made to subsection (a) of section 4306-g of the  
15 insurance law made by section two of this act shall not affect the expi-  
16 ration and reversion of such subsection and shall be deemed to expire  
17 therewith; and

18 (c) the amendments made to subdivision 3 of section 4406-g of the  
19 public health law made by section three of this act shall not affect the  
20 repeal of such subdivision and shall be deemed repealed therewith.

21 SUBPART D

22 Section 1. Section 109 of the insurance law is amended by adding a new  
23 subsection (e) to read as follows:

24 (e) In addition to any right of action granted to the superintendent  
25 pursuant to this section, any person who has been injured by reason of a  
26 violation of paragraph thirty, thirty-one, thirty-one-a or thirty-five

1 of subsection (i) of section thirty-two hundred sixteen, paragraph five,  
2 six, seven, seven-a or seven-b of subsection (l) of section thirty-two  
3 hundred twenty-one, or subsection (g), (k), (l), (l-1) or (l-2) of  
4 section forty-three hundred three of this chapter by an insurer, corpo-  
5 ration, or health maintenance organization subject to article thirty-two  
6 or forty-three of this chapter may bring an action in the person's own  
7 name to recover the person's actual damages or one thousand dollars,  
8 whichever is greater; provided, however, that the provisions of this  
9 subsection shall not apply to any health plan that exclusively serves  
10 individuals enrolled pursuant to a federal or state insurance afforda-  
11 bility program as defined in section two hundred sixty-eight-a of the  
12 public health law, the medical assistance program under title eleven of  
13 article five of the social services law, child health plus under title  
14 one-A of article twenty-five of the public health law, the basic health  
15 program under section three hundred sixty-nine-gg of the social services  
16 law, or a plan providing services under title XVIII of the federal  
17 Social Security Act. The court may, in its discretion, award the  
18 prevailing plaintiff in such action an additional award not to exceed  
19 five thousand dollars if the court finds a willful violation pursuant to  
20 this subsection. The court may award reasonable attorneys' fees to a  
21 prevailing plaintiff.

22 § 2. This act shall take effect immediately.

23 SUBPART E

24 Section 1. Subparagraph (A) of paragraph 31-a of subsection (i) of  
25 section 3216 of the insurance law, as added by chapter 748 of the laws  
26 of 2019, is amended to read as follows:

1 (A) No policy that provides medical, major medical or similar compre-  
2 hensive-type coverage and provides coverage for prescription drugs for  
3 medication for the treatment of a substance use disorder shall require  
4 prior authorization for an initial or renewal prescription for the  
5 detoxification or maintenance treatment of a substance use disorder,  
6 including all buprenorphine products, methadone [or], long acting  
7 injectable naltrexone [for detoxification or maintenance treatment of a  
8 substance use disorder], or medication for opioid overdose reversal  
9 prescribed or dispensed to an individual covered under the policy,  
10 including federal food and drug administration-approved over-the-counter  
11 opioid overdose reversal medication as prescribed, dispensed or as  
12 otherwise authorized under state or federal law, except where otherwise  
13 prohibited by law.

14 § 2. Subparagraph (A) of paragraph 7-a of subsection (1) of section  
15 3221 of the insurance law, as added by chapter 748 of the laws of 2019,  
16 is amended to read as follows:

17 (A) No policy that provides medical, major medical or similar compre-  
18 hensive-type small group coverage and provides coverage for prescription  
19 drugs for medication for the treatment of a substance use disorder shall  
20 require prior authorization for an initial or renewal prescription for  
21 the detoxification or maintenance treatment of a substance use disorder,  
22 including all buprenorphine products, methadone, long acting injectable  
23 naltrexone, or medication for opioid overdose reversal prescribed or  
24 dispensed to an individual covered under the policy, including federal  
25 food and drug administration-approved over-the-counter opioid overdose  
26 reversal medication as prescribed, dispensed or as otherwise authorized  
27 under state or federal law, except where otherwise prohibited by law.  
28 Every policy that provides medical, major medical or similar comprehen-

1 sive-type large group coverage shall provide coverage for prescription  
2 drugs for medication for the treatment of a substance use disorder and  
3 shall provide immediate coverage for all buprenorphine products, metha-  
4 done [or], long acting injectable naltrexone, or medication for opioid  
5 overdose reversal prescribed or dispensed to an individual covered under  
6 the policy, including federal food and drug administration-approved  
7 over-the-counter opioid overdose reversal medication as prescribed,  
8 dispensed or as otherwise authorized under state or federal law, without  
9 prior authorization for the detoxification or maintenance treatment of a  
10 substance use disorder, except where otherwise prohibited by law.

11 § 3. Paragraph (A) of subsection (1-1) of section 4303 of the insur-  
12 ance law, as added by chapter 748 of the laws of 2019, is amended to  
13 read as follows:

14 (A) No contract that provides medical, major medical or similar  
15 comprehensive-type individual or small group coverage and provides  
16 coverage for prescription drugs for medication for the treatment of a  
17 substance use disorder shall require prior authorization for an initial  
18 or renewal prescription for the detoxification or maintenance treatment  
19 of a substance use disorder, including all buprenorphine products,  
20 methadone, long acting injectable naltrexone, or medication for opioid  
21 overdose reversal prescribed or dispensed to an individual covered under  
22 the contract, including federal food and drug administration-approved  
23 over-the-counter opioid overdose reversal medication as prescribed,  
24 dispensed or as otherwise authorized under state or federal law, except  
25 where otherwise prohibited by law. Every contract that provides medical,  
26 major medical, or similar comprehensive-type large group coverage shall  
27 provide coverage for prescription drugs for medication for the treatment  
28 of a substance use disorder and shall provide immediate coverage for all

1 buprenorphine products, methadone [or], long acting injectable naltrex-  
2 one, or medication for opioid overdose reversal prescribed or dispensed  
3 to an individual covered under the contract, including federal food and  
4 drug administration-approved over-the-counter opioid overdose reversal  
5 medication as prescribed, dispensed or as otherwise authorized under  
6 state or federal law, without prior authorization for the detoxification  
7 or maintenance treatment of a substance use disorder, except where  
8 otherwise prohibited by law.

9 SUBPART F

10 Section 1. Subsection (a) of 3241 of the insurance law, as added by  
11 section 6 of part H of chapter 60 of the laws of 2014, is amended to  
12 read as follows:

13 (a) (1) An insurer, a corporation organized pursuant to article  
14 forty-three of this chapter, a municipal cooperative health benefit plan  
15 certified pursuant to article forty-seven of this chapter, or a student  
16 health plan established or maintained pursuant to section one thousand  
17 one hundred twenty-four of this chapter, that issues a health insurance  
18 policy or contract with a network of health care providers shall ensure  
19 that the network is adequate to meet the health needs of insureds and  
20 provide an appropriate choice of providers sufficient to render the  
21 services covered under the policy or contract. The superintendent shall  
22 review the network of health care providers for adequacy at the time of  
23 the superintendent's initial approval of a health insurance policy or  
24 contract; at least every three years thereafter; and upon application  
25 for expansion of any service area associated with the policy or contract  
26 in conformance with the standards set forth in subdivision five of

1 section four thousand four hundred three of the public health law. To  
2 the extent that the network has been determined by the commissioner of  
3 health to meet the standards set forth in subdivision five of section  
4 four thousand four hundred three of the public health law, such network  
5 shall be deemed adequate by the superintendent.

6 (2) The superintendent, in consultation with the commissioner of  
7 health, the commissioner of the office of mental health, and the commis-  
8 sioner of the office of addiction services and supports, shall promul-  
9 gate regulations setting forth standards for network adequacy for mental  
10 health and substance use disorder treatment. Such standards shall  
11 include:

12 (A) requirements that ensure that insureds have timely and proximate  
13 access to treatment for mental health conditions and substance use  
14 disorders;

15 (B) appointment availability standards that include timeframes for  
16 initial provider visits, follow-up provider visits, and provider visits  
17 following discharge from a hospital as defined by subdivision ten of  
18 section 1.03 of the mental hygiene law or the emergency department of a  
19 hospital licensed pursuant to article twenty-eight of the public health  
20 law;

21 (C) time and distance standards that take into consideration reason-  
22 able proximity to the insured's residence, established service delivery  
23 patterns for the area, the geographic area, and the availability of  
24 telehealth services; and

25 (D) responsibilities of an insurer to provide an out-of-network refer-  
26 ral at the in-network cost-sharing when there is no participating  
27 provider able to provide the requested health care service within the  
28 timely and proximate access standards established by regulation and a

1 non-participating provider is able to meet such standards; and, where  
2 the non-participating provider is a facility licensed, operated, or  
3 otherwise authorized by the office of mental health or the office of  
4 addiction services and supports, the insurer shall reimburse the facili-  
5 ty at a rate negotiated between the insurer and facility, or in the  
6 absence of a negotiated rate, an amount no less than the rate that would  
7 be paid for such services pursuant to the medical assistance program  
8 under title eleven of article five of the social services law.

9 § 2. Subdivision 5 of section 4403 of the public health law is amended  
10 by adding a new paragraph (d) to read as follows:

11 (d) The commissioner, in consultation with the superintendent of  
12 financial services, the commissioner of the office of mental health, and  
13 the commissioner of the office of addiction services and supports, shall  
14 promulgate regulations setting forth standards for network adequacy for  
15 mental health and substance use disorder treatment. Such standards  
16 shall include:

17 (i) requirements that ensure that enrollees have timely and proximate  
18 access to treatment for mental health conditions and substance use  
19 disorders;

20 (ii) appointment availability standards that include timeframes for  
21 initial provider visits, follow-up provider visits, and provider visits  
22 following discharge from a hospital as defined by subdivision ten of  
23 section 1.03 of the mental hygiene law or the emergency department of a  
24 hospital licensed pursuant to article twenty-eight of the public health  
25 law;

26 (iii) time and distance standards that take into consideration reason-  
27 able proximity to the enrollee's residence, established service delivery

1 patterns for the area, the geographic area, and the availability of  
2 telehealth services; and

3 (iv) responsibilities of an organization to provide an out-of-network  
4 referral at the in-network cost-sharing when there is no participating  
5 provider able to provide the requested health care service within the  
6 timely and proximate access standards established by regulation and a  
7 non-participating provider is able to meet such standards; and, where  
8 the non-participating provider is a facility licensed, operated, or  
9 otherwise authorized by the office of mental health or the office of  
10 addiction services and supports, the organization shall reimburse the  
11 facility at a rate negotiated between the organization and facility or,  
12 in the absence of a negotiated rate, an amount no less than the rate  
13 that would be paid for such services pursuant to the medical assistance  
14 program under title eleven of article five of the social services law.

15 § 3. This act shall take effect immediately.

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

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

1

## PART JJ

2 Section 1. Subdivision (g) of section 31.16 of the mental hygiene law,  
3 as amended by chapter 351 of the laws of 1994, is amended to read as  
4 follows:

5 (g) The commissioner may impose [a fine] sanctions upon a finding that  
6 the holder of the certificate has failed to comply with the terms of the  
7 operating certificate or with the provisions of any applicable statute,  
8 rule or regulation. The commissioner shall be authorized to develop a  
9 schedule for the purpose of imposing such sanctions. The maximum amount  
10 of [such] any fine imposed thereunder shall not exceed [one] two thou-  
11 sand dollars per day [or fifteen thousand dollars], per violation.  
12 Penalties may be considered at the individual bed level for beds closed  
13 without authorization at inpatient settings.

14 Such penalty may be recovered by an action brought by the commissioner  
15 in any court of competent jurisdiction.

16 Such penalty may be released or compromised by the commissioner before  
17 the matter has been referred to the attorney general. Any such penalty  
18 may be released or compromised and any action commenced to recover the  
19 same may be settled or discontinued by the attorney general with the  
20 consent of the commissioner.

21 § 2. This act shall take effect immediately.

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

1 ment shall have been rendered. It is hereby declared to be the intent of  
2 the legislature that this act would have been enacted even if such  
3 invalid provisions had not been included herein.

4 § 3. This act shall take effect immediately provided, however, that  
5 the applicable effective date of Parts A through JJ of this act shall be  
6 as specifically set forth in the last section of such Parts.