

NEW YORK STATE LEGISLATIVE ANNUAL – 2018

This bill is necessary for the enactment of portions of the SFY 2017-18 Education, Labor and Family Assistance budget, as contained in the State Operations, Capital Projects and Aid to Localities appropriations bills.

Memorandum of the Assembly Ways & Means Committee

Budget: Health & Mental Hygiene

Chapter 57¹²⁸

S.2007-B Budget #8

Adds §§5003-b, & 7515, *Civil Practice Law & Rules*; amends §§6801, 6802, 6909, 7605, 7702, 7706, 8410, & generally, *Education Law*; adds §§214-f & 296-d, amends §§156, 292, 631, & 840, *Executive Law*; adds §§5-336, *General Obligations Law*; amends §§3216, 3221, & 4303, *Insurance Law*; adds §201-g, *Labor Law*; adds §§13.43, 19.18-b, & 33.27, amends §§13.17, 6.03, 16.11, 31.02, & 32.05, *Mental Hygiene Law*; adds §§280-c, 1114-a, 2531, 2532, 2825-f, 3054, 3323, & 3605-b, amends §§230, 280, 280-a, 1114, 2168, 2801, 3805-i, 2807-c, 2807-k, 2808, 2899, 2899-a, 2999-cc, 2999-dd, 3316, 3331, 3605, 3612, 4012, 4403-f, 4403-g, & generally, *Public Health Law*; adds §§17-a, 18-a, *Public Officers Law*; amends §§374-j, 365-a, 365-f, 366, 366-c, 367-a, 413, 424-a, 461-l, & generally *Social Services Law*; adds §§97-aaaaa, 139-l, amends §163, 189, 190-b, *State Finance Law*; amends *Various Laws*, generally. This bill would enact into law major components of legislation that are necessary to implement the State Fiscal Year (SFY) 2018-19 budget as it pertains to the Health and Mental Hygiene budget. Among its provisions are the following proposals:

- A Implements various provision related to hospital services.¹²⁹
- B Implements various long term care proposals.¹³⁰

temporary housing assistance. A comprehensive report is due to the Governor and legislative leaders by December 31, 2021, and the program is deemed expired as of March 31, 2022.

¹²⁸ **Chapter 57** generally. This bill passed the Senate 59-0 and the Assembly 106-26 with Message of Necessity: *I hereby certify to an immediate vote. Andrew M. Cuomo, Governor.* See Senate debate transcript, 3-30-18, 45 pages. See Assembly debate transcript, 3-30-18, 47 pages. For Parts A to AA, see same parts in the Division of Budget's *Health & Mental Hygiene Article VII Legislation #8 Memorandum in Support*. Parts E to I, L, Q, P, R & W were omitted. Parts HH & KK were from S.7511 Parts G & I respectively. Parts EE to GG, II, JJ & LL to NN were added by the Legislature. See NYS Senate Standing Committee on Health *Budget Highlights*, 7 pages. See *Additional Material Regarding the Budget* preceding. See 30-Day Amendments for Parts E, R, Z & added Parts BB, CC & DD. NYLS makes/can make Supplements for each Part of this Budget Bill.

¹²⁹ **Part A:** MRT Hospital Recommendations. See Briefing Book pages 70 & 135. See Senate's White Book pages 50, 53 & 262. See Senate Democrat's final report page 33: *The Adopted Budget takes the following actions with regard to the hospital-related Medicaid proposals: • Accepts the proposals to: * Create a penalty pool for hospitals that fail to meet targets to reduce potentially preventable emergency department visits; * Extend the Indigent Care Pool through December 31, 2019 and increase the year to- year loss ceiling transition provisions to 17.5%; and * Increase the cap on the number of physical therapy visits from 20 to 40; • Rejects the proposals to cut hospitals and nursing homes capital Medicaid rates; and • Adds new language to provide enhanced Medicaid reimbursement rates for Crouse Community Center (a nursing home in Madison County).*

¹³⁰ **Part B:** MRT Long-Term Care Recommendations. See Briefing Book pages 70 & 135. See Senate's White Book pages 50-51 & 262-263 and Blue Book pages 56-57 & 64. See Assembly's Yellow Book pages 33-34 & 204. See budget testimony & transcripts from HANY's, GNYHA, 1199SEIU, Health Care Association, NYS Health Care Providers, NYS Health Facilities Association, LeadingAge, Health Plan Association, Community Health Care of NYS, NYS Center

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- C Implements various long-term care proposals.¹³¹
- D Implements various proposals related to pharmacy services.¹³²
- E Intentionally omitted.¹³³

for Assisted Living, Professional Healthcare Institute, Center for Disability Rights, the Legal Aid Society, & NY Legal Assistance Group. See Senate resolution report pages 28-29. See NY State Bar Associations' 2-20-18 Part B §4, (2) §5,(3) §6 & (4) §7 and (5) 2-21-18 §3 *Memoranda in Opposition*. See NYSBA's 3-26-18 (High-Needs Rate Cell) *Memorandum in Support*. See Assembly debate transcript page 19-20. See Senate Democrat's final report page 33: *The Adopted Budget takes the following actions with regard to the long-term care proposals*: ● Accepts the proposals to: * Impose a 2% penalty on poorly performing nursing homes; * Authorize current Assisted Living Programs to create 9 additional slots each, create another 1000 beds in high need counties; * Require continuous MLTC plan enrollment; * Restrict MLTC enrollment to those who require 120 days of continuous care; * Transition nursing home residents from MLTC to fee-for-service if in a nursing home for more than 3 months; 34 * Increase free-standing clinic rate for Medicare beneficiaries in the TBI waiver program; and * Study of home and community based services in rural areas; ● Rejects proposals to: o Eliminate spousal refusal protections and reduce the community spouse resource amount; and o Restrict MLTC eligibility to those with a UAS score of 9 or higher; and ● Includes new language to: * Impose limitations on the number of Licensed Home Care Services Agencies including ratios on the number of LHCSAs in a given region, gives DOH Commissioner authority to expand number of LHCSAs if needed, gives the public health and planning council authority over approving LHCSAs based on public need, requires LHCSAs to register with DOH, and places a moratorium on any new approvals of LHCSAs; * Prohibits fiscal intermediaries from advertising; * Extends prohibition on moving TBI waiver enrollees from the waiver to managed care until Jan. 1, 2022; and * 10% rate increase for hospice providers.

¹³¹ **Part C:** MRT Medicaid Recommendations. See Briefing Book pages 72 & 135. See Senate's White Book pages 49-50 & 263. See Senate Democrat's final report page 34: *The Adopted Budget takes the following actions with regards to the Health Home Medicaid proposals*: ● Accepts proposals to: * Assess penalties on health homes and managed care plans that fail to meet enrollment targets for complex needs patients; and * Require criminal background checks for health home employees and make these employees mandated reporters for child abuse and maltreatment; ● Rejects proposals to: * Allow non-cash incentive payments to managed care enrollees who are members of Health Homes; and * Penalize managed care plans with a .85% reduction in monthly reimbursement rate for failing to submit a performing provider partnership plan; and ● Adds new language to affirmatively reject DOH's administrative cut to the Patient Centered Medicaid Home program by freezing rates.

¹³² **Part D:** MRT Pharmaceutical Recommendations. See Briefing Book pages 70 & 135. See Senate's White Book pages 48-49 & 263. For §§4 & 6 see *Letter* from several physician entities. For §6 Comprehensive Medical Management, see *Letter* from several medical societies with Society of Anesthesiologists rejecting legislation. See Senate Democrat's final report page 34: *The Adopted Budget takes the following actions with regards to the Pharmaceutical proposals*: ● Accepts the proposals to: * Increase the dispensing fee from \$10 to \$10.08 to match federal level; * Extend Medicaid Drug Cap for a year, while adding more transparency; and o Require treatment plan for opioid prescriptions over 3 months long under Medicaid, and expands requirement to all insurance plans; ● Rejects the proposals to: * Increase Medicaid enrollees co-pay for over-the-counter drugs; * Eliminate prescriber prevails protections; and * Establishing Comprehensive Medication Management provisions.

¹³³ **Part E:** MRT Transportation. See Briefing Book pages 72 & 135. See 30-Day Budget Amendments. See Senate's White Book pages 49 & 263. See budget testimony & transcripts from Upstate Transportation Association.