

1 supporting critically needed health care services and to ensure the
2 continued maintenance and operation of such hospitals.
3 (c) Payments made pursuant to this subdivision may be added to rates
4 of payment or made as aggregate payments to eligible general hospitals.
5 § 4. This act shall take effect immediately.

6

PART L

7

Intentionally Omitted

8

PART M

9 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter
10 266 of the laws of 1986, amending the civil practice law and rules and
11 other laws relating to malpractice and professional medical conduct, as
12 amended by section 15 of part H of chapter 57 of the laws of 2017, is
13 amended to read as follows:

14 (a) The superintendent of financial services and the commissioner of
15 health or their designee shall, from funds available in the hospital
16 excess liability pool created pursuant to subdivision 5 of this section,
17 purchase a policy or policies for excess insurance coverage, as author-
18 ized by paragraph 1 of subsection (e) of section 5502 of the insurance
19 law; or from an insurer, other than an insurer described in section 5502
20 of the insurance law, duly authorized to write such coverage and actual-
21 ly writing medical malpractice insurance in this state; or shall
22 purchase equivalent excess coverage in a form previously approved by the
23 superintendent of financial services for purposes of providing equiv-
24 alent excess coverage in accordance with section 19 of chapter 294 of
25 the laws of 1985, for medical or dental malpractice occurrences between
26 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,
27 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June
28 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991
29 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July
30 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
31 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
32 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
33 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
34 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
35 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
36 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
37 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
38 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
39 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June
40 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012
41 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July
42 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,
43 between July 1, 2016 and June 30, 2017, [and] between July 1, 2017 and
44 June 30, 2018, and between July 1, 2018 and June 30, 2019 or reimburse
45 the hospital where the hospital purchases equivalent excess coverage as
46 defined in subparagraph (i) of paragraph (a) of subdivision 1-a of this
47 section for medical or dental malpractice occurrences between July 1,
48 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between
49 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,
50 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June
51 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994
52 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July

1 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,
2 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June
3 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001
4 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July
5 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,
6 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June
7 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008
8 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July
9 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,
10 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June
11 30, 2014, between July 1, 2014 and June 30, 2015, between July 1, 2015
12 and June 30, 2016, between July 1, 2016 and June 30, 2017, [and] between
13 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
14 2019 for physicians or dentists certified as eligible for each such
15 period or periods pursuant to subdivision 2 of this section by a general
16 hospital licensed pursuant to article 28 of the public health law;
17 provided that no single insurer shall write more than fifty percent of
18 the total excess premium for a given policy year; and provided, however,
19 that such eligible physicians or dentists must have in force an individ-
20 ual policy, from an insurer licensed in this state of primary malprac-
21 tice insurance coverage in amounts of no less than one million three
22 hundred thousand dollars for each claimant and three million nine
23 hundred thousand dollars for all claimants under that policy during the
24 period of such excess coverage for such occurrences or be endorsed as
25 additional insureds under a hospital professional liability policy which
26 is offered through a voluntary attending physician ("channeling")
27 program previously permitted by the superintendent of financial services
28 during the period of such excess coverage for such occurrences. During
29 such period, such policy for excess coverage or such equivalent excess
30 coverage shall, when combined with the physician's or dentist's primary
31 malpractice insurance coverage or coverage provided through a voluntary
32 attending physician ("channeling") program, total an aggregate level of
33 two million three hundred thousand dollars for each claimant and six
34 million nine hundred thousand dollars for all claimants from all such
35 policies with respect to occurrences in each of such years provided,
36 however, if the cost of primary malpractice insurance coverage in excess
37 of one million dollars, but below the excess medical malpractice insur-
38 ance coverage provided pursuant to this act, exceeds the rate of nine
39 percent per annum, then the required level of primary malpractice insur-
40 ance coverage in excess of one million dollars for each claimant shall
41 be in an amount of not less than the dollar amount of such coverage
42 available at nine percent per annum; the required level of such coverage
43 for all claimants under that policy shall be in an amount not less than
44 three times the dollar amount of coverage for each claimant; and excess
45 coverage, when combined with such primary malpractice insurance cover-
46 age, shall increase the aggregate level for each claimant by one million
47 dollars and three million dollars for all claimants; and provided
48 further, that, with respect to policies of primary medical malpractice
49 coverage that include occurrences between April 1, 2002 and June 30,
50 2002, such requirement that coverage be in amounts no less than one
51 million three hundred thousand dollars for each claimant and three
52 million nine hundred thousand dollars for all claimants for such occur-
53 rences shall be effective April 1, 2002.

54 § 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
55 amending the civil practice law and rules and other laws relating to
56 malpractice and professional medical conduct, as amended by section 16

1 of part H of chapter 57 of the laws of 2017, is amended to read as
2 follows:

3 (3) (a) The superintendent of financial services shall determine and
4 certify to each general hospital and to the commissioner of health the
5 cost of excess malpractice insurance for medical or dental malpractice
6 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988
7 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July
8 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,
9 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June
10 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995
11 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July
12 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,
13 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June
14 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002
15 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July
16 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,
17 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June
18 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009
19 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July
20 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013, and
21 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June
22 30, 2015, between July 1, 2015 and June 30, 2016, and between July 1,
23 2016 and June 30, 2017, [and] between July 1, 2017 and June 30, 2018,
24 and between July 1, 2018 and June 30, 2019 allocable to each general
25 hospital for physicians or dentists certified as eligible for purchase
26 of a policy for excess insurance coverage by such general hospital in
27 accordance with subdivision 2 of this section, and may amend such deter-
28 mination and certification as necessary.

29 (b) The superintendent of financial services shall determine and
30 certify to each general hospital and to the commissioner of health the
31 cost of excess malpractice insurance or equivalent excess coverage for
32 medical or dental malpractice occurrences between July 1, 1987 and June
33 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
34 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
35 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
36 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
37 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
38 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
39 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
40 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
41 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
42 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
43 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
44 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
45 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
46 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
47 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,
48 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June
49 30, 2016, [and] between July 1, 2016 and June 30, 2017, [and] between
50 July 1, 2017 and June 30, 2018, and between July 1, 2018 and June 30,
51 2019 allocable to each general hospital for physicians or dentists
52 certified as eligible for purchase of a policy for excess insurance
53 coverage or equivalent excess coverage by such general hospital in
54 accordance with subdivision 2 of this section, and may amend such deter-
55 mination and certification as necessary. The superintendent of financial
56 services shall determine and certify to each general hospital and to the

1 commissioner of health the ratable share of such cost allocable to the
2 period July 1, 1987 to December 31, 1987, to the period January 1, 1988
3 to June 30, 1988, to the period July 1, 1988 to December 31, 1988, to
4 the period January 1, 1989 to June 30, 1989, to the period July 1, 1989
5 to December 31, 1989, to the period January 1, 1990 to June 30, 1990, to
6 the period July 1, 1990 to December 31, 1990, to the period January 1,
7 1991 to June 30, 1991, to the period July 1, 1991 to December 31, 1991,
8 to the period January 1, 1992 to June 30, 1992, to the period July 1,
9 1992 to December 31, 1992, to the period January 1, 1993 to June 30,
10 1993, to the period July 1, 1993 to December 31, 1993, to the period
11 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December
12 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period
13 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June
14 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period
15 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December
16 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period
17 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June
18 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period
19 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December
20 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period
21 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,
22 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,
23 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to
24 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007
25 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the
26 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and
27 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the
28 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and
29 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the
30 period July 1, 2015 and June 30, 2016, and between July 1, 2016 and June
31 30, 2017, and to the period July 1, 2017 [and] to June 30, 2018, and to
32 the period July 1, 2018 to June 30, 2019.

33 § 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
34 18 of chapter 266 of the laws of 1986, amending the civil practice law
35 and rules and other laws relating to malpractice and professional
36 medical conduct, as amended by section 17 of part H of chapter 57 of the
37 laws of 2017, are amended to read as follows:

38 (a) To the extent funds available to the hospital excess liability
39 pool pursuant to subdivision 5 of this section as amended, and pursuant
40 to section 6 of part J of chapter 63 of the laws of 2001, as may from
41 time to time be amended, which amended this subdivision, are insuffi-
42 cient to meet the costs of excess insurance coverage or equivalent
43 excess coverage for coverage periods during the period July 1, 1992 to
44 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
45 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
46 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
47 during the period July 1, 1997 to June 30, 1998, during the period July
48 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
49 2000, during the period July 1, 2000 to June 30, 2001, during the period
50 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
51 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
52 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
53 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
54 during the period July 1, 2006 to June 30, 2007, during the period July
55 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
56 2009, during the period July 1, 2009 to June 30, 2010, during the period

1 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
2 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
3 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to
4 June 30, 2015, during the period July 1, 2015 [and] to June 30, 2016,
5 during the period July 1, 2016 [and] to June 30, 2017, [and] during the
6 period July 1, 2017 [and] to June 30, 2018, and during the period July
7 1, 2018 to June 30, 2019 allocated or reallocated in accordance with
8 paragraph (a) of subdivision 4-a of this section to rates of payment
9 applicable to state governmental agencies, each physician or dentist for
10 whom a policy for excess insurance coverage or equivalent excess cover-
11 age is purchased for such period shall be responsible for payment to the
12 provider of excess insurance coverage or equivalent excess coverage of
13 an allocable share of such insufficiency, based on the ratio of the
14 total cost of such coverage for such physician to the sum of the total
15 cost of such coverage for all physicians applied to such insufficiency.

16 (b) Each provider of excess insurance coverage or equivalent excess
17 coverage covering the period July 1, 1992 to June 30, 1993, or covering
18 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
19 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
20 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
21 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
22 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
23 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
24 the period July 1, 2001 to October 29, 2001, or covering the period
25 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
26 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
27 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
28 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
29 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
30 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
31 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
32 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
33 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
34 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to
35 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or
36 covering the period July 1, 2016 to June 30, 2017, or covering the peri-
37 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to
38 June 30, 2019 shall notify a covered physician or dentist by mail,
39 mailed to the address shown on the last application for excess insurance
40 coverage or equivalent excess coverage, of the amount due to such
41 provider from such physician or dentist for such coverage period deter-
42 mined in accordance with paragraph (a) of this subdivision. Such amount
43 shall be due from such physician or dentist to such provider of excess
44 insurance coverage or equivalent excess coverage in a time and manner
45 determined by the superintendent of financial services.

46 (c) If a physician or dentist liable for payment of a portion of the
47 costs of excess insurance coverage or equivalent excess coverage cover-
48 ing the period July 1, 1992 to June 30, 1993, or covering the period
49 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
50 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
51 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
52 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
53 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
54 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
55 od July 1, 2001 to October 29, 2001, or covering the period April 1,
56 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,

1 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
2 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
3 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
4 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
5 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
6 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
7 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
8 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
9 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
10 2015, or covering the period July 1, 2015 to June 30, 2016, or covering
11 the period July 1, 2016 to June 30, 2017, or covering the period July 1,
12 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,
13 2019 determined in accordance with paragraph (a) of this subdivision
14 fails, refuses or neglects to make payment to the provider of excess
15 insurance coverage or equivalent excess coverage in such time and manner
16 as determined by the superintendent of financial services pursuant to
17 paragraph (b) of this subdivision, excess insurance coverage or equiv-
18 alent excess coverage purchased for such physician or dentist in accord-
19 ance with this section for such coverage period shall be cancelled and
20 shall be null and void as of the first day on or after the commencement
21 of a policy period where the liability for payment pursuant to this
22 subdivision has not been met.

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

52 (e) A provider of excess insurance coverage or equivalent excess
53 coverage shall refund to the hospital excess liability pool any amount
54 allocable to the period July 1, 1992 to June 30, 1993, and to the period
55 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
56 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the

1 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
2 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
3 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
4 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
5 and to the period April 1, 2002 to June 30, 2002, and to the period July
6 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
7 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
8 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
9 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
10 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
11 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
12 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
13 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
14 to the period July 1, 2014 to June 30, 2015, and to the period July 1,
15 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and
16 to the period July 1, 2017 to June 30, 2018, and to the period July 1,
17 2018 to June 30, 2019 received from the hospital excess liability pool
18 for purchase of excess insurance coverage or equivalent excess coverage
19 covering the period July 1, 1992 to June 30, 1993, and covering the
20 period July 1, 1993 to June 30, 1994, and covering the period July 1,
21 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
22 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
23 ing the period July 1, 1997 to June 30, 1998, and covering the period
24 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
25 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
26 and covering the period July 1, 2001 to October 29, 2001, and covering
27 the period April 1, 2002 to June 30, 2002, and covering the period July
28 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
29 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
30 covering the period July 1, 2005 to June 30, 2006, and covering the
31 period July 1, 2006 to June 30, 2007, and covering the period July 1,
32 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,
33 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
34 ing the period July 1, 2010 to June 30, 2011, and covering the period
35 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
36 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,
37 and covering the period July 1, 2014 to June 30, 2015, and covering the
38 period July 1, 2015 to June 30, 2016, and covering the period July 1,
39 2016 to June 30, 2017, and covering the period July 1, 2017 to June 30,
40 2018, and covering the period July 1, 2018 to June 30, 2019 for a phys-
41 cian or dentist where such excess insurance coverage or equivalent
42 excess coverage is cancelled in accordance with paragraph (c) of this
43 subdivision.

44 § 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
45 practice law and rules and other laws relating to malpractice and
46 professional medical conduct, as amended by section 18 of part H of
47 chapter 57 of the laws of 2017, is amended to read as follows:

48 § 40. The superintendent of financial services shall establish rates
49 for policies providing coverage for physicians and surgeons medical
50 malpractice for the periods commencing July 1, 1985 and ending June 30,
51 [2018] 2019; provided, however, that notwithstanding any other provision
52 of law, the superintendent shall not establish or approve any increase
53 in rates for the period commencing July 1, 2009 and ending June 30,
54 2010. The superintendent shall direct insurers to establish segregated
55 accounts for premiums, payments, reserves and investment income attrib-
56 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, [2018]
8 2019, 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, [2018]
16 2019 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
29 remit to such prior insurer the equivalent amount that would then be
30 collected as a surcharge if the physician or surgeon had continued to
31 remain insured by such prior insurer. In the event any insurer that
32 provided coverage during such policy periods is in liquidation, the
33 property/casualty insurance security fund shall receive the portion of
34 surcharges to which the insurer in liquidation would have been entitled.
35 The surcharges authorized herein shall be deemed to be income earned for
36 the purposes of section 2303 of the insurance law. The superintendent,
37 in establishing adequate rates and in determining any projected defi-
38 ciency pursuant to the requirements of this section and the insurance
39 law, shall give substantial weight, determined in his discretion and
40 judgment, to the prospective anticipated effect of any regulations
41 promulgated and laws enacted and the public benefit of stabilizing
42 malpractice rates and minimizing rate level fluctuation during the peri-
43 od of time necessary for the development of more reliable statistical
44 experience as to the efficacy of such laws and regulations affecting
45 medical, dental or podiatric malpractice enacted or promulgated in 1985,
46 1986, by this act and at any other time. Notwithstanding any provision
47 of the insurance law, rates already established and to be established by
48 the superintendent pursuant to this section are deemed adequate if such
49 rates would be adequate when taken together with the maximum authorized
50 annual surcharges to be imposed for a reasonable period of time whether
51 or not any such annual surcharge has been actually imposed as of the
52 establishment of such rates.

53 § 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
54 chapter 63 of the laws of 2001, amending chapter 266 of the laws of
55 1986, amending the civil practice law and rules and other laws relating
56 to malpractice and professional medical conduct, relating to the effec-

1 tiveness of certain provisions of such chapter, as amended by section 19
2 of part H of chapter 57 of the laws of 2017, are amended to read as
3 follows:

4 § 5. The superintendent of financial services and the commissioner of
5 health shall determine, no later than June 15, 2002, June 15, 2003, June
6 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,
7 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,
8 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, [and]
9 June 15, 2018, and June 15, 2019 the amount of funds available in the
10 hospital excess liability pool, created pursuant to section 18 of chap-
11 ter 266 of the laws of 1986, and whether such funds are sufficient for
12 purposes of purchasing excess insurance coverage for eligible partic-
13 ipating physicians and dentists during the period July 1, 2001 to June
14 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30,
15 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 [to] July 1, 2017 to June 30,
22 2018, or July 1, 2018 to June 30, 2019 as applicable.

23 (a) This section shall be effective only upon a determination, pursu-
24 ant to section five of this act, by the superintendent of financial
25 services and the commissioner of health, and a certification of such
26 determination to the state director of the budget, the chair of the
27 senate committee on finance and the chair of the assembly committee on
28 ways and means, that the amount of funds in the hospital excess liabil-
29 ity pool, created pursuant to section 18 of chapter 266 of the laws of
30 1986, is insufficient for purposes of purchasing excess insurance cover-
31 age for eligible participating physicians and dentists during the period
32 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July
33 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,
34 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007
35 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to
36 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June
37 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,
38 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,
39 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,
40 2018, or July 1, 2018 to June 30, 2019 as applicable.

41 (e) The commissioner of health shall transfer for deposit to the
42 hospital excess liability pool created pursuant to section 18 of chapter
43 266 of the laws of 1986 such amounts as directed by the superintendent
44 of financial services for the purchase of excess liability insurance
45 coverage for eligible participating physicians and dentists for the
46 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
47 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
48 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
49 2007, as applicable, and the cost of administering the hospital excess
50 liability pool for such applicable policy year, pursuant to the program
51 established in chapter 266 of the laws of 1986, as amended, no later
52 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
53 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
54 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,
55 2015, June 15, 2016, June 15, 2017, [and] June 15, 2018, and June 15,
56 2019 as applicable.

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

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

30 § 7. This act shall take effect immediately.

31

PART N

32 Section 1. The opening paragraph of subdivision 1 of section 1 of part
33 C of chapter 57 of the laws of 2006, establishing a cost of living
34 adjustment for designated human services, is amended to read as follows:

35 Subject to available appropriations, the commissioners of the office
36 of mental health, office of mental retardation and developmental disa-
37 bilities, office of alcoholism and substance abuse services, [department
38 of health,] office of children and family services and the state office
39 for the aging shall establish an annual cost of living adjustment
40 (COLA), subject to the approval of the director of the budget, effective
41 April first of each state fiscal year, provided, however, that in state
42 fiscal year 2006-07, the cost of living adjustment will be effective
43 October first, to project for the effects of inflation, for rates of
44 payments, contracts or any other form of reimbursement for the programs
45 listed in paragraphs (i), (ii), (iii), (iv)[,] and (v) [and (vi)] of
46 subdivision four of this section. The COLA shall be applied to the
47 appropriate portion of reimbursable costs or contract amounts.

48 § 2. Paragraph (iv) of subdivision 4 of section 1 of part C of chapter
49 57 of the laws of 2006, establishing a cost of living adjustment for
50 designated human services, is REPEALED and paragraphs (v) and (vi) are
51 renumbered paragraphs (iv) and (v).

52 § 3. This act shall take effect immediately.

53

PART O

1 Intentionally Omitted

2 PART P

3 Intentionally Omitted

4 PART Q

5 Section 1. The public health law is amended by adding a new section
6 2825-f to read as follows:

7 § 2825-f. Health care facility transformation program; statewide III.

8 1. A statewide health care facility transformation program is hereby
9 established under the joint administration of the commissioner and the
10 president of the dormitory authority of the state of New York for the
11 purpose of strengthening and protecting continued access to health care
12 services in communities. The program shall provide funding in support of
13 capital projects, debt retirement, working capital or other non-capital
14 projects that facilitate health care transformation activities includ-
15 ing, but not limited to, merger, consolidation, acquisition or other
16 activities intended to: (a) create financially sustainable systems of
17 care; (b) preserve or expand essential health care services; (c) modern-
18 ize obsolete facility physical plants and infrastructure; (d) foster
19 participation in alternative payment arrangements including, but not
20 limited to, contracts with managed care plans and accountable care
21 organizations; (e) for residential health care facilities, increase the
22 quality of resident care or experience; or (f) improve health informa-
23 tion technology infrastructure, including telehealth, to strengthen the
24 acute, post-acute and long-term care continuum. Grants shall not be
25 available to support general operating expenses. The issuance of any
26 bonds or notes hereunder shall be subject to section sixteen hundred
27 eighty-r of the public authorities law and the approval of the director
28 of the division of the budget, and any projects funded through the issu-
29 ance of bonds or notes hereunder shall be approved by the New York state
30 public authorities control board, as required under section fifty-one of
31 the public authorities law.

32 2. The commissioner and the president of the dormitory authority shall
33 enter into an agreement, subject to approval by the director of the
34 budget, and subject to section sixteen hundred eighty-r of the public
35 authorities law, for the purposes of awarding, distributing, and admin-
36 istering the funds made available pursuant to this section. Such funds
37 may be distributed by the commissioner for grants to general hospitals,
38 residential health care facilities, adult care facilities licensed under
39 title two of article seven of the social services law, diagnostic and
40 treatment centers and clinics licensed pursuant to this chapter or the
41 mental hygiene law, children's residential treatment facilities licensed
42 pursuant to article thirty-one of the mental hygiene law, assisted
43 living programs approved by the department pursuant to section four
44 hundred sixty-one-1 of the social services law, and community-based
45 health care providers as defined in subdivision three of this section
46 for grants in support of the purposes set forth in this section. A copy
47 of such agreement, and any amendments thereto, shall be provided to the
48 chair of the senate finance committee, the chair of the assembly ways
49 and means committee, and the director of the division of the budget no
50 later than thirty days prior to the release of a request for applica-
51 tions for funding under this program. Projects awarded, in whole or
52 part, under sections twenty-eight hundred twenty-five-a and twenty-eight