

9186

March 26, 2014

1 Section 1. This act enacts into law major components of legislation
2 which combat the incidence of adult and child obesity and respiratory
3 diseases. Each component is wholly contained within a Part identified
4 as Parts A through G. The effective date for each particular provision
5 contained within such Part is set forth in the last section of such
6 Part. Any provision in any section contained within a Part, including
7 the effective date of the Part, which makes a reference to a section "of
8 this act", when used in connection with that particular component, shall
9 be deemed to mean and refer to the corresponding section of the Part in
10 which it is found. Section three of this act sets forth the general
11 effective date of this act.

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

LBD14161-02-4

1 Section 1. Subdivisions 2 and 4 of section 2111 of the public health
2 law, as added by section 21 of part C of chapter 58 of the laws of 2004,
3 are amended to read as follows:

4 2. The department shall establish the criteria by which individuals
5 will be identified as eligible for enrollment in the demonstration
6 programs. Persons eligible for enrollment in the disease management
7 demonstration program shall be limited to individuals who: receive
8 medical assistance pursuant to title eleven of article five of the
9 social services law and may be eligible for benefits pursuant to title
10 18 of the social security act (Medicare); are not enrolled in a Medicaid
11 managed care plan, including individuals who are not required or not
12 eligible to participate in Medicaid managed care programs pursuant to
13 section three hundred sixty-four-j of the social services law; are diag-
14 nosed with chronic health problems as may be specified by the entity
15 undertaking the demonstration program, including, but not limited to one
16 or more of the following: congestive heart failure, chronic obstructive
17 pulmonary disease, asthma, EMPHYSEMA, CHRONIC BRONCHITIS, OTHER CHRONIC
18 RESPIRATORY DISEASES, diabetes, ADULT AND CHILDHOOD OBESITY, or other
19 chronic health conditions as may be specified by the department; or have
20 experienced or are likely to experience one or more hospitalizations or
21 are otherwise expected to incur excessive costs and high utilization of
22 health care services.

23 4. The demonstration program shall offer evidence-based services and
24 interventions designed to ensure that the enrollees receive high quali-
25 ty, preventative and cost-effective care, aimed at reducing the necessi-
26 ty for hospitalization or emergency room care or at reducing lengths of
27 stay when hospitalization is necessary. The demonstration program may
28 include screening of eligible enrollees, developing an individualized
29 care management plan for each enrollee and implementing that plan.
30 Disease management demonstration programs that utilize information tech-
31 nology systems that allow for continuous application of evidence-based
32 guidelines to medical assistance claims data and other available data to
33 identify specific instances in which clinical interventions are justi-
34 fied and communicate indicated interventions to physicians, health care
35 providers and/or patients, and monitor physician and health care provid-
36 er response to such interventions, shall have the enrollees, or groups
37 of enrollees, approved by the department for participation. The services
38 provided by the demonstration program as part of the care management
39 plan may include, but are not limited to, case management, social work,
40 individualized health counselors, multi-behavioral goals plans, claims
41 data management, health and self-care education, drug therapy management
42 and oversight, personal emergency response systems and other monitoring
43 technologies, SYSTEMATIC CHRONIC HEALTH CONDITIONS IDENTIFIED FOR MONI-
44 TORING, telehealth services and similar services designed to improve the
45 quality and cost-effectiveness of health care services.

46 S 2. This act shall take effect immediately.

47 PART B

48 Section 1. Section 2599-b of the public health law, as amended by
49 section 88 of part B of chapter 58 of the laws of 2005, is amended to
50 read as follows:

51 S 2599-b. Program development. 1. The program shall be designed to
52 prevent and reduce the incidence and prevalence of obesity in children
53 and adolescents, especially among populations with high rates of obesity
54 and obesity-related health complications including, but not limited to,

1 diabetes, heart disease, cancer, osteoarthritis, asthma, EMPHYSEMA,
2 CHRONIC BRONCHITIS, OTHER CHRONIC RESPIRATORY DISEASES and other condi-
3 tions. The program shall use recommendations and goals of the United
4 States departments of agriculture and health and human services, the
5 surgeon general and centers for disease control AND PREVENTION in devel-
6 oping and implementing guidelines for nutrition education and physical
7 activity projects as part of obesity prevention efforts. The content and
8 implementation of the program shall stress the benefits of choosing a
9 balanced, healthful diet from the many options available to consumers,
10 without specifically targeting the elimination of any particular food
11 group, food product or food-related industry.

12 2. The childhood obesity prevention program shall include, but not be
13 limited to:

14 (a) developing media health promotion campaigns targeted to children
15 and adolescents and their parents and caregivers that emphasize increas-
16 ing consumption of low-calorie, high-nutrient foods, decreasing consump-
17 tion of high-calorie, low-nutrient foods and increasing physical activ-
18 ity designed to prevent or reduce obesity;

19 (b) establishing school-based childhood obesity prevention nutrition
20 education and physical activity programs including programs described in
21 section twenty-five hundred ninety-nine-c of this article, as well as
22 other programs with linkages to physical and health education courses,
23 and which utilize the school health index of the National Center for
24 Chronic Disease Prevention and Health Promotion or other recognized
25 school health assessment PURSUANT TO ARTICLE NINETEEN OF THE EDUCATION
26 LAW;

27 (c) establishing community-based childhood obesity prevention nutri-
28 tion education and physical activity programs including programs which
29 involve parents and caregivers, and which encourage communities, fami-
30 lies, child care and other settings to provide safe and adequate space
31 and time for physical activity and encourage a healthy diet, AND CAN BE
32 IN COORDINATION WITH COUNTY COOPERATIVE EXTENSION PROGRAMS ESTABLISHED
33 PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR-B OF THE COUNTY LAW;

34 (d) coordinating with the state education department, department of
35 agriculture and markets, office of parks, recreation and historic pres-
36 ervation, office of temporary and disability assistance, office of chil-
37 dren and family services and other federal, state and local agencies to
38 incorporate strategies to prevent and reduce childhood obesity into
39 government food assistance, health, education and recreation programs;

40 (e) sponsoring periodic conferences or meetings to bring together
41 experts in nutrition, exercise, public health, mental health, education,
42 parenting, media, food marketing, food security, agriculture, community
43 planning and other disciplines to examine societal-based solutions to
44 the problem of childhood obesity and issue guidelines and recommenda-
45 tions for New York state policy and programs;

46 (f) developing training programs for medical and other health profes-
47 sionals to teach practical skills in nutrition and exercise education to
48 children and their parents and caregivers; [and]

49 (g) developing screening programs in coordination with health care
50 providers and institutions including but not limited to day care centers
51 and schools for overweight and obesity for children aged two through
52 eighteen years, using body mass index (BMI) appropriate for age and
53 gender, and notification, in a manner protecting the confidentiality of
54 such children and their families, of parents of BMI status, and explana-
55 tion of the consequences of such status, including recommended actions
56 parents may need to take and information about resources and referrals

1 available to families to enhance nutrition and physical activity to
2 reduce and prevent obesity[.]; AND

3 (H) COORDINATING WITH THE EDUCATION DEPARTMENT, OFFICE OF TEMPORARY
4 AND DISABILITY ASSISTANCE, OFFICE OF CHILDREN AND FAMILY SERVICES AND
5 OTHER FEDERAL, STATE AND LOCAL AGENCIES TO INCORPORATE STRATEGIES TO
6 CURTAIL THE INCIDENCE OF ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC
7 RESPIRATORY DISEASES TO ENABLE ADULTS AND CHILDREN TO SAFELY INCREASE
8 PHYSICAL ACTIVITY TO HELP CURB THE INCIDENCE OF OBESITY.

9 3. The department, IN COOPERATION WITH THE EDUCATION DEPARTMENT, shall
10 periodically collect and analyze information from schools, health and
11 nutrition programs and other sources to determine the prevalence of
12 childhood obesity in New York state, and to evaluate, to the extent
13 possible, the effectiveness of the childhood obesity prevention program.

14 S 2. The opening paragraph of section 2599-c of the public health law,
15 as amended by section 88 of part B of chapter 58 of the laws of 2005, is
16 amended to read as follows:

17 The commissioner, IN COOPERATION WITH THE COMMISSIONERS OF EDUCATION
18 AND AGRICULTURE AND MARKETS, AND COUNTY BOARDS OF COOPERATIVE EXTENSION,
19 shall encourage the establishment of school-based childhood obesity
20 prevention and physical activity programs that promote:

21 S 3. This act shall take effect immediately.

22 PART C

23 Section 1. Paragraphs (a), (b) and (c) of subdivision 1 of section
24 2411 of the public health law, as amended by chapter 219 of the laws of
25 1997, are amended to read as follows:

26 (a) Survey state agencies, boards, programs and other state govern-
27 mental entities to assess what, if any, relevant data has been or is
28 being collected which may be of use to researchers engaged in breast,
29 prostate or testicular cancer research, OR ADULT AND CHILDHOOD OBESITY,
30 ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE
31 RESEARCH;

32 (b) Consistent with the survey conducted pursuant to paragraph (a) of
33 this subdivision, compile a list of data collected by state agencies
34 which may be of assistance to researchers engaged in breast, prostate or
35 testicular cancer research as established in section twenty-four hundred
36 twelve of this title, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC
37 BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

38 (c) Consult with the Centers for Disease Control and Prevention, the
39 National Institutes of Health, the Federal Agency For Health Care Policy
40 and Research, the National Academy of Sciences and other organizations
41 or entities which may be involved in cancer research to solicit both
42 information regarding breast, prostate and testicular cancer research
43 projects, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR
44 OTHER CHRONIC RESPIRATORY DISEASE RESEARCH PROJECTS that are currently
45 being conducted and recommendations for future research projects;

46 S 2. Subdivision 1 of section 2500 of the public health law, as
47 amended by chapter 822 of the laws of 1987, is amended to read as
48 follows:

49 1. The commissioner shall act in an advisory and supervisory capacity,
50 in matters pertaining to the safeguarding of motherhood, the prevention
51 of maternal, perinatal, infant and child mortality, the prevention of
52 diseases, low birth weight, CHILDHOOD OBESITY, and defects of childhood
53 and the promotion of maternal, prenatal and child health, including care
54 in hospitals, and shall administer such services bearing on the health

1 of mothers and children for which funds are or shall hereafter be made
2 available.

3 S 3. This act shall take effect immediately.

4 PART D

5 Section 1. Section 2505-a of the public health law, as added by chap-
6 ter 292 of the laws of 2009, is amended to read as follows:

7 S 2505-a. Rights of breastfeeding mothers. 1. The principles enunci-
8 ated in subdivision three of this section are declared to be the public
9 policy of the state and a copy of such statement of rights shall be
10 posted conspicuously in a public place in each maternal health care
11 facility AND CHILD DAY CARE FACILITY. For purposes of this section,
12 "maternal health care provider" means a physician, midwife, or other
13 authorized practitioner attending a pregnant woman; and "maternal health
14 care facility" includes hospitals and freestanding birthing centers
15 providing perinatal services in accordance with article twenty-eight of
16 this chapter and applicable regulations.

17 2. The commissioner shall make available to every maternal health care
18 provider [and], maternal health care facility AND CHILD DAY CARE FACILI-
19 TY, on the health department's website for the purpose of health care
20 facilities to include such rights in the maternity information leaflet
21 as described in section twenty-eight hundred three-j of this chapter, a
22 copy of the statement of rights provided in subdivision three of this
23 section in the top six languages other than English spoken in the state
24 according to the latest available data from the U.S. Bureau of Census,
25 and shall adopt any rules and regulations necessary to ensure that such
26 patients are treated in accordance with the provisions of such state-
27 ment.

28 3. The statement of rights shall consist of the following:

29 "Breastfeeding Mothers' Bill of Rights"

30 Choosing the way you will feed your new baby is one of the important
31 decisions you will make in preparing for your infant's arrival. Doctors
32 agree that for most women breastfeeding is the safest and most healthy
33 choice. It is your right to be informed about the benefits of breast-
34 feeding and have your health care provider [and], maternal health care
35 facility AND CHILD DAY CARE FACILITY encourage and support breastfeed-
36 ing. You have the right to make your own choice about breastfeeding.
37 Whether you choose to breastfeed or not you have the following basic
38 rights regardless of your race, creed, national origin, sexual orien-
39 tation, gender identity or expression, or source of payment for your
40 health care. Maternal health care facilities have a responsibility to
41 ensure that you understand these rights. They must provide this informa-
42 tion clearly for you and must provide an interpreter if necessary. These
43 rights may only be limited in cases where your health or the health of
44 your baby requires it. If any of the following things are not medically
45 right for you or your baby, you should be fully informed of the facts
46 and be consulted.

47 (1) Before You Deliver, if you attend prenatal childbirth education
48 classes provided by the maternal health care facility and all hospital
49 clinics and diagnostic and treatment centers providing prenatal services
50 in accordance with article 28 of the public health law you must receive
51 the breastfeeding mothers' bill of rights. Each maternal health care
52 facility shall provide the maternity information leaflet, including the
53 Breastfeeding Mothers' Bill of Rights, in accordance with section twen-
54 ty-eight hundred three-i of this chapter to each patient or to the

1 appointed personal representative at the time of prebooking or time of
2 admission to a maternal health care facility. Each maternal health care
3 provider shall give a copy of the Breastfeeding Mothers' Bill of Rights
4 to each patient at or prior to the medically appropriate time.

5 You have the right to complete information about the benefits of
6 breastfeeding for yourself and your baby. This will help you make an
7 informed choice on how to feed your baby.

8 You have the right to receive information that is free of commercial
9 interests and includes:

10 * How breastfeeding benefits you and your baby nutritionally,
11 medically and emotionally;

12 * How to prepare yourself for breastfeeding;

13 * How to understand some of the problems you may face and how to solve
14 them.

15 (2) In The Maternal Health Care Facility:

16 * You have the right to have your baby stay with you right after birth
17 whether you deliver vaginally or by cesarean section. You have the right
18 to begin breastfeeding within one hour after birth.

19 * You have the right to have someone trained to help you in breast-
20 feeding give you information and help you when you need it.

21 * You have the right to have your baby not receive any bottle feeding
22 or pacifiers.

23 * You have the right to know about and refuse any drugs that may dry
24 up your milk.

25 * You have the right to have your baby in your room with you 24 hours
26 a day.

27 * You have the right to breastfeed your baby at any time day or night.

28 * You have the right to know if your doctor or your baby's pediatri-
29 cian is advising against breastfeeding before any feeding decisions are
30 made.

31 * You have the right to have a sign on your baby's crib clearly stat-
32 ing that your baby is breastfeeding and that no bottle feeding of any
33 type is to be offered.

34 * You have the right to receive full information about how you are
35 doing with breastfeeding and get help on how to improve.

36 * You have the right to breastfeed your baby in the neonatal intensive
37 care unit. If nursing is not possible, every attempt will be made to
38 have your baby receive your pumped or expressed milk.

39 * If you, or your baby, are re-hospitalized in a maternal care facili-
40 ty after the initial delivery stay, the hospital will make every effort
41 to continue to support breastfeeding, to provide hospital grade electric
42 pumps and rooming in facilities.

43 * You have the right to have help from someone specially trained in
44 breastfeeding support and expressing breast milk if your baby has
45 special needs.

46 * You have the right to have a family member or friend receive breast-
47 feeding information from a staff member if you request it.

48 (3) When You Leave The Maternal Health Care Facility:

49 * You have the right to printed breastfeeding information free of
50 commercial material.

51 * You have the right, unless specifically requested by you, and avail-
52 able at the facility, to be discharged from the facility without
53 discharge packs containing infant formula, or formula coupons unless
54 ordered by your baby's health care provider.

1 * You have the right to get information about breastfeeding resources
2 in your community including information on availability of breastfeeding
3 consultants, support groups and breast pumps.

4 * You have the right to have the facility give you information to help
5 choose a medical provider for your baby and understand the importance of
6 a follow-up appointment.

7 * You have the right to receive information about safely collecting
8 and storing your breast milk.

9 * You have the right to breastfeed your baby in any location, public
10 or private, where you are otherwise authorized to be. Complaints can be
11 directed to the New York State Division of Human Rights.

12 * YOU HAVE A RIGHT TO BREASTFEED YOUR BABY AT YOUR PLACE OF EMPLOYMENT
13 OR CHILD DAY CARE CENTER IN AN ENVIRONMENT THAT DOES NOT DISCOURAGE
14 BREASTFEEDING OR THE PROVISION OF BREAST MILK.

15 All the above are your rights. If the maternal health care facility
16 does not honor these rights you can seek help by contacting the New York
17 state department of health or by contacting the hospital complaint
18 hotline or via email.

19 4. The commissioner shall make regulations reasonably necessary to
20 implement this section.

21 S 2. Section 2505 of the public health law, as added by chapter 479 of
22 the laws of 1980, is amended to read as follows:

23 S 2505. Human breast milk; collection, storage and distribution;
24 general powers of the commissioner. The commissioner is hereby
25 empowered to:

26 (a) adopt regulations and guidelines including, but not limited to
27 donor standards, methods of collection, and standards for storage, and
28 distribution of human breast milk;

29 (b) conduct educational activities to inform the public and health
30 care providers of the availability of human breast milk for infants
31 determined to require such milk and to inform potential donors of the
32 opportunities for proper donation;

33 (c) CONDUCT EDUCATIONAL ACTIVITIES TO ENCOURAGE AND FACILITATE EMPLOY-
34 ERS AND CHILD DAY CARE CENTERS TO ESTABLISH ENVIRONMENTS THAT DO NOT
35 DISCOURAGE BREASTFEEDING AND THE PROVISION OF BREAST MILK. SUCH ENVIRON-
36 MENTS MAY INCLUDE SANITARY LOCATIONS FOR BREASTFEEDING AND REFRIGERATORS
37 TO ASSIST IN BREASTFEEDING AND FEEDING BABIES WITH EXPRESSED BREAST
38 MILK; AND

39 (D) establish rules and regulations to effectuate the provisions of
40 this section.

41 S 3. Subdivision 2 of section 2515 of the public health law, as added
42 by section 20 of part A of chapter 58 of the laws of 2008, is amended to
43 read as follows:

44 2. "Services for eligible adolescents" means those services, including
45 but not limited to: vocational and educational counseling, job skills
46 training, family life and parenting education, life skills development,
47 coordination, case management, primary preventive health care, PREGNANCY
48 AND CHILD NUTRITION COUNSELING FOR EXPECTANT MOTHERS TO CURB THE INCI-
49 DENCE OF CHILDHOOD OBESITY, family planning, social and recreational
50 programs, child care, outreach and advocacy, follow-up on service utili-
51 zation, crisis intervention, and efforts to stimulate community interest
52 and involvement.

53 S 4. Paragraph (c) of subdivision 2 of section 2515-a of the public
54 health law, as added by section 20 of part A of chapter 58 of the laws
55 of 2008, is amended to read as follows:

(c) serve a geographic area where the incidence of infant mortality, LOW BIRTH WEIGHT INFANTS, CHILDHOOD OBESITY and the prevalence of low-income families are high and where the availability or accessibility of services for eligible adolescents is low;

S 5. Subdivision (b) of section 2522 of the public health law, as amended by chapter 484 of the laws of 2009, is amended and a new subdivision (e-1) is added to read as follows:

(b) promotion of community awareness of the benefits TO THE MOTHER AND CHILD of preconception health and early and continuous prenatal care;

(E-1) HEALTH AND NUTRITIONAL EDUCATION AND SERVICES FOR BOTH PARENTS, REGARDING CHILDHOOD AND ADULT OBESITY AND ASTHMA, AND THE PREVENTION OR MITIGATION THEREOF;

S 6. This act shall take effect immediately.

PART E

Section 1. Section 901 of the education law, as amended by chapter 477 of the laws of 2004, subdivision 1 as amended by section 57 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

S 901. School health services to be provided. 1. School health services, as defined in subdivision two of this section, shall be provided by each school district for all students attending the public schools in this state, except in the city school district of the city of New York, as provided in this article. School health services shall include the services of a registered professional nurse, if one is employed, and shall also include such services as may be rendered as provided in this article in examining students for the existence of disease or disability, OR MAY INCLUDE SERVICES RELATED TO EXAMINING FOR CHILDHOOD OBESITY BASED UPON THE CALCULATION OF EACH STUDENT'S BODY MASS INDEX AND WEIGHT STATUS CATEGORY PURSUANT TO SECTION NINE HUNDRED FOUR OF THIS ARTICLE, and in testing the eyes and ears of such students.

2. School health services for the purposes of this article shall mean the several procedures, including, but not limited to, medical examinations, dental inspection and/or screening, scoliosis screening, vision screening [and], audiometer tests, AND CHILDHOOD OBESITY AS MEASURED BY BODY MASS INDEX AND WEIGHT STATUS CATEGORY, designed to determine the health status of the child; to inform parents or other persons in parental relation to the child, pupils and teachers of the individual child's health condition subject to federal and state confidentiality laws; to guide parents, children and teachers in procedures for preventing and correcting defects [and], diseases AND CHILDHOOD OBESITY CONDITIONS; to instruct the school personnel in procedures to take in case of accident or illness; to survey and make necessary recommendations concerning the health and safety aspects of school facilities and the provision of health information.

S 2. Subdivisions 4 and 5 of section 918 of the education law, as added by chapter 493 of the laws of 2004, are amended to read as follows:

4. The committee is encouraged to study AND MAKE RECOMMENDATIONS ON all facets of the current nutritional policies of the district including, but not limited to, the goals of the district to promote health and proper nutrition, REDUCE THE INCIDENCE OF CHILDHOOD OBESITY, vending machine sales, menu criteria, educational curriculum teaching healthy nutrition, AND educational information provided to parents or guardians regarding healthy nutrition and the health risks associated with obesity, ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIRATORY DISEASES.

1 PROVIDED, FURTHER, THE COMMITTEE MAY PROVIDE INFORMATION TO PERSONS IN
2 PARENTAL RELATION ON opportunities offered to parents or guardians to
3 encourage healthier eating habits to students, and the education
4 provided to teachers and other staff as to the importance of healthy
5 nutrition AND ABOUT THE DANGERS OF CHILDHOOD OBESITY. In addition the
6 committee shall consider recommendations and practices of other
7 districts and nutrition studies.

8 5. The committee is encouraged to report periodically to the district
9 regarding practices that will educate teachers, parents or guardians and
10 children about healthy nutrition and raise awareness of the dangers of
11 CHILDHOOD obesity, ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIR-
12 ATORY DISEASES. The committee is encouraged also to provide any parent
13 teacher associations in the district with such findings and recommenda-
14 tions.

15 S 3. This act shall take effect two years after it shall have become a
16 law.

17 PART F

18 Section 1. Section 813 of the education law, as added by chapter 296
19 of the laws of 1994, is amended to read as follows:

20 S 813. School lunch period; scheduling. Each school shall schedule a
21 reasonable time DURING EACH SCHOOL DAY for each full day pupil attending
22 pre-kindergarten through grade twelve WITH AMPLE TIME to consume lunch
23 AND TO ENGAGE IN PHYSICAL EXERCISE OR RECREATION.

24 S 2. This act shall take effect immediately.

25 PART G

26 Section 1. Section 3231 of the insurance law, as added by chapter 501
27 of the laws of 1992, is amended by adding a new subsection (c-1) to read
28 as follows:

29 (C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR
30 HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH
31 INSURANCE POLICY PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY
32 APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS
33 APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S
34 ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELL-
35 NESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK
36 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT
37 WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BE-
38 ING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC
39 SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-
40 QUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL
41 OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL
42 WELL-BEING OF ITS PARTICIPANTS:

43 (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-
44 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH
45 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES
46 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE
47 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-
48 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-
49 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

50 (2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-
51 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-
52 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE WELLNESS PROGRAMS, AS

1 PROVIDED UNDER SECTION THREE THOUSAND TWO HUNDRED THIRTY-NINE OF THIS
2 ARTICLE; AND

3 (3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS
4 OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND
5 MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE
6 GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

7 SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES
8 THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE
9 INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC
10 OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE
11 APPROVED WELLNESS PROGRAM.

12 S 2. Subsections (b) and (c) of section 3239 of the insurance law, as
13 added by chapter 592 of the laws of 2008, paragraphs 6 and 7 of
14 subsection (b) and subparagraphs (C) and (D) of paragraph 2 of
15 subsection (c) as amended, and paragraph 8 of subsection (b) and subpar-
16 agraphs (E) and (F) of paragraph 2 of subsection (c) as added by chapter
17 519 of the laws of 2013, are amended to read as follows:

18 (b) A wellness program may include, but is not limited to, the follow-
19 ing programs or services:

- 20 (1) the use of a health risk assessment tool;
- 21 (2) a smoking cessation program;
- 22 (3) a weight management program;
- 23 (4) a stress AND/OR HYPERTENSION management program;
- 24 (5) a worker injury prevention program;
- 25 (6) a nutrition education program;
- 26 (7) health or fitness incentive programs; [and]
- 27 (8) a coordinated weight management, nutrition, stress management and
28 physical fitness program to combat the high incidence of adult and
29 childhood obesity, asthma and other chronic respiratory conditions[.];
- 30 (9) A SUBSTANCE OR ALCOHOL ABUSE CESSATION PROGRAM; AND
- 31 (10) A PROGRAM TO MANAGE AND COPE WITH CHRONIC PAIN.

32 (c)(1) A wellness program may use rewards and incentives for partic-
33 ipation provided that where the group health insurance policy or
34 subscriber contract is required to be community-rated, the rewards and
35 incentives shall not include a discounted premium rate or a rebate or
36 refund of premium, EXCEPT AS PROVIDED IN SECTION THREE THOUSAND TWO
37 HUNDRED THIRTY-ONE OF THIS ARTICLE, OR SECTION FOUR THOUSAND TWO HUNDRED
38 THIRTY-FIVE, FOUR THOUSAND THREE HUNDRED SEVENTEEN OR FOUR THOUSAND
39 THREE HUNDRED TWENTY-SIX OF THIS CHAPTER, OR SECTION FORTY-FOUR HUNDRED
40 FIVE OF THE PUBLIC HEALTH LAW.

41 (2) Permissible rewards and incentives MAY include:

42 (A) full or partial reimbursement of the cost of participating in
43 smoking cessation [or], weight management, STRESS AND/OR HYPERTENSION,
44 WORKER INJURY PREVENTION, NUTRITION EDUCATION, SUBSTANCE OR ALCOHOL
45 ABUSE CESSATION, OR CHRONIC PAIN MANAGEMENT AND COPING programs;

46 (B) full or partial reimbursement of the cost of membership in a
47 health club or fitness center;

48 (C) the waiver or reduction of copayments, coinsurance and deductibles
49 for preventive services covered under the group policy or subscriber
50 contract;

51 (D) monetary rewards in the form of gift cards or gift certificates,
52 so long as the recipient of the reward is encouraged to use the reward
53 for a product or a service that promotes good health, such as healthy
54 cook books, over the counter vitamins or exercise equipment;

55 (E) full or partial reimbursement of the cost of participating in a
56 stress management program or activity; and

1 (F) full or partial reimbursement of the cost of participating in a
2 health or fitness program.

3 (3) Where the reward involves a group member's meeting a specified
4 standard based on a health condition, the wellness program must meet the
5 requirements of 45 CFR Part 146.

6 (4) A reward or incentive which involves a discounted premium rate or
7 a rebate or refund of premium shall be based on actuarial demonstration
8 that the wellness program can reasonably be expected to result in the
9 overall good health and well being of the group AS PROVIDED IN SECTION
10 THREE THOUSAND TWO HUNDRED THIRTY-ONE OF THIS ARTICLE, SECTIONS FOUR
11 THOUSAND TWO HUNDRED THIRTY-FIVE, FOUR THOUSAND THREE HUNDRED SEVENTEEN
12 AND FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS CHAPTER, AND SECTION
13 FORTY-FOUR HUNDRED FIVE OF THE PUBLIC HEALTH LAW.

14 S 3. Subsection (h) of section 4235 of the insurance law is amended by
15 adding a new paragraph 5 to read as follows:

16 (5) EACH INSURER DOING BUSINESS IN THIS STATE, WHEN FILING WITH THE
17 SUPERINTENDENT ITS SCHEDULES OF PREMIUM RATES, RULES AND CLASSIFICATION
18 OF RISKS FOR USE IN CONNECTION WITH THE ISSUANCE OF ITS POLICIES OF
19 GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCIDENT AND HEALTH INSURANCE, MAY
20 PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR
21 OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOUR-
22 AGE AN ENROLLEE'S OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELL-
23 NESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT
24 SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC
25 PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND
26 MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE
27 CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINI-
28 MIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS
29 PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE
30 PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

31 (A) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-
32 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH
33 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES
34 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE
35 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-
36 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-
37 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

38 (B) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-
39 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-
40 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE WELLNESS PROGRAMS, AS
41 PROVIDED UNDER SECTION THREE THOUSAND TWO HUNDRED THIRTY-NINE OF THIS
42 CHAPTER; AND

43 (C) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS
44 OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND
45 MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE
46 GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

47 SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES
48 THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE
49 INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC
50 OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE
51 APPROVED WELLNESS PROGRAM.

52 S 4. Section 4317 of the insurance law is amended by adding a new
53 subsection (c-1) to read as follows:

54 (C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR
55 HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH
56 INSURANCE CONTRACT PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARI-

1 ALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR
2 ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S
3 OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A
4 QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTI-
5 FIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF
6 MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS,
7 HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF
8 ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE
9 HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE
10 SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND
11 MENTAL WELL-BEING OF ITS PARTICIPANTS:

12 (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-
13 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH
14 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES
15 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE
16 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-
17 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-
18 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

19 (2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-
20 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-
21 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE WELLNESS PROGRAMS, AS
22 PROVIDED UNDER SECTION THREE THOUSAND TWO HUNDRED THIRTY-NINE OF THIS
23 CHAPTER; AND

24 (3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS
25 OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND
26 MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE
27 GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

28 SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES
29 THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE
30 INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC
31 OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE
32 APPROVED WELLNESS PROGRAM.

33 S 5. Subsection (m) of section 4326 of the insurance law is amended by
34 adding a new paragraph 4 to read as follows:

35 (4) APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE
36 ORGANIZATION ISSUING A CONTRACT FOR QUALIFYING SMALL EMPLOYERS OR INDIV-
37 IDUALS PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY APPRO-
38 PRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS
39 APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S
40 ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELL-
41 NESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK
42 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT
43 WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BE-
44 ING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC
45 SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-
46 QUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL
47 OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL
48 WELL-BEING OF ITS PARTICIPANTS:

49 (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-
50 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH
51 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES
52 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE
53 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-
54 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-
55 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE WELLNESS PROGRAMS, AS PROVIDED UNDER SECTION THREE THOUSAND TWO HUNDRED THIRTY-NINE OF THIS CHAPTER; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 6. Section 4405 of the public health law is amended by adding a new subdivision 5-a to read as follows:

5-A. SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT OF FINANCIAL SERVICES, THE POSSIBLE PROVIDING OF AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT OF FINANCIAL SERVICES TO ENCOURAGE AN ENROLLEE'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFICATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE WELLNESS PROGRAMS, AS PROVIDED UNDER SECTION THREE THOUSAND TWO HUNDRED THIRTY-NINE OF THE INSURANCE LAW; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM;

S 7. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that, effective immediately any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be added, amended and/or repealed on or before such date.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of

1 competent jurisdiction to be invalid, such judgment shall not affect,
2 impair, or invalidate the remainder thereof, but shall be confined in
3 its operation to the clause, sentence, paragraph, subdivision, section
4 or part thereof directly involved in the controversy in which such judg-
5 ment shall have been rendered. It is hereby declared to be the intent of
6 the legislature that this act would have been enacted even if such
7 invalid provisions had not been included herein.
8 S 3. This act shall take effect immediately provided, however, that
9 the applicable effective date of Parts A through G of this act shall be
10 as specifically set forth in the last section of such Parts.