

S T A T E   O F   N E W   Y O R K

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S. 58--A

A. 158--A

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the state finance law, the education law and the insurance law, in relation to the early intervention program for infants and toddlers with disabilities and their families; to repeal certain provisions of the public health law, the education law, the insurance law and the elder law relating thereto (Part A); to amend the public health law and the social services law, in relation to long term home health care programs; to amend the public health law, in relation to the office of the Medicaid inspector general; to amend part C of chapter 58 of the laws of 2007 amending the social services law and other laws relating to enacting major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to the effectiveness of certain provisions of such chapter; to amend the public health law, in relation to payments under the medical assistance program; to amend the public health law and chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to reimbursements; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to reimbursements and the effectiveness thereof; to amend chapter 639 of the laws of 1996, amending the public health law and other laws relating to welfare reform, in relation to reimbursements; to amend the public health law and chapter 58 of the

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

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laws of 2007 amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to rates of payment by state governmental agencies; to amend chapter 629 of the laws of 1986, amending the social services law relating to establishing a demonstration program for the delivery of long term home health care services to certain persons, in relation to extending the provisions thereof; to amend chapter 451 of the laws of 2007 amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to extending the effectiveness of certain provisions thereof; to amend chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to the effectiveness thereof; to amend chapter 942 of the laws of 1983 and chapter 541 of the laws of 1984, relating to foster family care demonstration programs, and to amend chapter 256 of the laws of 1985, amending the social services law and other laws relating to foster family care demonstration programs, in relation to extending the expirations thereof; to amend chapter 693 of the laws of 1996, amending the social services law relating to authorizing patient discharge to hospices and residential health care facilities, under the medical assistance presumptive eligibility program, in relation to extending the provisions of such chapter; to amend chapter 631 of the laws of 1997, amending the social services law relating to authorizing medical assistance payments to certain clinics or diagnostic and treatment centers, in relation to extending the effectiveness thereof; to amend chapter 119 of the laws of 1997 relating to authorizing the department of health to establish certain payments to general hospitals, in relation to making such authorization permanent; and to repeal section 74 of the executive law relating to the office of the welfare inspector general (Part B); to amend the public health law, in relation to payment by governmental agencies for general hospital inpatient services, inpatient medical assistance rates for non-public general hospitals, grants to public general hospitals, tobacco control and insurance initiatives pool distributions, health care initiatives pool distributions and payments made on behalf of persons enrolled in Medicaid managed care or family health plus; to direct the commissioners of health and mental health to enhance funding of the ambulatory patient group methodology and expand certain programs; to direct the commissioners of health, and mental retardation and developmental disabilities to enhance funding of the ambulatory patient group methodology; to amend the social services law, in relation to establishing the statewide health care home program; to amend the public health law, in relation to establishing the Adirondack health care home multipayor demonstration program; to amend the social services law, in relation to medicaid coverage of smoking cessation, cardiac rehabilitation services and substance abuse intervention; to amend the social services law, in relation to the provision and reimbursement of transportation costs and the primary care case management program; to amend the public authorities law, in relation to the authorization of the dormitory authority to issue bonds for health care; to amend the social services law, in relation to directing the commissioner of health to negotiate pharmaceutical rebates, retrospective and prospective drug utilization review, and the duration of drug therapy, the development of clinical prescribing guidelines, drug coverage for persons who are beneficiaries under Part D; to amend the public health

law and the social services law, in relation to the clinical drug review program; to amend the social services law, in relation to electronic transmission of prescriptions; to amend the public health law and the education law, in relation to prohibiting certain payments to prescribers and requiring the disclosure of other payments, prohibiting the presentation of information at continuing professional education programs that is false or misleading and requiring disclosure of certain potential conflicts of interest in connection with such programs, providing for transparency in the business relationships between pharmacy benefit managers and health plans, and requiring pharmacy benefit managers to provide certain information to health plan participants and their prescribers; to amend the social services law, in relation to eligibility for medical assistance and the family health plus program; to amend the welfare reform act of 1997, in relation to applicants for public assistance; to amend the public health law, in relation to child insurance plans; to amend the social services law, in relation to monthly premiums for medical assistance and liens for public assistance care; to amend the public health law, in relation to fees for the establishment of hospitals, approval of the construction of hospitals, licensure of home care services agencies, the establishment of certified home health agencies, changes in the ownership of a home health agency hospice construction, distribution of the professional education pools, the general hospital indigent care pool and the comprehensive diagnostic and treatment centers indigent care program; to amend the elder law, in relation to the program for elderly pharmaceutical insurance coverage; to amend the public health law, in relation to patient services payments; to amend the insurance law, in relation to examinations and appraisals of authorized insurers and employee welfare funds, independent adjusters, establishing a fee on insurance claims processed by independent adjusters; to amend the tax law and the state finance law, in relation to the sales of cigarettes and tobacco products and the health care reform act (HCRA) resources fund; to repeal certain provisions of the public health law relating to the preferred drug program and the telemedicine demonstration program; to repeal certain provisions of chapter 62 of the laws of 2003, amending the social services law and the public health law relating to expanding Medicaid coverage and rates of payment for residential health care facilities, relating thereto; to repeal certain provisions of the social services law relating to specialized HIV pharmacies, the family health plus program, eligibility for medical assistance; to repeal certain provisions of the elder law relating to the program for elderly pharmaceutical insurance coverage; and providing for the repeal of certain provisions upon the expiration thereof (Part C); to amend the public health law, in relation to reimbursement to residential health care facilities, to community service plans, to payments for certified home health agency services, to establishing the long-term care nursing initiative demonstration project; to amend the social services law, in relation to assisted living programs, to payment for AIDS home care programs, to regional long-term care assessment centers, to establishing the cash and counseling demonstration program, to Medicaid extended coverage for the partnership for long-term care program; to amend chapter 1 of the laws of 1999, amending the public health law and other laws, relating to enacting the New York Health Care Reform Act of 2000, in relation to adult day health care services; to amend the education law and the public health law, in relation to establishing long-term care

nursing initiative demonstration projects; and providing for the repeal of certain provisions upon expiration thereof (Part D); to amend part E of chapter 58 of the laws of 1998, relating to the determination of state aid for the long-term sheltered employment program, in relation to availability of funding as certified by the director of the budget (Part E); in relation to the establishment of the authority of the office of mental health to close wards in hospitals operated by such office and to develop transitional placement programs for persons discharged from such hospitals, notwithstanding certain provisions of the mental hygiene law (Part F); to amend chapter 420 of the laws of 2002 amending the education law relating to the profession of social work, and chapter 676 of the laws of 2002 amending the education law relating to defining the practice of psychology, in relation to the professions of social work and mental health practitioners (Part G); to amend the mental hygiene law, in relation to civil commitment of sex offenders (Part H); to amend the mental hygiene law, in relation to the receipt of federal and state benefits received by patients receiving care in facilities operated by an office of the department of mental hygiene (Part I); to amend the mental hygiene law in relation to the consolidation of certain developmental disabilities services offices (Part J); to amend the mental hygiene law, in relation to the closure of the Manhattan Addiction Treatment Center (Part K); to amend chapter 57 of the laws of 2006, establishing a cost of living adjustment for designated human services programs, in relation to foregoing such adjustment during the 2009--2010 state fiscal year (Part L); to amend the mental hygiene law, in relation to the requirement for the commissioner of mental health to annually report on child and adult non-geriatric inpatient bed closures; to amend chapter 119 of the laws of 2007 relating to directing the commissioner of mental health to study, evaluate and report on the unmet mental health service needs of traditionally underserved populations, in relation to such study; to repeal subdivisions (h) and (l) of section 41.55 of the mental hygiene law relating to reports on the community mental health support and workforce reinvestment program; to repeal section 20 of chapter 723 of the laws of 1989 amending the mental hygiene law and other laws relating to the establishment of comprehensive psychiatric emergency programs, relating to reports thereon; and to repeal subdivision (c) of section 7.15 of the mental hygiene law relating to reports on the delivery of care and services in family care homes and other community residences (Part M); to amend chapter 119 of the laws of 1997 authorizing the department of health to establish certain payments to general hospitals, in relation to extending the authorization for the department of health to continue certain payments to general hospitals (Part N); to amend the administrative code of the city of New York, in relation to extending the authorization of the city of New York to lease to the state of New York certain real property on Ward's Island (Part O); to amend the mental hygiene law and the vehicle and traffic law, in relation to transfer of the alcohol and drug rehabilitation program from the department of motor vehicles to the office of alcoholism and substance abuse services (Part P); to amend the mental hygiene law, in relation to the operating certificate of chemical dependence service providers (Part Q); and to amend the social services law, in relation to recertification for medical assistance for a recipient of medicaid waiver services authorized by the office of mental retardation and developmental disabilities (Part R)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement the state fiscal plan for the 2008-2009  
3 state fiscal year. Each component is wholly contained within a Part  
4 identified as Parts A through R. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, includ-  
7 ing the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12 PART A

13 Section 1. Section 2541 of the public health law, as added by chapter  
14 428 of the laws of 1992, paragraph (a) of subdivision 8 as amended by  
15 section 1 of part B-3 of chapter 62 of the laws of 2003 and subdivision  
16 13-a as added by chapter 231 of the laws of 1993, is amended to read as  
17 follows:

18 S 2541. Definitions. As used in this title the following terms shall  
19 have the following meanings, unless the context clearly requires other-  
20 wise:

21 1. "AGENCY" MEANS AN ENTITY WHICH EMPLOYS QUALIFIED PERSONNEL, OR  
22 CONTRACTS WITH QUALIFIED PERSONNEL WHO ARE APPROVED BY THE DEPARTMENT,  
23 FOR THE PROVISION OF EARLY INTERVENTION PROGRAM EVALUATIONS, SERVICE  
24 COORDINATION OR EARLY INTERVENTION SERVICES, AND MEETS THE REQUIREMENTS  
25 SET FORTH IN PARAGRAPH (E) OF SUBDIVISION 5 OF SECTION TWENTY-FIVE  
26 HUNDRED FIFTY-A OF THIS TITLE.

27 2. "Children at risk" means children who may experience a disability  
28 because of medical, biological or environmental factors which may  
29 produce developmental delay, as determined by the commissioner through  
30 regulation.

31 [2. "Coordinated standards and procedures" means standards and proce-  
32 dures developed by state early intervention service agencies pursuant to  
33 section twenty-five hundred fifty-one of this title.]

34 3. "Council" means the early intervention coordinating council estab-  
35 lished under section twenty-five hundred fifty-three of this title.

36 4. "Developmental delay" means that a child has not attained develop-  
37 mental milestones expected for the child's chronological age, as meas-  
38 ured by qualified professionals using appropriate diagnostic instruments  
39 and/or procedures and informed clinical opinion, in one or more of the  
40 following areas of development: cognitive, physical, communication,  
41 social or emotional, or adaptive; EXCEPT THAT FOR CHILDREN WHO HAVE BEEN  
42 FOUND, AFTER A MULTIDISCIPLINARY EVALUATION BASED ON INFORMED CLINICAL  
43 OPINION AND CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS TITLE,  
44 TO HAVE A DELAY SOLELY IN THE AREA OF COMMUNICATION, DEVELOPMENTAL DELAY  
45 FOR PROGRAM ELIGIBILITY SHALL BE DEFINED AS A SCORE OF TWO STANDARD  
46 DEVIATIONS BELOW THE MEAN IN THE AREA OF COMMUNICATION AS MEASURED BY A  
47 STANDARDIZED, NORM-REFERENCED TEST DESIGNED TO ASSESS COMMUNICATION  
48 DEVELOPMENT, INCLUDING EXPRESSIVE AND RECEPTIVE LANGUAGE DEVELOPMENT; OR  
49 IF NO STANDARDIZED TEST IS AVAILABLE OR APPROPRIATE FOR THE CHILD, A  
50 DEVELOPMENTAL DELAY IN THE AREA OF COMMUNICATION SHALL BE A SEVERE DELAY  
51 OR MARKED REGRESSION IN COMMUNICATION DEVELOPMENT AS DETERMINED BY

1 SPECIFIC QUALITATIVE EVIDENCE BASED CRITERIA AS SET FORTH BY THE DEPART-  
2 MENT IN REGULATION.

3 5. "Disability" means:

4 (a) a developmental delay; or

5 (b) a diagnosed physical or mental condition that has a high probabilit-  
6 ity of resulting in developmental delay, such as Down syndrome or other  
7 chromosomal abnormalities, sensory impairments, inborn errors of meta-  
8 bolism or fetal alcohol syndrome.

9 6. "Early intervention official" means an appropriate municipal offi-  
10 cial designated by the chief executive officer of a municipality and an  
11 appropriate designee of such official.

12 7. "Early intervention services" means developmental services that:

13 (a) are provided under public supervision;

14 (b) are selected in collaboration with the parents;

15 (c) are designed to meet a child's developmental needs in any one or  
16 more of the following areas:

17 (i) physical development, including vision and hearing,

18 (ii) cognitive development,

19 (iii) communication development,

20 (iv) social or emotional development, or

21 (v) adaptive development;

22 (d) meet [the coordinated standards and procedures] STANDARDS DEVEL-  
23 OPED BY THE LEAD AGENCY;

24 (e) are provided by qualified personnel;

25 (f) are provided in conformity with an IFSP;

26 (g) are, to the maximum extent appropriate, provided in natural envi-  
27 ronments, including the home and community settings where children with-  
28 out disabilities would participate;

29 (h) include, as appropriate:

30 (i) family training, counseling, home visits and parent support  
31 groups,

32 (ii) special instruction,

33 (iii) speech pathology and audiology,

34 (iv) occupational therapy,

35 (v) physical therapy,

36 (vi) psychological services,

37 (vii) case management services, hereafter referred to as service coor-  
38 dination services,

39 (viii) medical services for diagnostic or evaluation purposes, subject  
40 to reasonable prior approval requirements for exceptionally expensive  
41 services, as prescribed by the commissioner,

42 (ix) early identification, screening, and assessment services,

43 (x) health services necessary to enable the infant or toddler to bene-  
44 fit from the other early intervention services,

45 (xi) nursing services,

46 (xii) nutrition services,

47 (xiii) social work services,

48 (xiv) vision services,

49 (xv) assistive technology devices and assistive technology services,

50 (xvi) transportation and related costs that are necessary to enable a  
51 child and the child's family to receive early intervention services, and

52 (xvii) other appropriate services approved by the commissioner[.];

53 (i) are cost-effective.

54 8. (a) "Eligible child" means an infant or toddler from birth through  
55 age two who has a disability; provided, however, that any toddler with a

1 disability who has been determined to be eligible for program services  
2 under section forty-four hundred ten of the education law and:

3 (i) who turns three years of age on or before the thirty-first day of  
4 August shall, if requested by the parent, be eligible to receive early  
5 intervention services contained in an IFSP until the first day of  
6 September of that calendar year; or

7 (ii) who turns three years of age on or after the first day of Septem-  
8 ber shall, if requested by the parent and if already receiving services  
9 pursuant to this title, be eligible to continue receiving such services  
10 until the second day of January of the following calendar year.

11 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
12 sion, a child who receives services pursuant to section forty-four  
13 hundred ten of the education law shall not be an eligible child.

14 9. "Evaluation" means a multidisciplinary professional, objective  
15 assessment conducted by appropriately qualified personnel and conducted  
16 pursuant to section twenty-five hundred forty-four of this title to  
17 determine a child's eligibility under this title.

18 10. "Evaluator" means a team of two or more professionals approved  
19 pursuant to section twenty-five hundred fifty-one of this title to  
20 conduct screenings and evaluations.

21 11. "IFSP" means the individualized family service plan adopted in  
22 accordance with section twenty-five hundred forty-five of this title.

23 12. "INDIVIDUAL" SHALL MEAN A PERSON WHO HOLDS A STATE APPROVED OR  
24 RECOGNIZED CERTIFICATE, LICENSE OR REGISTRATION IN ONE OF THE DISCI-  
25 PLINES SET FORTH IN SUBDIVISION FIFTEEN OF THIS SECTION.

26 13 "Lead agency" means the department of health, the public agency  
27 responsible for the administration of the early intervention system [in  
28 collaboration with the state early intervention service agencies].

29 [13.] 13-A. "Municipality" means a county outside the city of New York  
30 or the city of New York in the case of a county contained within the  
31 city of New York.

32 [13-a.] 13-B. Subject to federal law and regulations, "natural envi-  
33 ronment" or "natural setting" means a setting that is natural or normal  
34 for the child's age peers who have no disability.

35 14. "Parent" means parent or person in parental relation to the child.  
36 With respect to a child who has no parent or person in a parental  
37 relation, "parent" shall mean the person designated to serve in parental  
38 relation for the purposes of this title, pursuant to regulations of the  
39 commissioner promulgated in consultation with the commissioner of social  
40 services for children in foster care.

41 15. "Qualified personnel" means:

42 (a) persons holding a state approved or recognized certificate,  
43 license or registration in one of the following fields:

- 44 (i) special education teachers;
- 45 (ii) speech and language pathologists and audiologists;
- 46 (iii) occupational therapists;
- 47 (iv) physical therapists;
- 48 (v) social workers;
- 49 (vi) nurses;
- 50 (vii) dietitians or nutritionists;
- 51 (viii) other persons designated by the commissioner who meet require-

52 ments that apply to the area in which the person is providing early  
53 intervention services, where not in conflict with existing professional  
54 licensing, certification and/or registration requirements.

55 (b) persons holding a state approved license in one of the following  
56 fields:

1 (i) psychologists; or

2 (ii) physicians.

3 16. "Service coordinator" means a person who:

4 (a) meets the qualifications established in federal law and regulation  
5 and demonstrates knowledge and understanding of:

6 (i) infants and toddlers who may be eligible for services under this  
7 title;

8 (ii) principles of family-centered services;

9 (iii) part H of the federal individuals with disabilities education  
10 act and its corresponding regulations;

11 (iv) the nature and scope of services available under this title; and

12 (v) the requirements for authorizing and paying for such services and  
13 other pertinent information;

14 (b) is responsible for:

15 (i) assisting eligible children and their families in gaining access  
16 to services listed on the IFSP;

17 (ii) coordinating early intervention services with other services such  
18 as medical and health services provided to the child;

19 (iii) coordinating the performance of evaluations and assessments;

20 (iv) participating in the development, monitoring and evaluation of  
21 the IFSP;

22 (v) assisting the parent in identifying available service providers;

23 (vi) coordinating service delivery;

24 (vii) informing the family of advocacy services;

25 (viii) where appropriate, facilitating the transition of the child to  
26 other appropriate services; and

27 (ix) assisting in resolving any disputes which may arise between the  
28 family and service providers, as necessary and appropriate; and

29 (c) meets such other standards as are specified pursuant to section  
30 twenty-five hundred fifty-one of this title.

31 17. ["State early intervention service agencies" means the departments  
32 of health, education and social services and the offices of mental  
33 health, mental retardation and developmental disabilities and office of  
34 alcoholism and substance abuse services.

35 18.] "Year" shall mean the twelve-month period commencing July first  
36 unless otherwise specified.

37 S 2. Paragraph (b) of subdivision 3 and subdivision 6 of section 2544  
38 of the public health law, as added by chapter 428 of the laws of 1992,  
39 are amended, and a new subdivision 4-a is added to read as follows:

40 (b) If, based upon the screening, a child is believed to be eligible,  
41 or if otherwise elected by the parent, the child shall, with the consent  
42 of a parent, receive a multidisciplinary evaluation. All evaluations  
43 shall be conducted in accordance with [the coordinated standards and  
44 procedures and with regulations promulgated by] THIS SECTION AND WITH  
45 STANDARDS AND GUIDELINES ESTABLISHED BY the commissioner IN REGULATIONS  
46 OR OTHERWISE.

47 4-A. THE DEPARTMENT SHALL DEVELOP A LIST OF EVALUATION INSTRUMENTS TO  
48 BE USED BY EVALUATORS, IN CONJUNCTION WITH INFORMED CLINICAL OPINION, IN  
49 CONDUCTING THE MULTIDISCIPLINARY EVALUATIONS OF CHILDREN THOUGHT TO BE  
50 ELIGIBLE FOR THE EARLY INTERVENTION PROGRAM. THE EVALUATOR SHALL PROVIDE  
51 WRITTEN JUSTIFICATION WHY SUCH INSTRUMENT OR INSTRUMENTS ARE NOT APPRO-  
52 PRIATE IF THE EVALUATOR DOES NOT UTILIZE AN INSTRUMENT ON THE DEPART-  
53 MENT'S LIST AS PART OF THE MULTIDISCIPLINARY EVALUATION OF A CHILD.  
54 EVALUATORS SHALL SET FORTH IN DETAIL HOW THE CHILD MEETS ELIGIBILITY  
55 CRITERIA FOR THE PROGRAM.



1 6. Nothing in this section shall restrict an evaluator from utilizing,  
2 in addition to findings from his or her personal examination, other  
3 examinations, evaluations or assessments conducted for such child,  
4 including those conducted prior to the evaluation under this section, if  
5 such examinations, evaluations or assessments are consistent with the  
6 [coordinated standards and procedures] REQUIREMENTS SET FORTH IN THIS  
7 SECTION AND WITH STANDARDS AND GUIDELINES ESTABLISHED BY THE COMMISSION-  
8 ER IN REGULATION OR OTHERWISE, PROVIDED, HOWEVER, THAT SUCH EXAMINA-  
9 TIONS, EVALUATIONS OR ASSESSMENTS ARE USED TO AUGMENT AND NOT REPLACE  
10 THE MULTIDISCIPLINARY EVALUATION TO DETERMINE ELIGIBILITY.

11 S 3. Subdivision 5 and paragraph (b) of subdivision 8 of section 2549  
12 of the public health law, as added by chapter 428 of the laws of 1992,  
13 are amended to read as follows:

14 5. The impartial hearing shall be conducted by the hearing officer in  
15 accordance with the regulations of the commissioner. The hearing shall  
16 be held, and a decision rendered, within thirty days after the depart-  
17 ment receives the request for an impartial hearing except to the extent  
18 that the parent consents, in writing, to an extension. The decision  
19 shall be in writing and shall state the reasons for the decision and  
20 shall be final unless appealed by a party to the proceeding. A copy of  
21 the decision reached by the hearing officer shall be mailed to the  
22 parent, any public or private agency that was a party to the hearing,  
23 the service coordinator, AND the department [and any state early inter-  
24 vention service agency with an interest in the decision]. Where ordered  
25 by the hearing officer, the service coordinator shall modify the IFSP in  
26 accordance with the decision within five days after such decision.

27 (b) Providers of service to eligible children and families shall main-  
28 tain the confidentiality of all personally identifiable information  
29 regarding children and families receiving their services. The provider  
30 shall ensure that no information regarding the condition, services,  
31 needs, or any other individual information regarding a child and family  
32 is released to any party other than the early intervention official  
33 without the express written consent of the parent, except as specif-  
34 ically permitted in [the coordinated standards and procedures,] STAND-  
35 ARDS OR GUIDELINES DEVELOPED BY THE DEPARTMENT which shall additionally  
36 ensure that the requirements of federal or state law which pertain to  
37 the early intervention services [of the state early intervention service  
38 agencies] have been maintained.

39 S 4. Paragraph (d) of subdivision 2 of section 2550 of the public  
40 health law, as amended by section 5 of part B3 of chapter 62 of the laws  
41 of 2003, is amended to read as follows:

42 (d) monitoring of INDIVIDUALS, agencies, institutions and organiza-  
43 tions APPROVED under this title [and agencies, institutions and organ-  
44 izations providing early intervention services which are under the  
45 jurisdiction of a state early intervention service agency] TO PROVIDE  
46 EARLY INTERVENTION SERVICES AND EVALUATIONS;

47 S 5. The public health law is amended by adding a new section 2550-a  
48 to read as follows:

49 S 2550-A. PROVIDERS OF EVALUATIONS, SERVICE COORDINATION SERVICES OR  
50 EARLY INTERVENTION SERVICES. 1. INDIVIDUALS AND AGENCIES SHALL APPLY TO  
51 THE DEPARTMENT FOR APPROVAL TO PROVIDE EVALUATIONS, SERVICE COORDINATION  
52 SERVICES OR EARLY INTERVENTION SERVICES. SUCH APPROVAL SHALL BE VALID  
53 FOR A PERIOD OF TIME AS DETERMINED BY THE DEPARTMENT, NOT TO EXCEED FIVE  
54 YEARS. INDIVIDUALS AND AGENCIES SHALL THEREAFTER APPLY FOR REAPPROVAL TO  
55 PROVIDE SUCH SERVICES.

2. ALL INDIVIDUALS SHALL PAY A FEE OF TWO HUNDRED SEVENTY DOLLARS TO THE DEPARTMENT UPON SUBMISSION OF THE INDIVIDUAL'S APPLICATION FOR APPROVAL OR REAPPROVAL. ALL AGENCY APPLICANTS SHALL PAY A FEE OF THREE HUNDRED FORTY-FIVE DOLLARS TO THE DEPARTMENT UPON SUBMISSION OF THE APPLICATION FOR APPROVAL OR REAPPROVAL. THE COMPTROLLER IS HEREBY AUTHORIZED AND DIRECTED TO DEPOSIT THE FEE FOR EACH APPLICATION AND REAPPROVAL APPLICATION INTO THE EARLY INTERVENTION PROGRAM ACCOUNT ESTABLISHED IN SECTION NINETY-NINE-Q OF THE STATE FINANCE LAW.

3. ALL AGENCIES AND INDIVIDUALS APPROVED TO PROVIDE EVALUATIONS, SERVICE COORDINATION SERVICES OR EARLY INTERVENTION SERVICES SHALL BE ENROLLED AS PROVIDERS IN THE MEDICAL ASSISTANCE PROGRAM IN ACCORDANCE WITH THE PROCEDURES FOR SUCH ENROLLMENT ESTABLISHED BY THE DEPARTMENT.

4. THE DEPARTMENT IS HEREBY AUTHORIZED TO REVIEW PROVIDER CAPACITY AND DETERMINE PROVIDER SERVICE NEED BY MUNICIPALITY. THE DEPARTMENT MAY DENY APPROVAL TO AN APPLICANT WHO SEEKS TO PROVIDE SERVICES IN A MUNICIPALITY WHERE THE DEPARTMENT HAS DETERMINED THAT SUFFICIENT PROVIDER CAPACITY EXISTS.

5. APPROVAL AND REAPPROVAL OF INDIVIDUALS AND AGENCIES SHALL BE BASED ON THE FOLLOWING CRITERIA:

(A) THE CHARACTER AND COMPETENCE OF THE INDIVIDUAL PERSON, OR IN THE CASE OF AGENCIES, THE OWNERS, OFFICERS, INCLUDING THE CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER, MEMBERS, SHAREHOLDERS WHO OWN TEN PERCENT OR MORE OF THE VOTING SHARES IN THE AGENCY, DIRECTORS OR SPONSORS, THE PROGRAM DIRECTOR AND OTHER KEY EMPLOYEES, AND THE BOARD OF DIRECTORS OF A NOT-FOR-PROFIT ENTITY AS DETERMINED BY THE DEPARTMENT;

(B) DOCUMENTED FISCAL VIABILITY;

(C) DOCUMENTED ABILITY TO PROVIDE EVALUATIONS, SERVICE COORDINATION SERVICES, OR EARLY INTERVENTION SERVICES IN CONFORMANCE WITH LAWS AND REGULATIONS APPLICABLE TO THE PRACTICE OF THE PROFESSIONS. FOR INDIVIDUALS, PROOF OF CURRENT LICENSURE, CERTIFICATION OR REGISTRATION IF REQUIRED FOR THE SERVICE PROVIDED. FOR AGENCIES:

(I) IDENTIFICATION OF ALL EMPLOYEES WHO WILL PROVIDE EARLY INTERVENTION PROGRAM SERVICES, AND WHERE APPLICABLE, THE EMPLOYEES' LICENSES, REGISTRATIONS, CERTIFICATIONS OR NATIONAL PROVIDER IDENTIFICATION NUMBERS AND EXPIRATION DATES; AND

(II) IDENTIFICATION OF ALL STATE-APPROVED AGENCY AND INDIVIDUAL CONTRACTORS WHO WILL BE UTILIZED TO PROVIDE SUCH SERVICES AND WHERE APPLICABLE, THE PERSONS' LICENSES, REGISTRATIONS, CERTIFICATIONS OR NATIONAL PROVIDER IDENTIFICATION NUMBERS AND EXPIRATION DATES;

(D) FOR AGENCY PROVIDERS, A QUALITY ASSURANCE PLAN THAT IS APPROVED BY THE DEPARTMENT FOR EACH TYPE OF PROFESSIONAL SERVICE OFFERED BY THE AGENCY, INCLUDING EVALUATIONS AND SERVICE COORDINATION, TO ENSURE THAT EVALUATIONS, SERVICE COORDINATION AND EARLY INTERVENTION PROGRAM SERVICES ARE PROVIDED IN A MANNER THAT COMPLIES WITH FEDERAL AND STATE LAWS AND REGULATIONS. THE PLAN SHALL INCLUDE A PROVISION FOR THE EMPLOYMENT OF A PROFESSIONAL OR PROFESSIONALS TO MONITOR AND OVERSEE IMPLEMENTATION OF THE PLAN AS REQUIRED BY SUBPARAGRAPH (II) OF PARAGRAPH (E) OF THIS SUBDIVISION;

(E) FOR AGENCY PROVIDERS, DOCUMENTATION THAT THE AGENCY HAS IN ITS EMPLOYMENT, OR IN ACCORDANCE WITH THIS PARAGRAPH, WILL HAVE IN ITS EMPLOYMENT, THE FOLLOWING PERSONNEL:

(I) A FULL-TIME EQUIVALENT EARLY INTERVENTION PROGRAM DIRECTOR WITH A MINIMUM OF TWO YEARS OF FULL-TIME EQUIVALENT EXPERIENCE IN AN EARLY INTERVENTION, CLINICAL PEDIATRIC, OR EARLY CHILDHOOD EDUCATION PROGRAM SERVING CHILDREN AGES BIRTH TO FIVE YEARS OF AGE, PROVIDED THAT:

1 (A) SUCH EXPERIENCE MUST HAVE INCLUDED DIRECT EXPERIENCE IN DELIVERING  
2 SERVICES TO CHILDREN WITH DISABILITIES AND THEIR FAMILIES; AND

3 (B) AT LEAST ONE YEAR OF SUCH EXPERIENCE MUST HAVE BEEN IN THE DELIV-  
4 ERY OF SERVICES TO CHILDREN LESS THAN THREE YEARS OF AGE AND THEIR FAMI-  
5 LIES; AND

6 (II) AT LEAST ONE LICENSED PROFESSIONAL FOR EACH TYPE OF SERVICE BEING  
7 OFFERED BY THE AGENCY, INCLUDING EVALUATIONS, WHO HOLDS A LICENSE,  
8 CERTIFICATION OR REGISTRATION IN AN OCCUPATION AUTHORIZED TO PROVIDE  
9 THAT TYPE OF SERVICE, AND WHOSE RESPONSIBILITIES INCLUDE MONITORING THE  
10 QUALITY ASSURANCE PLAN DEVELOPED BY THE AGENCY FOR THE SERVICE BEING  
11 RENDERED, TO THE EXTENT AUTHORIZED BY THE PROFESSIONAL'S LICENSURE,  
12 CERTIFICATION OR REGISTRATION; AND

13 (III) A MINIMUM OF TWO QUALIFIED PERSONNEL, IN ADDITION TO THE EARLY  
14 INTERVENTION PROGRAM DIRECTOR, EACH OF WHOM PROVIDES EVALUATIONS,  
15 SERVICE COORDINATION OR EARLY INTERVENTION SERVICES FOR A MINIMUM OF  
16 TWENTY HOURS PER WEEK.

17 (IV) FOR PURPOSES OF THIS SUBDIVISION, IF THE AGENCY APPLYING FOR  
18 INITIAL APPROVAL HAS NOT, AT THE TIME OF APPLICATION, EMPLOYED THE  
19 PERSONNEL REQUIRED IN SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARA-  
20 GRAPH, THE AGENCY MAY VERIFY THAT IT WILL EMPLOY SUCH PERSONNEL WITHIN  
21 THREE MONTHS OF APPROVAL. IF APPROVED BY THE DEPARTMENT, AT THE END OF  
22 THE THREE MONTH PERIOD, THE AGENCY SHALL SUBMIT DOCUMENTATION OF THE  
23 EMPLOYMENT OF SUCH PERSONNEL IN ACCORDANCE WITH SAID REQUIREMENTS.

24 (V) AN AGENCY APPLYING FOR REAPPROVAL SHALL, AT THE TIME OF APPLICA-  
25 TION, SUBMIT DOCUMENTATION THAT IT HAS IN ITS EMPLOYMENT THE PERSONNEL  
26 REQUIRED IN SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARAGRAPH;

27 (F) ADHERENCE TO, AND FOR PURPOSES OF REAPPROVAL, EVIDENCE OF DEMON-  
28 STRATED COMPLIANCE WITH ALL APPLICABLE FEDERAL AND STATE LAWS, REGU-  
29 LATIONS, STANDARDS AND GUIDELINES;

30 (G) DELIVERY OF SERVICES ON A TWELVE-MONTH BASIS AND FLEXIBILITY IN  
31 THE HOURS OF SERVICE DELIVERY, INCLUDING WEEKEND AND EVENING HOURS IN  
32 ACCORDANCE WITH ELIGIBLE CHILDREN'S IFSPS;

33 (H) AGREEMENT TO PARTICIPATE AND, FOR PURPOSES OF REAPPROVAL, EVIDENCE  
34 OF PARTICIPATION IN CONTINUING PROFESSIONAL AND CLINICAL EDUCATION RELE-  
35 VANT TO EARLY INTERVENTION SERVICES AND IN-SERVICE TRAINING ON STATE AND  
36 LOCAL POLICIES AND PROCEDURES ON THE EARLY INTERVENTION PROGRAM, INCLUD-  
37 ING DEPARTMENT-SPONSORED TRAINING;

38 (I) ADHERENCE TO, AND FOR PURPOSES OF REAPPROVAL, DEMONSTRATED COMPLI-  
39 ANCE WITH THE CONFIDENTIALITY REQUIREMENTS APPLICABLE TO THE EARLY  
40 INTERVENTION PROGRAM AS SET FORTH IN FEDERAL AND STATE LAW AND REGU-  
41 LATIONS;

42 (J) PROVISION OF COPIES OF ALL ORGANIZATIONAL DOCUMENTS AS REQUESTED  
43 BY THE DEPARTMENT AND DOCUMENTATION OF LICENSURE OR APPROVAL GRANTED TO  
44 THE INDIVIDUAL OR AGENCY BY OTHER REGULATORY AGENCIES;

45 (K) FOR THE PURPOSES OF REAPPROVAL, DOCUMENTATION THAT CORRECTIVE  
46 ACTIONS REQUIRED BY THE DEPARTMENT HAVE BEEN IMPLEMENTED AND NON-COMPLI-  
47 ANCE CORRECTED TO THE SATISFACTION OF THE DEPARTMENT;

48 (L) PROVISION OF CONSOLIDATED FISCAL REPORTS TO THE DEPARTMENT OR ANY  
49 OTHER SUCH COMPARABLE INFORMATION ON REVENUES AND EXPENSES, AS REQUESTED  
50 AND IN A FORM DEVELOPED BY THE DEPARTMENT;

51 (M) FOR PURPOSES OF REAPPROVAL OF INDIVIDUAL PROVIDERS, DOCUMENTATION  
52 THAT THE PROVIDER HAS SERVED A MINIMUM OF TEN CHILDREN ANNUALLY IN THE  
53 PROGRAM ON AVERAGE OVER THE PRIOR APPROVAL PERIOD; PROVIDED HOWEVER THAT  
54 THE DEPARTMENT MAY WAIVE THIS REQUIREMENT IF THE INDIVIDUAL PROVIDES  
55 SERVICES IN A GEOGRAPHIC AREA WHERE THERE IS INSUFFICIENT CAPACITY OR  
56 OTHERWISE MEETS A NEED FOR WHICH SUFFICIENT CAPACITY DOES NOT EXIST AS

1 EITHER DETERMINED BY THE DEPARTMENT, OR IDENTIFIED BY A MUNICIPALITY AND  
2 APPROVED BY THE DEPARTMENT;

3 (N) DOCUMENTATION FROM A MUNICIPALITY INDICATING THE MUNICIPALITY  
4 INTENDS TO CONTRACT WITH THE APPLICANT UPON THE APPLICANT'S RECEIPT OF  
5 DEPARTMENT APPROVAL; AND

6 (O) PROVISION OF SUCH ADDITIONAL PERTINENT INFORMATION OR DOCUMENTS  
7 NECESSARY FOR APPROVAL OR REAPPROVAL, AS REQUESTED BY THE DEPARTMENT.

8 6. PROVIDERS APPROVED AND REAPPROVED TO DELIVER EARLY INTERVENTION  
9 EVALUATIONS, SERVICE COORDINATION SERVICES AND EARLY INTERVENTION  
10 PROGRAM SERVICES SHALL MEET WITH OR OTHERWISE COMMUNICATE WITH PARENTS  
11 AND OTHER SERVICE PROVIDERS, INCLUDING PARTICIPATION IN CASE CONFERENC-  
12 ING AND CONSULTATION. AN AGENCY MUST FURTHER REQUIRE THAT ITS EMPLOYEES  
13 COMPLY WITH THE PROVISIONS OF THIS SECTION.

14 7. AN AGENCY'S APPROVAL TO PROVIDE SERVICES IN THE EARLY INTERVENTION  
15 PROGRAM SHALL TERMINATE UPON THE TRANSFER, ASSIGNMENT OR OTHER DISPOSI-  
16 TION OF TEN PERCENT OR MORE OF AN INTEREST OR VOTING RIGHTS IN THE  
17 APPROVED AGENCY. IF THERE IS A TRANSFER, ASSIGNMENT OR OTHER DISPOSI-  
18 TION OF LESS THAN TEN PERCENT OF AN INTEREST OR VOTING RIGHTS IN THE  
19 APPROVED AGENCY, BUT THE TRANSFER, ASSIGNMENT OR OTHER DISPOSITION  
20 TOGETHER WITH ALL PRIOR TRANSFERS, ASSIGNMENTS OR OTHER DISPOSITIONS  
21 WITHIN THE LAST FIVE YEARS WOULD, IN THE AGGREGATE INVOLVE TEN PERCENT  
22 OR MORE OF AN INTEREST IN THE APPROVED AGENCY, THE AGENCY'S APPROVAL TO  
23 PROVIDE SERVICES IN THE EARLY INTERVENTION PROGRAM SHALL TERMINATE UPON  
24 SUCH TRANSFER, ASSIGNMENT OR DISPOSITION. IF THE AGENCY'S APPROVAL  
25 TERMINATES AS SET FORTH IN THIS SUBDIVISION, THE AGENCY MUST APPLY FOR  
26 APPROVAL IN ACCORDANCE WITH THIS SECTION TO PROVIDE SERVICES IN THE  
27 EARLY INTERVENTION PROGRAM AND, IF APPROVED, SAID AGENCY SHALL BE DEEMED  
28 IN EXISTENCE AFTER THE EFFECTIVE DATE OF THIS SECTION.

29 8. APPROVED PROVIDERS SHALL NOT DISSEMINATE, OR CAUSE TO BE DISSEM-  
30 INATED ON THEIR BEHALF, MARKETING MATERIALS THAT ARE FALSE, DECEPTIVE,  
31 OR MISLEADING. THE DEPARTMENT IS AUTHORIZED TO REQUIRE THAT PROVIDERS  
32 PERIODICALLY SUBMIT COPIES OF MARKETING MATERIALS FOR REVIEW. MARKETING  
33 MATERIALS THAT DO NOT COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION MAY  
34 BE A BASIS FOR ACTION AGAINST THE PROVIDER'S APPROVAL IN ACCORDANCE WITH  
35 THE PROVISIONS OF SECTION TWENTY-FIVE HUNDRED FIFTY-B OF THIS TITLE. THE  
36 DEPARTMENT SHALL DEVELOP STANDARDS ON APPROPRIATE MARKETING MATERIALS.

37 9. AN INDIVIDUAL PROVIDER SHALL NOTIFY THE DEPARTMENT WITHIN TWO BUSI-  
38 NESS DAYS IF HIS OR HER LICENSE IS SUSPENDED, REVOKED, LIMITED OR  
39 ANNULLED OR IF A CONTRACT THE PROVIDER HOLDS WITH A MUNICIPALITY OR  
40 AGENCY PROVIDER IS TERMINATED. AGENCY PROVIDERS SHALL ENSURE THAT  
41 SERVICES ARE DELIVERED BY THOSE AUTHORIZED TO DO SO AND SHALL ONLY  
42 EMPLOY OR CONTRACT WITH QUALIFIED PERSONNEL WHO ARE LICENSED, REGISTERED  
43 OR CERTIFIED IN COMPLIANCE WITH APPLICABLE PROVISIONS OF LAW, IF SUCH  
44 LICENSE, REGISTRATION OR CERTIFICATION IS REQUIRED FOR THE SERVICE THAT  
45 IS BEING PROVIDED.

46 10. INDIVIDUAL AND AGENCY PROVIDERS SHALL VERIFY THE ACCURACY OF ALL  
47 BILLING RECORDS PRIOR TO SUBMISSION OF SUCH BILLING FOR PAYMENT.

48 11. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE APPROVAL OF  
49 INDIVIDUALS AND AGENCIES THAT ARE IN EXISTENCE ON OR BEFORE THE EFFEC-  
50 TIVE DATE OF THIS SECTION THAT WERE APPROVED TO DELIVER EARLY INTER-  
51 VENTION SERVICES BY THE DEPARTMENT OF EDUCATION SHALL REMAIN IN EFFECT;  
52 PROVIDED, HOWEVER THAT SUCH INDIVIDUALS OR AGENCIES SHALL BE SUBJECT TO  
53 THE REQUIREMENTS OF THIS SECTION AND SHALL, WHEN REQUESTED BY THE  
54 DEPARTMENT, APPLY FOR AND OBTAIN REAPPROVAL BY THE DEPARTMENT TO CONTIN-  
55 UE PROVIDING SERVICES IN THE EARLY INTERVENTION PROGRAM.

1 S 6. The public health law is amended by adding a new section 2550-b  
2 to read as follows:

3 S 2550-B. PROCEEDINGS INVOLVING THE APPROVAL OF AN INDIVIDUAL OR AGEN-  
4 CY. 1. AN AGENCY'S OR INDIVIDUAL'S APPROVAL TO DELIVER EVALUATIONS,  
5 SERVICE COORDINATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES  
6 MAY BE REVOKED, SUSPENDED, LIMITED OR ANNULLED BY THE COMMISSIONER UPON  
7 A FINDING THAT THE AGENCY OR INDIVIDUAL PROVIDER:

8 (A) HAS FAILED TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE OR RULES  
9 AND REGULATIONS PROMULGATED THEREUNDER;

10 (B) NO LONGER MEETS ONE OF THE CRITERIA FOR APPROVAL OR REAPPROVAL AS  
11 SET FORTH IN SUBDIVISION FIVE OF SECTION TWENTY-FIVE HUNDRED FIFTY-A OF  
12 THIS TITLE;

13 (C) DOES NOT HAVE CURRENT LICENSURE, REGISTRATION OR CERTIFICATION TO  
14 DELIVER SERVICES IN THE EARLY INTERVENTION PROGRAM; OR

15 (D) FOR AGENCY PROVIDERS, USED PERSONNEL, WHETHER BY CONTRACT OR UNDER  
16 EMPLOYMENT, TO PROVIDE AN EARLY INTERVENTION PROGRAM SERVICE WHO DID NOT  
17 HOLD A LICENSE, REGISTRATION OR CERTIFICATION TO PROVIDE SUCH SERVICE.

18 2. NO APPROVAL SHALL BE REVOKED, SUSPENDED, LIMITED OR ANNULLED WITH-  
19 OUT FIRST PROVIDING THE INDIVIDUAL OR AGENCY AN OPPORTUNITY TO BE HEARD.  
20 THE DEPARTMENT SHALL NOTIFY THE INDIVIDUAL OR AGENCY IN WRITING OF THE  
21 PROPOSED ACTION AND SHALL AFFORD THE INDIVIDUAL OR AGENCY AN OPPORTUNITY  
22 TO BE HEARD IN PERSON OR BY COUNSEL. SUCH NOTICE MAY BE SERVED BY  
23 PERSONAL DELIVERY TO THE INDIVIDUAL OR AGENCY OR BY MAILING IT BY CERTI-  
24 FIED MAIL TO THE LAST KNOWN ADDRESS ON FILE WITH THE DEPARTMENT OR BY  
25 ANY METHOD AUTHORIZED BY THE CIVIL PRACTICE LAW AND RULES FOR THE  
26 SERVICE OF A SUMMONS. THE HEARING SHALL BE AT SUCH TIME AND PLACE AS  
27 THE DEPARTMENT SHALL PRESCRIBE.

28 3. APPROVAL MAY BE TEMPORARILY SUSPENDED OR LIMITED WITHOUT A HEARING  
29 FOR A PERIOD NOT EXCEEDING ONE HUNDRED TWENTY DAYS UPON WRITTEN NOTICE  
30 TO THE PROVIDER AND AN OPPORTUNITY FOR A HEARING FOLLOWING A FINDING BY  
31 THE DEPARTMENT THAT THE HEALTH OR SAFETY OF A CHILD, PARENTS OR STAFF OF  
32 THE MUNICIPALITY IN WHICH THE PROVIDER IS UNDER CONTRACT IS IN IMMINENT  
33 RISK OF DANGER OR THERE EXISTS ANY CONDITION OR PRACTICE OR A CONTINUING  
34 PATTERN OF CONDITIONS OR PRACTICES WHICH POSES IMMINENT DANGER TO THE  
35 HEALTH OR SAFETY OF SUCH CHILDREN, PARENTS OR STAFF OF THE MUNICIPALITY  
36 IN WHICH THE PROVIDER IS UNDER CONTRACT. UPON SUCH A FINDING AND NOTICE,  
37 THE DEPARTMENT MAY ALSO:

38 (A) PROHIBIT OR LIMIT THE ASSIGNMENT OF CHILDREN TO THE PROVIDER;

39 (B) REMOVE OR CAUSE TO BE REMOVED SOME OR ALL OF THE CHILDREN THE  
40 PROVIDER CURRENTLY SERVES; AND

41 (C) SUSPEND OR LIMIT OR CAUSE TO BE SUSPENDED OR LIMITED PAYMENT FOR  
42 SERVICES TO THE PROVIDER.

43 S 7. Section 2551 of the public health law, as added by chapter 428 of  
44 the laws of 1992, is amended to read as follows:

45 S 2551. [Coordinated standards] STANDARDS and procedures. 1. The  
46 [state early intervention service agencies shall jointly establish coord-  
47 inated] DEPARTMENT MAY DEVELOP standards and procedures for:

48 (a) early intervention services and evaluations;

49 (b) child find system and public awareness program; and

50 (c) [programs and services, operating under the approval authority of  
51 any state early intervention service agency, which include any early  
52 intervention services or evaluations] APPROVAL AND REAPPROVAL OF INDI-  
53 VIDUALS AND AGENCIES PROVIDING SERVICES UNDER THIS TITLE.

54 2. Such [coordinated] standards and procedures shall be designed to:

55 (a) enhance the objectives of this title, including the provision of  
56 services in natural environments to the maximum extent possible;

(b) minimize duplicative and inconsistent regulations and practices among [the] state [early intervention service] agencies;

(c) [conform, to the extent appropriate, to existing standards and procedures of state early intervention service agencies] ENSURE THAT SERVICES ARE PROVIDED IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS TITLE BY QUALIFIED INDIVIDUALS AND AGENCIES WHO MEET DEPARTMENT CRITERIA; and

(d) ensure that persons who provide early intervention services are trained, or can demonstrate proficiency in principles of early childhood development.

3. [Coordinated standards] STANDARDS and procedures may include guidelines suggesting appropriate early intervention services for enumerated disabilities that are most frequently found in eligible children.

4. [Coordinated standards] STANDARDS and procedures may encompass or allow for agreements among two or more [such] STATE agencies.

5. [Any standards promulgated by regulation or otherwise by any state early intervention service agency governing early intervention services or evaluations shall be consistent with the coordinated standards and procedures.

6. In the event of an inability to agree upon any coordinated standard or procedure, any state early intervention service agency may refer the issue to the early intervention coordinating council for its advice with respect to the standard or procedure which the council shall provide to the early intervention service agencies affected by the issue. The commissioner, after obtaining such advice, shall adopt an appropriate standard or procedure,] THE COMMISSIONER SHALL SUBMIT PROPOSED STANDARDS AND PROCEDURES TO THE EARLY INTERVENTION COORDINATING COUNCIL FOR ITS REVIEW AND ADVICE; provided however, that the commissioner may adopt an interim standard or procedure while awaiting such advice.

[7. Coordinated standards and procedures shall provide that any agency which is an approved program or service provider under section forty-four hundred ten of the education law, and which also plans to provide early intervention services may apply to the commissioner of education for approval to provide such services. Such approval shall be granted based on the agency's compliance with the coordinated standards and procedures for early intervention services and, where applicable, education certifications.

8. The early intervention service agencies, in consultation with the director of the budget, shall, where appropriate, require as a condition of approval that evaluators and providers of early intervention services participate in the medical assistance program.

9.] 6. The [coordinated] standards and procedures shall permit such evaluators and providers of services to rely on subcontracts or other written agreements with qualified professionals, or agencies employing such professionals, provided that such professionals perform their responsibilities in conformance with regulations of the commissioner and that providers and evaluators fully disclose any such arrangements, including any financial or personal interests, on all applications for approval.

[10. Coordinated standards] 7. STANDARDS and procedures may identify circumstances and procedures under which an evaluator or service provider may be disqualified under this title, including procedures whereby a municipality may request such disqualification.

S 8. Section 2552 of the public health law is amended by adding a new subdivision 5 to read as follows:

1 5. THE EARLY INTERVENTION OFFICIAL SHALL REQUIRE AN ELIGIBLE CHILD'S  
2 PARENT TO FURNISH DOCUMENTATION NECESSARY TO DETERMINE THE PARENT'S  
3 GROSS HOUSEHOLD INCOME. SUCH DOCUMENTATION SHALL BE PROVIDED TO THE  
4 DEPARTMENT OR THE DEPARTMENT'S AGENT FOR THE PURPOSE OF ASSESSING AND  
5 COLLECTING PARENTAL FEES IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED  
6 FIFTY-SEVEN-A OF THIS TITLE.

7 S 9. Paragraph (b) of subdivision 2 of section 2553 of the public  
8 health law, as added by chapter 428 of the laws of 1992, is amended to  
9 read as follows:

10 (b) advise and assist the commissioner [and other state early inter-  
11 vention service agencies] in the development of [coordinated] standards  
12 and procedures pursuant to section twenty-five hundred fifty-one of this  
13 title [in order to promote the full participation and cooperation of  
14 such agencies];

15 S 10. Paragraph (k) of subdivision 4 of section 2557 of the public  
16 health law is REPEALED.

17 S 10-a. Subdivisions 1, 2 and 5 of section 2557 of the public health  
18 law, subdivision 1 as amended by section 4 of part C of chapter 1 of the  
19 laws of 2002, subdivision 2 as added by chapter 428 of the laws of 1992  
20 and subdivision 5 as added by section 7 of part B3 of chapter 62 of the  
21 laws of 2003, are amended to read as follows:

22 1. The approved costs for an eligible child who receives an evaluation  
23 and early intervention services pursuant to this title shall be a charge  
24 upon the municipality wherein the eligible child resides or, where the  
25 services are covered by the medical assistance program, upon the social  
26 services district of fiscal responsibility with respect to those eligi-  
27 ble children who are also eligible for medical assistance. All approved  
28 costs, EXCEPT FOR SERVICES THAT ARE COVERED BY THE MEDICAL ASSISTANCE  
29 PROGRAM OR UNDER AN INSURANCE POLICY OR PLAN FOR THOSE CHILDREN WHO HAVE  
30 COVERAGE UNDER BOTH THE MEDICAL ASSISTANCE PROGRAM AND SUCH INSURANCE  
31 POLICY OR PLAN, shall be paid in the first instance and at least quar-  
32 terly by the appropriate governing body or officer of the municipality  
33 upon vouchers presented and audited in the same manner as the case of  
34 other claims against the municipality. Notwithstanding the insurance law  
35 or regulations thereunder relating to the permissible exclusion of  
36 payments for services under governmental programs, no such exclusion  
37 shall apply with respect to payments made pursuant to this title.  
38 Notwithstanding the insurance law or any other law or agreement to the  
39 contrary, benefits under this title shall be considered secondary to  
40 [any plan of insurance or state government benefit program under which  
41 an eligible child may have] coverage AVAILABLE TO AN ELIGIBLE CHILD  
42 UNDER THE MEDICAL ASSISTANCE PROGRAM OR AN INSURANCE POLICY OR PLAN AND  
43 THE MEDICAL ASSISTANCE PROGRAM FOR THOSE CHILDREN WHO HAVE COVERAGE  
44 UNDER BOTH THE MEDICAL ASSISTANCE PROGRAM AND SUCH INSURANCE POLICY OR  
45 PLAN. Nothing in this section shall increase or enhance coverages  
46 provided for within an insurance contract subject to the provisions of  
47 this title.

48 2. REIMBURSEMENT FOR APPROVED COSTS PAID BY A MUNICIPALITY FOR THE  
49 PURPOSES OF THIS TITLE, OTHER THAN FOR THOSE APPROVED COSTS REIMBURSABLE  
50 BY THE MEDICAL ASSISTANCE PROGRAM OR UNDER AN INSURANCE POLICY OR PLAN  
51 AND THE MEDICAL ASSISTANCE PROGRAM FOR THOSE CHILDREN WHO HAVE COVERAGE  
52 UNDER BOTH THE MEDICAL ASSISTANCE PROGRAM AND SUCH INSURANCE POLICY OR  
53 PLAN SHALL BE AS FOLLOWS:

54 I. The department shall reimburse ONE HUNDRED PERCENT OF the approved  
55 costs paid by a municipality for the purposes of this title, [other than  
56 those reimbursable by the medical assistance program or by third party

1 payors] PROVIDED HOWEVER THAT REIMBURSEMENT PURSUANT TO THIS PARAGRAPH  
2 SHALL NOT EXCEED THE DOLLAR AMOUNT SUCH MUNICIPALITY RECEIVED FROM JULY  
3 FIRST, TWO THOUSAND SEVEN TO JUNE THIRTIETH, TWO THOUSAND EIGHT FROM  
4 PRIVATE INSURANCE REIMBURSEMENT FOR SERVICES COVERED UNDER AN ELIGIBLE  
5 CHILD'S INSURANCE POLICY OR PLAN;

6 II. AFTER REIMBURSEMENT IS MADE IN ACCORDANCE WITH PARAGRAPH (I) OF  
7 THIS SUBDIVISION, THE DEPARTMENT SHALL REIMBURSE ONE HUNDRED PERCENT OF  
8 THE APPROVED COSTS PAID BY A MUNICIPALITY PROVIDED HOWEVER THAT  
9 REIMBURSEMENT PURSUANT TO THIS PARAGRAPH SHALL NOT EXCEED AN AMOUNT  
10 DETERMINED BY THE DEPARTMENT, AND APPROVED BY THE DIRECTOR OF THE BUDG-  
11 ET, BASED UPON A METHOD OF ALLOCATION PROPORTIONAL TO EACH MUNICI-  
12 PALITY'S SHARE OF THE TOTAL PAYMENTS MADE BY MUNICIPALITIES FROM JULY  
13 FIRST, TWO THOUSAND SEVEN TO JUNE THIRTIETH, TWO THOUSAND EIGHT FOR  
14 SERVICES PROVIDED UNDER THE EARLY INTERVENTION PROGRAM;

15 III. THEREAFTER, THE DEPARTMENT SHALL REIMBURSE THE APPROVED COSTS  
16 PAID BY A MUNICIPALITY, in an amount of fifty percent of the amount  
17 expended in accordance with the rules and regulations of the commission-  
18 er.

19 IV. Such state reimbursement to the municipality MADE IN ACCORDANCE  
20 WITH PARAGRAPHS (I), (II) AND (III) OF THIS SUBDIVISION shall not be  
21 paid prior to April first of the year in which the approved costs are  
22 paid by the municipality.

23 5. The department shall contract with an independent organization to  
24 act as the fiscal agent for the department. [A municipality may elect to  
25 utilize the services of such organization for early intervention program  
26 fiscal management and claiming as determined by the commissioner or may  
27 select an independent agent to act as the fiscal agent for such munici-  
28 pality or may act as its own fiscal agent.] MUNICIPALITIES SHALL USE THE  
29 FISCAL AGENT UNDER CONTRACT WITH THE DEPARTMENT FOR THE MANAGEMENT OF  
30 MUNICIPAL PAYMENTS TO PROVIDERS UNLESS OTHERWISE APPROVED BY THE DEPART-  
31 MENT.

32 S 11. The public health law is amended by adding a new section 2557-a  
33 to read as follows:

34 S 2557-A. PARENTAL PARTICIPATION IN PAYMENT OF EARLY INTERVENTION  
35 SERVICES. 1. PARENTAL PARTICIPATION IN THE PAYMENT OF EARLY INTER-  
36 VENTION SERVICES SHALL BE ESTABLISHED ANNUALLY FOR EACH FAMILY BASED ON  
37 A SLIDING SCHEDULE OF FEES AS SET FORTH IN SUBDIVISION THREE OF THIS  
38 SECTION. PARENTS SHALL PROVIDE DOCUMENTATION NECESSARY TO DETERMINE THE  
39 PARENT'S GROSS HOUSEHOLD INCOME AND PARENTAL FEE PAYMENT. THE DEPARTMENT  
40 OR DEPARTMENT'S AGENT SHALL BEGIN COLLECTING PARENT FEES ON APRIL FIRST,  
41 TWO THOUSAND TEN. THE FEE SHALL BE PAID ON A MONTHLY BASIS TO THE  
42 DEPARTMENT OR THE DEPARTMENT'S AGENT AND SHALL BE DEPOSITED INTO THE  
43 EARLY INTERVENTION PROGRAM ACCOUNT ESTABLISHED IN SECTION NINETY-NINE-Q  
44 OF THE STATE FINANCE LAW. THE DEPARTMENT SHALL PAY EACH MUNICIPALITY  
45 FIFTY PERCENT OF THE FEES COLLECTED IN ACCORDANCE WITH THIS SECTION FROM  
46 PARENTS OF ELIGIBLE CHILDREN FOR WHICH THE MUNICIPALITY HAS FINANCIAL  
47 RESPONSIBILITY. NO PARENTAL FEES, HOWEVER, MAY BE CHARGED FOR: IMPLE-  
48 MENTING CHILD FIND, EVALUATION AND ASSESSMENT, SERVICE COORDINATION,  
49 DEVELOPMENT, REVIEW, AND EVALUATION OF INDIVIDUALIZED FAMILY SERVICES  
50 PLANS, OR THE IMPLEMENTATION OF PROCEDURAL SAFEGUARDS AND OTHER ADMINIS-  
51 TRATIVE COMPONENTS OF THE EARLY INTERVENTION SYSTEM.

52 2. PARENTS SHALL PAY A MONTHLY FEE AS DETERMINED BY THE SCHEDULE OF  
53 FEES SET FORTH IN SUBDIVISION THREE OF THIS SECTION FOR EACH CHILD IN  
54 THE FAMILY RECEIVING EARLY INTERVENTION SERVICES. THE PARENTAL FEE FOR A  
55 PARENT WHOSE GROSS HOUSEHOLD INCOME FALLS AT OR BELOW FOUR HUNDRED  
56 PERCENT OF THE FEDERAL POVERTY LEVEL (FPL) AND WHO HAS MORE THAN THREE



1 CHILDREN RECEIVING SERVICES IN THE EARLY INTERVENTION PROGRAM, SHALL BE  
2 LIMITED TO THE MONTHLY FEE CHARGED FOR PARENTS WHO HAVE THREE CHILDREN  
3 RECEIVING SERVICES IN THE EARLY INTERVENTION PROGRAM. PARENTAL FEES  
4 SHALL APPLY WITHOUT REGARD TO WHETHER THE ELIGIBLE CHILD HAS COVERAGE  
5 UNDER AN INSURANCE POLICY OR PLAN.

6 3. PARENTAL FEES FOR THE EARLY INTERVENTION PROGRAM SHALL BE AS  
7 FOLLOWS:

GROSS HOUSEHOLD INCOME	PARENTAL FEE PER CHILD/PER MONTH
161% FPL TO 222% FPL	\$15.00
223% FPL TO 250% FPL	\$25.00
251% FPL TO 300% FPL	\$35.00
301% FPL TO 350% FPL	\$55.00
351% FPL TO 400% FPL	\$75.00
401% FPL AND ABOVE	\$150.00

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16 4. IF A PARENT REFUSES TO PROVIDE DOCUMENTATION NECESSARY TO DETERMINE  
17 THE PARENT'S GROSS HOUSEHOLD INCOME, IT SHALL BE PRESUMED THAT THE  
18 PARENT FALLS WITHIN THE HIGHEST GROSS HOUSEHOLD INCOME BRACKET FOR THE  
19 PURPOSES OF ESTABLISHING THE PARENTAL FEE OBLIGATION.

20 5. AT THE WRITTEN REQUEST OF THE PARENT, THE PARENTAL FEE OBLIGATION  
21 MAY BE ADJUSTED PROSPECTIVELY AT ANY POINT DURING THE YEAR UPON PROOF OF  
22 A CHANGE IN HOUSEHOLD GROSS INCOME.

23 6. (A) THE DEPARTMENT OR THE DEPARTMENT'S AGENT SHALL MAIL A BILL TO  
24 THE PARENT FOR THE PARENT PARTICIPATION FEE SIXTY DAYS PRIOR TO THE  
25 FIRST DAY OF THE MONTH IN WHICH THE FEE IS DUE. THE BILL SHALL STATE THE  
26 AMOUNT OF THE FEE AND ITS DUE DATE.

27 (B) IF PAYMENT HAS NOT ALREADY BEEN RECEIVED, THE DEPARTMENT OR THE  
28 DEPARTMENT'S AGENT SHALL MAIL A NOTICE TO THE PARENT REMINDING THE  
29 PARENT OF THE FEE DUE AT LEAST FIFTEEN DAYS PRIOR TO ITS DUE DATE. THE  
30 NOTICE SHALL ALSO STATE THAT FAILURE TO PAY THE FEE SHALL RESULT IN THE  
31 TERMINATION OF SERVICES AND LOSS OF ELIGIBILITY FOR THE PROGRAM.

32 (C) IF THE PARENT PARTICIPATION FEE IS NOT PAID ON OR BEFORE ITS DUE  
33 DATE, THE DEPARTMENT OR DEPARTMENT'S AGENT SHALL MAIL THE PARENT A FINAL  
34 NOTICE STATING THAT FAILURE TO PAY THE FEE WITHIN THIRTY DAYS AFTER ITS  
35 DUE DATE SHALL RESULT IN TERMINATION OF SERVICES AND LOSS OF ELIGIBILITY  
36 FOR THE PROGRAM. IF THE PARENT PARTICIPATION FEE IS NOT PAID WITHIN  
37 THIRTY DAYS AFTER ITS DUE DATE, THE DEPARTMENT OR DEPARTMENT'S AGENT  
38 SHALL NOTIFY THE MUNICIPALITY THAT THE CHILD AND FAMILY ARE NO LONGER  
39 ELIGIBLE AND THAT SERVICES SHOULD CEASE. THE MUNICIPALITY SHALL NOTIFY  
40 ALL PROVIDERS CURRENTLY PROVIDING SERVICES TO THE CHILD THAT THE CHILD  
41 IS NO LONGER AUTHORIZED TO RECEIVE SERVICES. A PROVIDER SHALL BE PAID  
42 FOR SERVICES RENDERED UNTIL SUCH TIME AS THE PROVIDER IS NOTIFIED THAT  
43 THE CHILD IS NO LONGER AN ELIGIBLE CHILD.

44 7. THE INABILITY OF THE PARENTS OF AN ELIGIBLE CHILD TO PAY PARENTAL  
45 FEES DUE TO CATASTROPHIC CIRCUMSTANCES OR EXTRAORDINARY EXPENSES SHALL  
46 NOT RESULT IN THE DENIAL OF SERVICES TO THE CHILD OR THE CHILD'S FAMILY.

47 (A) PARENTS MUST DOCUMENT EXTRAORDINARY EXPENSES OR OTHER CATASTROPHIC  
48 CIRCUMSTANCES BY PROVIDING DOCUMENTATION OF ONE OF THE FOLLOWING:

49 (I) OUT-OF-POCKET MEDICAL EXPENSES IN EXCESS OF FIFTEEN PERCENT OF  
50 GROSS INCOME; OR

51 (II) OTHER EXTRAORDINARY EXPENSES OR CATASTROPHIC CIRCUMSTANCES CAUS-  
52 ING DIRECT OUT-OF-POCKET PAYMENTS IN EXCESS OF FIFTEEN PERCENT OF GROSS  
53 INCOME.

54 (B) PARENTS MUST PRESENT PROOF OF LOSS TO THE DEPARTMENT OR THE  
55 DEPARTMENT'S AGENT WHO SHALL DOCUMENT IT. THE DEPARTMENT OR DEPARTMENT'S  
56 AGENT SHALL DETERMINE WHETHER THE PARENTAL FEE OBLIGATION SHALL BE

1 REDUCED, FORGIVEN, OR SUSPENDED WITHIN TEN BUSINESS DAYS AFTER RECEIPT  
2 OF THE PARENT'S REQUEST AND SUPPORTING DOCUMENTATION.

3 (C) A PARENT WHO DISAGREES WITH THE DETERMINATION SHALL HAVE THE ABIL-  
4 ITY TO CONTEST THE DETERMINATION USING PROCEDURES SET FORTH IN SECTION  
5 TWENTY-FIVE HUNDRED FORTY-NINE OF THIS TITLE. IF A PARENT SUBMITS A  
6 WRITTEN REQUEST FOR A MEDIATION OR HEARING TO DISPUTE THE DEPARTMENT'S  
7 DETERMINATION, EARLY INTERVENTION SERVICES SHALL NOT BE SUSPENDED FOR  
8 NONPAYMENT OF THE PARENTAL FEE PENDING RESOLUTION OF SUCH MEDIATION OR  
9 HEARING.

10 S 12. Subdivision 3 of section 2559 of the public health law, as added  
11 by chapter 428 of the laws of 1992, paragraph (a) as amended and para-  
12 graph (d) as added by chapter 231 of the laws of 1993, is amended to  
13 read as follows:

14 3. (a) [Providers] FOR THE PERIOD MARCH FIRST, TWO THOUSAND NINE TO  
15 MARCH THIRTY-FIRST, TWO THOUSAND TEN, PROVIDERS of early intervention  
16 services and transportation services shall [in the first instance and]  
17 where applicable, seek payment from [all third party payors including  
18 governmental agencies] THE MEDICAL ASSISTANCE PROGRAM UNDER WHICH AN  
19 ENROLLED CHILD HAS COVERAGE prior to claiming payment from a given muni-  
20 cipality for services rendered to [eligible children,] THE ELIGIBLE  
21 CHILD; HOWEVER FOR CHILDREN WHO HAVE COVERAGE UNDER A PRIVATE INSURANCE  
22 POLICY OR PLAN AND ARE ALSO ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM,  
23 PROVIDERS SHALL FIRST SEEK PAYMENT UNDER THE PRIVATE INSURANCE POLICY OR  
24 PLAN PRIOR TO CLAIMING PAYMENT FROM THE MEDICAL ASSISTANCE PROGRAM;  
25 provided that, for the purpose of seeking payment from the medical  
26 assistance program or from [other third party payors] PRIVATE INSURANCE  
27 POLICIES OR PLANS IN INSTANCES WHERE A CHILD ENROLLED IN THE MEDICAL  
28 ASSISTANCE PROGRAM ALSO HAS COVERAGE UNDER SUCH PRIVATE INSURANCE POLICY  
29 OR PLAN, the municipality shall be deemed the provider of such early  
30 intervention services to the extent that the provider has promptly  
31 furnished to the municipality adequate and complete information neces-  
32 sary to support the municipality billing, and provided further that the  
33 obligation to seek payment shall not apply to a payment from [a third  
34 party payor] AN INSURER OR PLAN ADMINISTRATOR who is not prohibited from  
35 applying such payment, and will apply such payment, to an annual or  
36 lifetime limit specified in the insured's policy.

37 (A-1) EFFECTIVE ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, PROVIDERS  
38 OF EARLY INTERVENTION SERVICES AND TRANSPORTATION SERVICES SHALL, WHERE  
39 APPLICABLE, SEEK PAYMENT FROM THE MEDICAL ASSISTANCE PROGRAM UNDER WHICH  
40 AN ENROLLED CHILD HAS COVERAGE PRIOR TO CLAIMING PAYMENT FROM A GIVEN  
41 MUNICIPALITY FOR SERVICES RENDERED TO THE ELIGIBLE CHILD; HOWEVER FOR  
42 CHILDREN WHO HAVE COVERAGE UNDER A PRIVATE INSURANCE POLICY OR PLAN AND  
43 ARE ALSO ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM, PROVIDERS SHALL  
44 FIRST SEEK PAYMENT UNDER THE PRIVATE INSURANCE POLICY OR PLAN PRIOR TO  
45 CLAIMING PAYMENT FROM THE MEDICAL ASSISTANCE PROGRAM; PROVIDED THAT A  
46 PROVIDER SHALL NOT BE REQUIRED TO SEEK PAYMENT FROM AN INSURER OR PLAN  
47 ADMINISTRATOR IF SUCH PAYMENT WILL BE APPLIED TO ANY ANNUAL OR LIFETIME  
48 LIMITS SPECIFIED IN THE INSURED'S POLICY.

49 (b) I. The commissioner, in consultation with the director of budget  
50 and the superintendent of insurance, shall promulgate regulations  
51 providing public reimbursement for deductibles and copayments which are  
52 imposed under an insurance policy or health benefit plan to the extent  
53 that such deductibles and copayments are applicable to early inter-  
54 vention services.

55 II. PARENTS SHALL PROVIDE THE MUNICIPALITY WITH INFORMATION ON ANY  
56 INSURANCE PLAN OR POLICY UNDER WHICH AN ELIGIBLE CHILD HAS COVERAGE. THE

MUNICIPALITY SHALL PROVIDE SUCH INFORMATION TO THE DEPARTMENT OR THE DEPARTMENT'S AGENT ON A FORM OR IN A MANNER AS THE DEPARTMENT MAY PRESCRIBE. ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, THE MUNICIPALITY SHALL PROVIDE INFORMATION ON AN ELIGIBLE CHILD'S MEDICAL ASSISTANCE PROGRAM AND INSURANCE PLAN OR POLICY COVERAGE TO THE PROVIDER RENDERING SERVICES TO THE CHILD TO ENABLE THE PROVIDER TO SEEK PAYMENT FROM SUCH PROGRAM, PLAN OR POLICY FOR COVERED SERVICES IN ACCORDANCE WITH PARAGRAPH (A-1) OF THIS SUBDIVISION.

III. PAYMENT FOR COVERED SERVICES RENDERED TO AN ELIGIBLE CHILD SHALL BE MADE IN THE FIRST INSTANCE BY THE MUNICIPALITY, EXCEPT THOSE COVERED BY THE MEDICAL ASSISTANCE PROGRAM OR UNDER AN INSURANCE POLICY OR PLAN AVAILABLE TO A CHILD WHO IS ALSO ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM. THE STATE SHALL REIMBURSE THE MUNICIPALITY FOR SUCH PAYMENT IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION TWENTY-FIVE HUNDRED FIFTY-SEVEN OF THIS TITLE. PARENTS SHALL NOT BE REQUIRED TO PAY INSURANCE COPAYMENTS OR DEDUCTIBLES FOR PAYMENT OF EARLY INTERVENTION SERVICES COVERED UNDER AN INSURANCE POLICY OR PLAN.

IV. EXCEPT IN THE CASE OF A CHILD WHO HAS COVERAGE UNDER AN INSURANCE POLICY OR PLAN AND IS ALSO ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM, INSURERS AND PLAN ADMINISTRATORS SHALL NOT BE BILLED DIRECTLY FOR COVERED SERVICES RENDERED TO AN ELIGIBLE CHILD THAT ARE AUTHORIZED BY THE CHILD'S IFSP AND PROVIDED UNDER THE EARLY INTERVENTION PROGRAM.

(c) Payments made for early intervention services COVERED under an insurance policy or health benefit plan which are provided as part of an IFSP pursuant to section twenty-five hundred forty-five of this title shall not be applied by the insurer or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan, pursuant to section eleven of [the] chapter FOUR HUNDRED TWENTY-EIGHT of the laws of nineteen hundred ninety-two which added this title AND SHALL NOT OTHERWISE DECREASE COVERAGE OR VISIT LIMITS AVAILABLE FOR SERVICES UNDER THE CHILD'S INSURANCE POLICY OR HEALTH BENEFIT PLAN.

(d) [A] FOR THE PERIOD MARCH FIRST, TWO THOUSAND NINE TO MARCH THIRTY-FIRST, TWO THOUSAND TEN, A municipality, or its designee, shall be subrogated, to the extent of the expenditures by such municipality for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from third party reimbursement. The right of subrogation does not attach to benefits paid or provided under any health insurance policy or health benefits plan prior to receipt of written notice of the exercise of subrogation rights by the insurer or plan administrator providing such benefits.

S 13. Intentionally omitted.

S 14. Section 2559-b of the public health law, as added by chapter 428 of the laws of 1992, is amended to read as follows:

S 2559-b. Regulations. The commissioner may adopt regulations necessary to carry out the provisions of this title. In promulgating such regulations, the commissioner shall [incorporate coordinated standards and procedures, where applicable, and shall] consider the regulations, guidelines and operating procedures of other state agencies that administer or supervise the administration of services to infants, toddlers and preschool children to ensure that families, service providers and municipalities are not unnecessarily required to meet differing eligibility, reporting or procedural requirements.

S 15. The state finance law is amended by adding a new section 99-q to read as follows:

1 S 99-Q. EARLY INTERVENTION PROGRAM ACCOUNT. 1. THERE IS HEREBY ESTAB-  
2 LISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSION-  
3 ER OF THE DEPARTMENT OF TAXATION AND FINANCE AN ACCOUNT IN THE MISCELLA-  
4 NEOUS SPECIAL REVENUE FUND TO BE KNOWN AS THE "EARLY INTERVENTION  
5 PROGRAM ACCOUNT".

6 2. SUCH ACCOUNT SHALL CONSIST OF MONIES RECEIVED FROM EARLY INTER-  
7 VENTION FEES.

8 3. MONIES OF THE ACCOUNT, WHEN ALLOCATED, SHALL BE AVAILABLE TO THE  
9 DEPARTMENT OF HEALTH FOR EARLY INTERVENTION PROGRAM ADMINISTRATIVE COSTS  
10 AND FOR THE STATE SHARE FOR REIMBURSEMENT OF EARLY INTERVENTION  
11 SERVICES.

12 S 16. The opening paragraph of paragraph a of subdivision 9 of section  
13 4410 of the education law, as amended by chapter 82 of the laws of 1995,  
14 is amended to read as follows:

15 Providers of special services or programs shall apply to the commis-  
16 sioner for program approval on a form prescribed by the commissioner;  
17 such application shall include, but not be limited to, a listing of the  
18 services to be provided, the population to be served, a plan for provid-  
19 ing services in the least restrictive environment and a description of  
20 its evaluation component, if any. [Providers of early intervention  
21 services seeking approval pursuant to subdivision seven of section twen-  
22 ty-five hundred fifty-one of the public health law shall apply to the  
23 commissioner for such approval on a form prescribed by the commission-  
24 er.] The commissioner shall approve programs in accordance with regu-  
25 lations adopted for such purpose and shall periodically review such  
26 programs at which time the commissioner shall provide the municipality  
27 in which the program is located or for which the municipality bears  
28 fiscal responsibility an opportunity for comment within thirty days of  
29 the review. In collaboration with municipalities and representatives of  
30 approved programs, the commissioner shall develop procedures for  
31 conducting such reviews. Municipalities shall be allowed to participate  
32 in such departmental review process. Such review shall be conducted by  
33 individuals with appropriate experience as determined by the commission-  
34 er and shall be conducted not more than once every three years.

35 S 17. Subdivision 18 of section 4403 of the education law is REPEALED.

36 S 17-a. Subsection (c) of section 3235-a of the insurance law is  
37 REPEALED.

38 S 18. Subsection (b) of section 3235-a of the insurance law, as added  
39 by section 3 of part C of chapter 1 of the laws of 2002, is amended and  
40 subsection (d) is relettered subsection (c) to read as follows:

41 (b) Where a policy of accident and health insurance, including a  
42 contract issued pursuant to article forty-three of this chapter,  
43 provides coverage for an early intervention program service, [such  
44 coverage] PAYMENTS MADE FOR SERVICES COVERED UNDER SUCH POLICY shall not  
45 be applied against any maximum annual or lifetime monetary limits set  
46 forth in such policy or contract. Visit limitations and other terms and  
47 conditions of the policy will continue to apply to early intervention  
48 services. However, any visits used for early intervention program  
49 services shall not reduce the number of visits otherwise available under  
50 the policy or contract for such services.

51 S 19. Paragraph (b) of subdivision 3 of section 602 of the public  
52 health law, as added by chapter 901 of the laws of 1986, subparagraph 2  
53 as amended by section 5 of part B of chapter 57 of the laws of 2006, is  
54 amended to read as follows:

55 (b) The extent to which services in the plan will promote the public  
56 health, which, as defined herein, shall be enhancing or sustaining the

1 public health, protecting the public from the threats of disease and  
2 illness, or preventing premature death, and which assist in containing  
3 the costs of the health care system. Services that promote the public  
4 health are the following:

5 (1) family health, which shall include activities designed to reduce  
6 perinatal, infant and maternal mortality and morbidity and to promote  
7 the health of infants, children, adolescents, and people of childbearing  
8 age. Such activities shall include family centered perinatal care and  
9 other services appropriate to promote the birth of a healthy baby to a  
10 healthy mother, [and] services to prevent and detect health problems in  
11 infants, young children, and school age children, DENTAL HEALTH SERVICES  
12 TO CHILDREN LESS THAN TWENTY-ONE YEARS OF AGE AND, WHEN PROVIDED BY  
13 STAFF OF THE LOCAL HEALTH DEPARTMENT, EARLY INTERVENTION PROGRAM ADMIN-  
14 ISTRATION AND SERVICE COORDINATION.

15 (2) disease control, which shall include activities to control and  
16 mitigate the extent of non-infectious diseases, particularly those of a  
17 chronic, degenerative nature, and infectious diseases. Such activities  
18 shall include surveillance and epidemiological programs, and programs to  
19 detect diseases in their early stages. Specific activities shall include  
20 immunizations against infectious diseases, prevention and treatment of  
21 sexually transmissible diseases, [and] arthropod vector-borne disease  
22 prevention, AND INPATIENT TUBERCULOSIS TREATMENT.

23 (3) health education and guidance, which shall include the use of  
24 information and education to modify or strengthen practices that will  
25 promote the public health and prevent illness. Such activities shall  
26 encourage people to assume personal responsibility for maintaining and  
27 improving their own health; increase their capacity to utilize appropri-  
28 ate health services; help them better control an illness they may have;  
29 and[,] provide information to stimulate community action on social and  
30 physical environmental factors that impact on health. Special emphasis  
31 shall be given to providing health education and guidance to individuals  
32 at the same time as they are receiving a health service.

33 (4) community health assessment, which shall include an analysis of  
34 community vital statistics and mortality and morbidity indices to detect  
35 the source of illnesses and diseases, particularly those of a carcino-  
36 genic and mutagenic nature, in order to prevent in an efficient manner  
37 as many persons as possible from contracting such illnesses and diseases  
38 and to assist in addressing other problems adversely affecting the  
39 public health. Such analysis shall also include data relating to toxic  
40 sites and occupational illnesses.

41 (5) environmental health, which shall include activities that promote  
42 health and prevent illness by ensuring sanitary conditions in water  
43 supplies, food service establishments, and other permit sites, [and by  
44 abating] TAKING MEASURES TO ASSURE ENFORCEMENT OF PROPERTY OWNER'S OBLI-  
45 GATIONS TO ABATE public health nuisances, AND PERFORMING INSPECTIONS AND  
46 PROGRAMS RELATED TO RADIOACTIVE MATERIALS LICENSING AND INSPECTION,  
47 RADIATION-PRODUCING EQUIPMENT, HOUSING HYGIENE AND OCCUPANCY, INDIVIDUAL  
48 WATER SUPPLIES AND INDIVIDUAL SEWAGE SYSTEMS.

49 (6) THE PROVISION OF HOME CARE SERVICES PURSUANT TO ARTICLE THIRTY-  
50 SIX OF THIS CHAPTER, EXCEPT TO THE EXTENT SUCH SERVICES ARE PROVIDED BY  
51 A LONG TERM HOME HEALTH CARE PROGRAM, AS DEFINED IN SUCH ARTICLE THIR-  
52 TY-SIX;

53 (7) THE OPERATION OF A PUBLIC HEALTH LABORATORY OR UTILIZATION OF A  
54 CONTRACT LABORATORY FOR THE TESTING, ANALYSIS, AND REPORTING OF CLINICAL  
55 OR ENVIRONMENTAL SPECIMENS COLLECTED BY THE LOCAL HEALTH DEPARTMENT IN  
56 THE CONDUCT OF BASIC PROGRAMS OR ACTIVITIES DESCRIBED IN THIS SECTION.

1 The commissioner shall promulgate rules and regulations that define  
2 the specific activities within each of the five categories. The commis-  
3 sioner prior to promulgation of rules and regulations defining the  
4 nature of the specific activities, shall consult with the public health  
5 council and county health commissioners, boards and public health direc-  
6 tors. The list of specific activities may be altered by the commissioner  
7 as necessary and after his consultation with the council, commissioners,  
8 boards and public health directors named herein.

9 S 20. Subdivision 2 of section 605 of the public health law, as  
10 amended by section 7 of part B of chapter 57 of the laws of 2006, is  
11 amended to read as follows:

12 2. State aid reimbursement for public health services provided by a  
13 municipality under this title, shall be made as follows:

14 [(a)] if the municipality is providing some or all of the basic public  
15 health services identified in paragraph (b) of subdivision three of  
16 section six hundred two of this title, pursuant to an approved plan, at  
17 a rate of no less than thirty-six per centum of the difference between  
18 the amount of moneys expended by the municipality for public health  
19 services required by paragraph (b) of subdivision three of section six  
20 hundred two of this title during the fiscal year and the base grant  
21 provided pursuant to subdivision one of this section. No such reimburse-  
22 ment shall be provided for services if they are not approved in a plan  
23 or if no plan is submitted for such services. NO REIMBURSEMENT SHALL BE  
24 PROVIDED TO THE EXTENT THE LIMITATIONS ON REIMBURSEMENT SET FORTH IN  
25 SECTION SIX HUNDRED SIXTEEN OF THIS ARTICLE ARE APPLICABLE.

26 [(b)] if the municipality is providing other public health services  
27 within limits to be prescribed by regulation by the commissioner in  
28 addition to some or all of the public health services required in para-  
29 graph (b) of subdivision three of section six hundred two of this title,  
30 pursuant to an approved plan, at a rate of not less than thirty-six per  
31 centum of the moneys expended by the municipality for such other  
32 services. No such reimbursement shall be provided for services if they  
33 are not approved in a plan or if no plan is submitted for such  
34 services.]

35 S 21. Subdivisions 1 and 2 of section 609 of the public health law, as  
36 amended by chapter 474 of the laws of 1996, are amended and a new subdi-  
37 vision 5 is added to read as follows:

38 1. Where a laboratory shall have been or is hereafter established  
39 pursuant to article five of this chapter, the state, through the legis-  
40 lature and within the limits to be prescribed by the commissioner, shall  
41 provide aid at a per centum, determined in accordance with the  
42 provisions of [paragraph (b) of] subdivision two of section six hundred  
43 five of this article, of the actual cost of installation, equipment and  
44 maintenance of the laboratory or laboratories. Such cost shall be the  
45 excess, if any, of such expenditures over available revenues of all  
46 types, including adequate and reasonable fees, derived from or attribut-  
47 able to the performance of laboratory services.

48 2. Where a county or city provides or shall have provided for labora-  
49 tory service by contracting with an established laboratory, with the  
50 approval of the commissioner, it shall be entitled to state aid at a per  
51 centum, determined in accordance with the provisions of [paragraph (b)  
52 of] subdivision two of section six hundred five of this article, of the  
53 cost of the contracts. State aid shall be available for a district labo-  
54 ratory supply station maintained and operated in accordance with article  
55 five of this chapter in the same manner and to the same extent as for  
56 laboratory services.

1 5. NO REIMBURSEMENT SHALL BE PROVIDED TO THE EXTENT THE LIMITATIONS ON  
2 REIMBURSEMENT SET FORTH IN SECTION SIX HUNDRED SIXTEEN OF THIS ARTICLE  
3 ARE APPLICABLE.

4 S 22. Subdivision 1 of section 616 of the public health law, as  
5 amended by section 9 of part B of chapter 57 of the laws of 2006, is  
6 amended and two new subdivisions 3 and 4 are added to read as follows:

7 1. The total amount of state aid provided pursuant to this article  
8 shall be limited to the amount of the annual appropriation made by the  
9 legislature. In no event, however, shall such state aid be less than an  
10 amount to provide the full base grant and, as otherwise provided by  
11 [paragraph (a) of] subdivision two of section six hundred five of this  
12 article, at least thirty-six per centum of the difference between the  
13 amount of moneys expended by the municipality for public health services  
14 required by paragraph (b) of subdivision three of section six hundred  
15 two of this article during the fiscal year and the base grant provided  
16 pursuant to subdivision one of section six hundred five of this article.  
17 [A municipality shall also receive not less than thirty-six per centum  
18 of the moneys expended for other public health services pursuant to  
19 paragraph (b) of subdivision two of section six hundred five of this  
20 article, and, at least the minimum amount so required for the services  
21 identified in title two of this article.]

22 3. NOTWITHSTANDING THE PROVISION OF SECTION SIX HUNDRED NINE OF THIS  
23 ARTICLE, NO PAYMENTS SHALL BE MADE FROM MONEYS APPROPRIATED FOR THE  
24 PURPOSE OF THIS ARTICLE FOR LABORATORY EXPENSES OR SERVICES, UNLESS SUCH  
25 SERVICES ARE DIRECTLY RELATED TO THE OPERATION OF A PUBLIC HEALTH LABO-  
26 RATORY, OR UTILIZATION OF A CONTRACT LABORATORY, FOR THE TESTING, ANALY-  
27 SIS, AND REPORTING OF CLINICAL OR ENVIRONMENTAL SPECIMENS COLLECTED BY  
28 THE LOCAL HEALTH DEPARTMENT IN THE CONDUCT OF BASIC PROGRAMS OR ACTIV-  
29 ITIES DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION SIX  
30 HUNDRED TWO OF THIS ARTICLE.

31 4. PAYMENTS SHALL BE MADE FROM MONEYS APPROPRIATED FOR THE PURPOSE OF  
32 THIS ARTICLE ONLY FOR SERVICES APPROVED BY THE DEPARTMENT AND RELATED TO  
33 SERVICES DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION SIX  
34 HUNDRED TWO OF THIS ARTICLE. NO PAYMENT SHALL BE MADE FROM MONEYS  
35 APPROPRIATED FOR THE PURPOSE OF THIS ARTICLE FOR HOSPICE SERVICES, EMER-  
36 GENCY MEDICAL SERVICES, MEDICAL EXAMINER PROGRAM, LONG-TERM HOME HEALTH  
37 CARE, PRE-SCHOOL ADMINISTRATIVE SERVICES, OR PRE-SCHOOL EDUCATION  
38 SERVICES PROVIDED TO CHILDREN THREE TO FIVE YEARS OF AGE, EXCEPT AS  
39 EXPRESSLY PROVIDED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION SIX  
40 HUNDRED TWO OF THIS ARTICLE.

41 S 23. Paragraphs (a) and (f) of subdivision 4 of section 576 of the  
42 public health law, as amended by chapter 436 of the laws of 1993, are  
43 amended and a new paragraph (h) is added to read as follows:

44 (a) The department may adopt and amend rules and regulations to effec-  
45 tuate the provisions and purposes of this title. [Such] FOR PERIODS  
46 PRIOR TO JULY FIRST, TWO THOUSAND NINE, SUCH rules and regulations shall  
47 establish inspection and reference fees for clinical laboratories and  
48 blood banks in amounts not exceeding the cost of the inspection and  
49 reference program for clinical laboratories and blood banks and shall be  
50 subject to the approval of the director of the budget.

51 (f) The commissioner may waive all or any part of such fee charges OR  
52 ASSESSMENT for clinical laboratories or blood banks operated by local  
53 governments and for nonprofit clinical laboratories or blood banks  
54 performing examinations and analyses or providing services under  
55 contract with the state or its local governments.

1 (H) NOTWITHSTANDING PARAGRAPHS (B) AND (E) OF THIS SUBDIVISION OR ANY  
2 OTHER CONTRARY PROVISION OF LAW, FOR PERIODS ON AND AFTER JULY FIRST,  
3 TWO THOUSAND NINE, THE DEPARTMENT SHALL CHARGE CLINICAL LABORATORIES AND  
4 BLOOD BANKS AN ANNUAL ASSESSMENT ON THE GROSS RECEIPTS RECEIVED BY SUCH  
5 CLINICAL LABORATORIES AND BLOOD BANKS FOR ALL TESTS OR EXAMINATIONS OF  
6 SPECIMENS PERFORMED PURSUANT TO A PERMIT ISSUED IN ACCORDANCE WITH  
7 SECTION FIVE HUNDRED SEVENTY-FIVE OF THIS TITLE. THE ANNUAL ASSESSMENT  
8 TO BE CHARGED FOR JULY FIRST, TWO THOUSAND NINE THROUGH JUNE THIRTIETH,  
9 TWO THOUSAND TEN SHALL BE ONE PERCENT OF SUCH GROSS RECEIPTS FOR THE  
10 PRECEDING CALENDAR YEAR, AND FOR JULY FIRST, TWO THOUSAND TEN THROUGH  
11 JUNE THIRTIETH, TWO THOUSAND ELEVEN, ONE PERCENT OF SUCH GROSS RECEIPTS  
12 FOR THE PRECEDING CALENDAR YEAR. THE ANNUAL ASSESSMENT TO BE CHARGED FOR  
13 JULY FIRST, TWO THOUSAND ELEVEN THROUGH JUNE THIRTIETH, TWO THOUSAND  
14 TWELVE SHALL BE NINE-TENTHS OF ONE PERCENT OF SUCH GROSS RECEIPTS FOR  
15 THE PRECEDING CALENDAR YEAR. THE ANNUAL ASSESSMENT TO BE CHARGED FOR  
16 JULY FIRST, TWO THOUSAND TWELVE THROUGH JUNE THIRTIETH, TWO THOUSAND  
17 THIRTEEN AND FOR EVERY YEAR THEREAFTER SHALL BE EIGHT-TENTHS OF ONE  
18 PERCENT OF SUCH GROSS RECEIPTS FOR THE PRECEDING CALENDAR YEAR.

19 S 24. Section 4364 of the public health law is amended by adding a  
20 new subdivision 6 to read as follows:

21 6. (A) FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, THE  
22 DEPARTMENT SHALL CHARGE TISSUE BANKS AND STORAGE FACILITIES AN ANNUAL  
23 ASSESSMENT IN THE AMOUNT OF ONE PERCENT OF THE GROSS RECEIPTS RECEIVED  
24 FOR THE PRECEDING CALENDAR YEAR BY SUCH TISSUE BANKS AND STORAGE FACILI-  
25 TIES FOR ALL ACTIVITIES PERFORMED PURSUANT TO A LICENSE ISSUED IN  
26 ACCORDANCE WITH THIS SECTION.

27 (B) EACH TISSUE BANK OR STORAGE FACILITY SHALL SUBMIT TO THE DEPART-  
28 MENT, IN SUCH FORM AND AT SUCH TIMES AS THE DEPARTMENT MAY REQUIRE, A  
29 REPORT CONTAINING INFORMATION REGARDING ITS GROSS ANNUAL RECEIPTS FROM  
30 THE PERFORMANCE OF ALL ACTIVITIES PURSUANT TO A LICENSE ISSUED BY THE  
31 DEPARTMENT PURSUANT TO THIS SECTION. THE DEPARTMENT MAY REQUIRE ADDI-  
32 TIONAL INFORMATION AND AUDIT AND REVIEW SUCH INFORMATION TO VERIFY ITS  
33 ACCURACY.

34 S 25. Subdivision 8 of section 6524 of the education law, as amended  
35 by section 1 of part G of chapter 57 of the laws of 2008, is amended to  
36 read as follows:

37 (8) Fees: pay a fee of two hundred sixty dollars to the department for  
38 admission to a department conducted examination and for an initial  
39 license, a fee of one hundred seventy-five dollars for each reexamina-  
40 tion, a fee of one hundred thirty-five dollars for an initial license  
41 for persons not requiring admission to a department conducted examina-  
42 tion, a fee of five hundred seventy dollars for any biennial registra-  
43 tion period commencing August first, nineteen hundred ninety-six THROUGH  
44 FEBRUARY TWENTY-EIGHTH, TWO THOUSAND NINE AND A FEE OF NINE HUNDRED  
45 SEVENTY DOLLARS FOR ANY BIENNIAL REGISTRATION PERIOD COMMENCING MARCH  
46 FIRST, TWO THOUSAND NINE and thereafter. The comptroller is hereby  
47 authorized and directed to deposit the fee for each biennial registra-  
48 tion period into the special revenue funds-other entitled "professional  
49 medical conduct account" for the purpose of offsetting any expenditures  
50 made pursuant to section two hundred thirty of the public health law in  
51 relation to the operation of the office of professional medical conduct  
52 within the department of health, provided that for each biennial regis-  
53 tration fee paid by the licensee using a credit card, the amount of the  
54 administrative fee incurred by the department in processing such credit  
55 card transaction shall be deposited by the comptroller in the office of  
56 the professions account established by section ninety-seven-nnn of the



1 state finance law. The amount of the funds expended as a result of such  
2 increase shall not be greater than such fees collected over the regis-  
3 tration period.

4 S 26. Subdivisions 9 and 10 of section 225 of the public health law  
5 are REPEALED.

6 S 27. Subdivision 4 of section 1352 of the public health law is  
7 REPEALED.

8 S 28. Paragraph (m) of subdivision 1 of section 201 of the public  
9 health law, as relettered by chapter 571 of the laws of 1976, is amended  
10 to read as follows:

11 (m) supervise and regulate the sanitary aspects of camps, hotels,  
12 boarding houses, public eating and drinking establishments, swimming  
13 pools, bathing establishments and other businesses and activities  
14 affecting public health AND RESPOND TO COMPLAINTS RELATING TO HOTELS,  
15 BOARDING HOUSES AND TEMPORARY RESIDENCES AS DEFINED IN THE STATE SANI-  
16 TARY CODE AND INSPECT SUCH FACILITIES WHEN OTHERWISE NECESSARY;

17 S 29. Paragraphs (a) and (c) of subdivision 2 and subdivision 3 of  
18 section 1370-a of the public health law, paragraphs (a) and (c) of  
19 subdivision 2 as added by chapter 485 of the laws of 1992 and subdivi-  
20 sion 3 as added by section 23 of part B of chapter 58 of the laws of  
21 2007, are amended to read as follows:

22 (a) promulgate and enforce regulations for screening children and  
23 pregnant women, INCLUDING REQUIREMENTS FOR BLOOD LEAD TESTING, for lead  
24 poisoning, and for follow up of children and pregnant women who have  
25 elevated blood lead levels;

26 (c) establish a statewide registry of LEAD LEVELS OF children [with  
27 elevated lead levels] provided such information is [monitored] MAIN-  
28 TAINED as confidential except for (i) disclosure for medical treatment  
29 purposes; [and] (ii) disclosure of non-identifying epidemiological data;  
30 AND (III) DISCLOSURE OF INFORMATION FROM SUCH REGISTRY TO THE STATEWIDE  
31 IMMUNIZATION INFORMATION SYSTEM ESTABLISHED BY SECTION TWENTY-ONE  
32 HUNDRED SIXTY-EIGHT OF THIS CHAPTER; and

33 3. The department shall identify and designate [a zip code in certain  
34 counties] AREAS IN THE STATE with significant concentrations of children  
35 identified with elevated blood lead levels AS COMMUNITIES OF CONCERN for  
36 purposes of implementing a [pilot] CHILDHOOD LEAD POISONING PRIMARY  
37 PREVENTION program [to work in cooperation with local health officials  
38 to develop a primary prevention plan for each such zip code identified  
39 to prevent exposure to lead-based paint], AND MAY, WITHIN AMOUNTS APPRO-  
40 PRIATED, PROVIDE GRANTS TO IMPLEMENT APPROVED PROGRAMS. THE COMMISSIONER  
41 OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT, A COUNTY HEALTH  
42 DIRECTOR OR A PUBLIC HEALTH DIRECTOR AND, IN THE CITY OF NEW YORK, THE  
43 COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL  
44 HYGIENE SHALL DEVELOP AND IMPLEMENT A CHILDHOOD LEAD POISONING PRIMARY  
45 PREVENTION PROGRAM TO PREVENT EXPOSURE TO LEAD-BASED PAINT HAZARDS FOR  
46 THE COMMUNITIES OF CONCERN IN THEIR JURISDICTION. THE DEPARTMENT SHALL  
47 PROVIDE FUNDING TO THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL  
48 HYGIENE OR COUNTY HEALTH DEPARTMENTS TO IMPLEMENT THE APPROVED WORK PLAN  
49 FOR A CHILDHOOD LEAD POISONING PRIMARY PREVENTION PROGRAM. THE WORK PLAN  
50 AND BUDGET, WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT,  
51 SHALL INCLUDE, BUT NOT BE LIMITED TO: (A) IDENTIFICATION AND DESIGNATION  
52 OF AN AREA OR AREAS OF HIGH RISK WITHIN COMMUNITIES OF CONCERN; (B) A  
53 HOUSING INSPECTION PROGRAM THAT INCLUDES PRIORITIZATION AND INSPECTION  
54 OF AREAS OF HIGH RISK FOR LEAD HAZARDS, CORRECTION OF IDENTIFIED LEAD  
55 HAZARDS USING EFFECTIVE LEAD-SAFE WORK PRACTICES AND, APPROPRIATE OVER-  
56 SIGHT OF REMEDIATION WORK; (C) PARTNERSHIPS WITH OTHER COUNTY OR MUNICI-

1 PAL AGENCIES OR COMMUNITY-BASED ORGANIZATIONS TO BUILD COMMUNITY AWARE-  
2 NESS OF THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION PROGRAM AND  
3 ACTIVITIES, COORDINATE REFERRALS FOR SERVICES, AND SUPPORT REMEDIATION  
4 OF HOUSING THAT CONTAINS LEAD HAZARDS AND (D) A MECHANISM TO PROVIDE  
5 EDUCATION AND REFERRAL FOR LEAD TESTING FOR CHILDREN AND PREGNANT WOMEN  
6 TO FAMILIES WHO ARE ENCOUNTERED IN THE COURSE OF CONDUCTING PRIMARY  
7 PREVENTION INSPECTIONS AND OTHER OUTREACH ACTIVITIES. THE COMMISSIONER  
8 OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT, A COUNTY HEALTH  
9 DIRECTOR OR A PUBLIC HEALTH DIRECTOR AND, IN THE CITY OF NEW YORK, THE  
10 COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL  
11 HYGIENE SHALL ALSO ENTER INTO AN AGREEMENT OR SUBCONTRACT WITH A MUNICI-  
12 PAL GOVERNMENT REGARDING INSPECTION OF THE PAINT CONDITIONS IN DWELLINGS  
13 BUILT PRIOR TO NINETEEN HUNDRED SEVENTY-EIGHT FOR THE AREA DEFINED AS  
14 THE COMMUNITY OF CONCERN. A PORTION OF GRANT FUNDING RECEIVED TO  
15 SUPPORT THE LOCAL PRIMARY PREVENTION PLAN MAY BE USED TO REDUCE BARRIERS  
16 TO LEAD TESTING OF CHILDREN AND PREGNANT WOMEN WITHIN THE COMMUNITIES OF  
17 CONCERN, INCLUDING THE PURCHASE OF LEAD TESTING DEVICES AND SUPPLIES  
18 WHEN THE NEED FOR SUCH RESOURCES IS IDENTIFIED WITHIN THE COMMUNITY. The  
19 commissioner, THE COMMISSIONER OF HEALTH OF A COUNTY OR PART-COUNTY  
20 HEALTH DISTRICT, A COUNTY HEALTH DIRECTOR OR A PUBLIC HEALTH DIRECTOR  
21 AND, IN THE CITY OF NEW YORK, THE COMMISSIONER OF THE NEW YORK CITY  
22 DEPARTMENT OF HEALTH AND MENTAL HYGIENE is authorized to enter into  
23 agreements, CONTRACTS, SUBCONTRACTS or memoranda of understanding with,  
24 and provide technical and other resources to, local health officials,  
25 local building code officials, real property owners, and community  
26 organizations in such areas to create and implement policies, education  
27 and other forms of community outreach to address lead exposure,  
28 detection and risk reduction. [Such primary] PRIMARY prevention plans  
29 shall target children less than six years of age living in the highest  
30 risk housing in the [zip code] COMMUNITIES OF CONCERN identified. [Such  
31 primary prevention] THE plans shall also take into consideration the  
32 extent the weatherization assistance [or] PROGRAM AND other such  
33 programs can be used in [collaboration] CONJUNCTION with lead-based  
34 paint hazard risk reduction.

35 S 30. Subdivision 1 and paragraph (i) of subdivision 3 of section  
36 1370-b of the public health law, as added by chapter 485 of the laws of  
37 1992, is amended to read as follows:

38 1. The New York state advisory council on lead poisoning prevention is  
39 hereby established in the department, to consist of the following, or  
40 their designees: the commissioner; the commissioner of labor; the  
41 commissioner of environmental conservation; the commissioner of housing  
42 and community renewal; the commissioner of [social services] CHILDREN  
43 AND FAMILY SERVICES; THE COMMISSIONER OF TEMPORARY AND DISABILITY  
44 ASSISTANCE; THE SECRETARY OF STATE; THE SUPERINTENDENT OF INSURANCE; and  
45 fifteen public members appointed by the governor. The public members  
46 shall have a demonstrated expertise or interest in lead poisoning  
47 prevention and at least one public member shall be representative of  
48 each of the following: local government; community groups; labor unions;  
49 real estate; industry; parents; educators; local housing authorities;  
50 child health advocates; environmental groups; professional medical  
51 organizations and hospitals. The public members of the council shall  
52 have fixed terms of three years; except that five of the initial  
53 appointments shall be for two years and five shall be for one year. The  
54 council shall be chaired by the commissioner or his or her designee.

55 (i) To report on or before [January] DECEMBER first of each year to  
56 the governor and the legislature concerning the PREVIOUS YEAR'S develop-

ment and implementation of the statewide plan and operation of the program, together with recommendations it deems necessary AND THE MOST CURRENTLY AVAILABLE LEAD SURVEILLANCE MEASURES, INCLUDING THE ACTUAL NUMBER AND ESTIMATED PERCENTAGE OF CHILDREN TESTED FOR LEAD IN ACCORDANCE WITH NEW YORK STATE REGULATIONS, INCLUDING AGE-SPECIFIC TESTING REQUIREMENTS, AND THE ACTUAL NUMBER AND ESTIMATED PERCENTAGE OF CHILDREN IDENTIFIED WITH ELEVATED BLOOD LEAD LEVELS. SUCH REPORT SHALL BE MADE AVAILABLE ON THE DEPARTMENT'S WEBSITE.

S 31. Subdivision 3 of section 1370-e of the public health law, as added by chapter 485 of the laws of 1992, is amended to read as follows:

3. Whenever an analysis of a clinical specimen for lead is performed by a laboratory OR A PHYSICIAN OR AUTHORIZED PRACTITIONER, the director of such laboratory OR SUCH PHYSICIAN OR AUTHORIZED PRACTITIONER shall, within such period specified by the commissioner report the results and any related information in connection therewith to the local and state health officer to whom a physician or authorized practitioner is required to report such cases pursuant to this section.

S 32. Section 2168 of the public health law, as added by chapter 544 of the laws of 2006, is amended to read as follows:

S 2168. Statewide immunization [registry] INFORMATION SYSTEM. 1. The department is hereby directed to establish a statewide automated and electronic immunization [registry] INFORMATION SYSTEM that will serve, and shall be administered consistent with, the following public health purposes:

(a) collect reports of immunizations and thus reduce the incidence of illness, disability and death due to vaccine preventable diseases AND COLLECT RESULTS OF BLOOD LEAD ANALYSES PERFORMED BY PHYSICIAN OFFICE LABORATORIES TO PROVIDE TO THE STATEWIDE REGISTRY OF LEAD LEVELS OF CHILDREN ESTABLISHED PURSUANT TO SECTION THIRTEEN HUNDRED SEVENTY-A OF THIS CHAPTER;

(b) establish the public health infrastructure necessary to obtain, collect, preserve, and disclose information relating to vaccine preventable disease as it may promote the health and well-being of all children in this state;

(c) make available to an individual, or parents, guardians, or other person in a custodial relation to a child or, to local health districts, local social services districts responsible for the care and custody of children, health care providers and their designees, schools, WIC PROGRAMS, and [third party payers] HEALTH INSURERS the immunization status of children; and

(d) appropriately protecting the confidentiality of individual identifying information and the privacy of persons included in the [registry] STATEWIDE IMMUNIZATION INFORMATION SYSTEM and their families.

2. For the purposes of this section:

(a) The term "authorized user" shall mean any person or entity authorized to provide information to or to receive information from the STATEWIDE immunization [registry] INFORMATION SYSTEM and shall include health care providers and their designees, as defined in paragraph (d) of this subdivision, schools as defined in paragraph a of subdivision one of section twenty-one hundred sixty-four of this title, [health maintenance organizations certified under article forty-four of this chapter or article forty-three of the insurance law,] HEALTH INSURERS AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVISION, local health districts as defined by paragraph (c) of subdivision one of section two of this chapter, [and] local social services districts and the office of children and family services with regard to children in their legal custody, AND WIC

PROGRAMS AS DEFINED IN PARAGRAPH (G) OF THIS SUBDIVISION. An authorized user may be located outside New York state. An entity other than a local health district shall be an authorized user only with respect to a person seeking or receiving a health care service from the health care provider, a person enrolled or seeking to be enrolled in the school, a person insured by the health [maintenance organization] INSURER, [or] a person in the custody of the local social services district or the office of children and family services, OR A PERSON SEEKING OR RECEIVING SERVICES THROUGH WIC PROGRAMS, as the case may be.

(b) The term "STATEWIDE immunization [registry] INFORMATION SYSTEM" OR "SYSTEM" shall mean a statewide-computerized database maintained by the department capable of collecting, storing, and disclosing the electronic and paper records of vaccinations received by persons under nineteen years of age.

(c) The term "citywide immunization registry" shall mean the computerized database maintained by the city of New York department of health and mental hygiene capable of collecting, storing, and disclosing the electronic and paper records of vaccinations received by persons [under] LESS THAN nineteen years of age. THE TERM "CITYWIDE IMMUNIZATION REGISTRY" SHALL NOT INCLUDE THE CHILDHOOD BLOOD LEAD REGISTRY ESTABLISHED PURSUANT TO THE HEALTH CODE OF THE CITY OF NEW YORK. For the purposes of this section the term New York city department of health and mental hygiene shall mean such agency or any successor agency responsible for the citywide immunization registry.

(d) The term "health care provider" shall mean any person authorized by law to order [or administer] an immunization OR ANALYSIS OF A BLOOD SAMPLE FOR LEAD or any health care facility licensed under article twenty-eight of this chapter or any certified home health agency established under section thirty-six hundred six of this chapter; with respect to a person seeking or receiving a health care service from the health care provider.

(e) For purposes of this section a school is a public health authority, as defined in section 164.501 of part 45 of the federal code of rules, responsible for screening the immunization status of each child pursuant to section twenty-one hundred sixty-four of this article.

(F) THE TERM "HEALTH INSURER" SHALL MEAN HEALTH MAINTENANCE ORGANIZATIONS CERTIFIED UNDER ARTICLE FORTY-FOUR OF THIS CHAPTER, HEALTH SERVICE CORPORATIONS LICENSED PURSUANT TO ARTICLE FORTY-THREE OF THE INSURANCE LAW, HEALTH INSURANCE COMPANIES SUBJECT TO ARTICLE THIRTY-TWO OF THE INSURANCE LAW WHICH OFFER PREFERRED PROVIDER PRODUCTS, CORPORATIONS SUBJECT TO ARTICLE FORTY-THREE OF THE INSURANCE LAW WHICH OFFER PREFERRED PROVIDER PRODUCTS, MUNICIPAL COOPERATIVE HEALTH BENEFIT PLANS CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE LAW WHICH OFFER PREFERRED PROVIDER PRODUCTS, AND PREFERRED PROVIDER ORGANIZATIONS AS DEFINED IN SECTION THREE HUNDRED FIFTY-TWO OF THE WORKERS' COMPENSATION LAW.

(G) FOR PURPOSES OF THIS SECTION A WIC PROGRAM IS A STATE OR LOCAL AGENCY, AS DESCRIBED PURSUANT TO SECTION 1786 OF TITLE 42 OF THE UNITED STATES CODE.

(H) THE TERM "PHYSICIAN OFFICE LABORATORY" SHALL MEAN A LABORATORY OPERATED BY A HEALTH CARE PROVIDER PURSUANT TO SUBDIVISION ONE OF SECTION FIVE HUNDRED SEVENTY-NINE OF THIS CHAPTER THAT IS CERTIFIED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES UNDER REGULATIONS IMPLEMENTING THE FEDERAL CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 (CLIA).

1 3. (a) Any health care provider who administers any vaccine to a  
2 person [under] LESS THAN nineteen years of age OR, ON OR AFTER SEPTEMBER  
3 FIRST, TWO THOUSAND NINE, CONDUCTS A BLOOD LEAD ANALYSIS OF A SAMPLE  
4 OBTAINED FROM A PERSON UNDER EIGHTEEN YEARS OF AGE IN ACCORDANCE WITH  
5 PARAGRAPH (H) OF SUBDIVISION TWO OF THIS SECTION; and immunizations  
6 received by a person [under] LESS THAN nineteen years of age in the past  
7 if not already reported, shall report all such immunizations AND THE  
8 RESULTS OF ANY BLOOD LEAD ANALYSIS to the department in a format  
9 prescribed by the commissioner within fourteen days of administration OF  
10 SUCH IMMUNIZATIONS OR OF OBTAINING THE RESULTS OF ANY SUCH BLOOD LEAD  
11 ANALYSIS. Health care providers administering immunizations to persons  
12 [under] LESS THAN nineteen years of age in the city of New York shall  
13 report, in a format prescribed by the city of New York commissioner of  
14 health and mental hygiene, all such immunizations to the citywide immun-  
15 ization registry. The commissioner, and for the city of New York the  
16 commissioner of health and mental hygiene, shall have the discretion to  
17 accept for inclusion in the [registry] SYSTEM information regarding  
18 immunizations administered to individuals nineteen years of age or older  
19 with the express written consent of the vaccine. HEALTH CARE PROVIDERS  
20 WHO CONDUCT A BLOOD LEAD ANALYSIS ON A PERSON UNDER EIGHTEEN YEARS OF  
21 AGE AND WHO REPORT THE RESULTS OF SUCH ANALYSIS TO THE CITY OF NEW YORK  
22 COMMISSIONER OF HEALTH AND MENTAL HYGIENE PURSUANT TO NEW YORK CITY  
23 REPORTING REQUIREMENTS SHALL BE EXEMPT FROM THIS REQUIREMENT FOR REPORT-  
24 ING BLOOD LEAD ANALYSIS RESULTS TO THE STATE COMMISSIONER OF HEALTH;  
25 PROVIDED, HOWEVER, BLOOD LEAD ANALYSIS DATA COLLECTED FROM PHYSICIAN  
26 OFFICE LABORATORIES BY THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE OF  
27 THE CITY OF NEW YORK PURSUANT TO THE HEALTH CODE OF THE CITY OF NEW YORK  
28 SHALL BE PROVIDED TO THE DEPARTMENT IN A FORMAT PRESCRIBED BY THE  
29 COMMISSIONER.

30 (b) The STATEWIDE immunization [registry] INFORMATION SYSTEM shall  
31 provide a method for health care providers to determine when the regis-  
32 trant is due or late for a recommended immunization and shall serve as a  
33 means for authorized users to receive prompt and accurate information,  
34 as reported to the [registry] SYSTEM, about the vaccines that the regis-  
35 trant has received.

36 4. (a) All information maintained by the department, or in the case of  
37 the citywide immunization registry, the city of New York under the  
38 provisions of this section shall be confidential except as necessary to  
39 carry out the provisions of this section and shall not be released for  
40 any other purpose.

41 (b) The department and for the city of New York the department of  
42 health and mental hygiene may also disclose or provide such information  
43 to an authorized user when (i) such person or agency provides sufficient  
44 identifying information satisfactory to the department to identify such  
45 registrant and (ii) such disclosure or provision of information is in  
46 the best interests of the registrant or his or her family, or will  
47 contribute to the protection of the public health.

48 (c) Any data collected by the department may be included in the STATE-  
49 WIDE immunization [registry] INFORMATION SYSTEM AND THE STATEWIDE REGIS-  
50 TRY OF LEAD LEVELS OF CHILDREN if collection, storage and access of such  
51 data is otherwise authorized. Such data may be disclosed to the STATE-  
52 WIDE immunization [registry] INFORMATION SYSTEM only if provided for in  
53 statute and regulation, and shall be subject to any provisions in such  
54 statute or regulation limiting the use or redisclosure of the data.  
55 Nothing contained in this paragraph shall permit inclusion of data in  
56 the STATEWIDE immunization [registry] INFORMATION SYSTEM if that data

could not otherwise be accessed or disclosed in the absence of the [registry] SYSTEM. For the city of New York the commissioner of health and mental hygiene may include data collected in the citywide IMMUNIZATION registry as provided in this paragraph.

(d) A person, institution or agency to whom such immunization [registry] information is furnished or to whom, access to records or information has been given, shall not divulge any part thereof so as to disclose the identity of such person to whom such information or record relates, except insofar as such disclosure is necessary for the best interests of the person or other persons, consistent with the purposes of this section.

5. (a) All health care providers and their designees, except for providers reporting to the citywide immunization registry, shall submit to the commissioner information about any vaccinee [under] LESS THAN nineteen years of age and about each vaccination given after January first, two thousand eight. The information provided to the [registry] SYSTEM or the citywide immunization registry shall include the national immunization program data elements and other elements required by the commissioner. For the city of New York the commissioner of health and mental hygiene may require additional elements with prior notice to the commissioner of any changes.

(b) In addition to the immunization administration information required by this section, the operation of any immunization registry established under chapter five hundred twenty-one of the laws of nineteen hundred ninety-four, section 11.04 of title twenty-four of volume eight of the compilation of the rules of the city of New York and administered by a local health district collecting information from health care providers about vaccinations previously administered to a vaccinee prior to the effective date of this section shall provide the commissioner access to such information.

(c) All health care providers shall provide the department or, as appropriate, the city of New York with additional or clarifying information upon request reasonably related to the purposes of this section.

(d) Notwithstanding the above, submission of incomplete information shall not prohibit entry of incomplete but viable data into the [registry database] STATEWIDE IMMUNIZATION INFORMATION SYSTEM.

(e) The commissioner of the department of health and mental hygiene for the city of New York shall implement the requirements of this subdivision.

(f) The immunization status of children exempt from immunizations pursuant to subdivision eight and a parent claiming exemption pursuant to subdivision nine of section twenty-one hundred sixty-four of this title shall be reported by the health care provider.

6. In the city of New York, the commissioner of the department of health and mental hygiene of the city of New York may maintain its existing registry consistent with the requirements of this section and shall provide information to the commissioner and to authorized users.

7. Each parent or legal guardian of a newborn infant or a child newly enrolled in the [registry] STATEWIDE IMMUNIZATION INFORMATION SYSTEM shall receive information, developed by the department, describing the [registry] enrollment process and how to review and correct information and obtain a copy of the child's immunization record. The city of New York will be responsible for providing information about the processes for enrollment and access to the citywide immunization registry by a parent or legal guardian of a newborn infant or newly enrolled child residing in the city of New York.

1 8. Access and use of identifiable registrant information shall be  
2 limited to authorized users consistent with this subdivision and the  
3 purposes of this section. (a) The commissioner shall provide a method by  
4 which authorized users apply for access to the [registry] SYSTEM. For  
5 the city of New York, the commissioner of health and mental hygiene  
6 shall provide a method by which authorized users apply for access to the  
7 CITYWIDE IMMUNIZATION registry.

8 (b) (i) The commissioner may use the STATEWIDE immunization [registry]  
9 INFORMATION SYSTEM AND THE BLOOD LEAD INFORMATION IN SUCH SYSTEM for  
10 purposes of outreach, quality improvement and [vaccine] accountability,  
11 research, epidemiological studies and disease control, AND TO OBTAIN  
12 BLOOD LEAD TEST RESULTS FROM PHYSICIAN OFFICE LABORATORIES FOR THE  
13 STATEWIDE REGISTRY OF LEAD LEVELS OF CHILDREN ESTABLISHED PURSUANT TO  
14 SUBDIVISION TWO OF SECTION THIRTEEN HUNDRED SEVENTY-A OF THIS CHAPTER;  
15 (ii) the commissioner of health and mental hygiene for the city of New  
16 York may use the immunization registry AND THE BLOOD LEAD INFORMATION IN  
17 SUCH SYSTEM for purposes of outreach, quality improvement and [vaccine]  
18 accountability, research, epidemiological studies and disease control;  
19 (iii) local health departments shall have access to the immunization  
20 [registry] INFORMATION SYSTEM AND THE BLOOD LEAD INFORMATION IN SUCH  
21 SYSTEM for purposes of outreach, quality improvement and [vaccine]  
22 accountability, epidemiological studies and disease control within their  
23 county; and

24 (c) health care providers and their designees shall have access to the  
25 STATEWIDE immunization [registry] INFORMATION SYSTEM AND THE BLOOD LEAD  
26 INFORMATION IN SUCH SYSTEM only for purposes of submission of informa-  
27 tion about vaccinations received by a specific registrant, determination  
28 of the immunization status of a specific registrant, DETERMINATION OF  
29 THE BLOOD LEAD TESTING STATUS OF A SPECIFIC REGISTRANT, SUBMISSION OF  
30 THE RESULTS FROM A BLOOD LEAD ANALYSIS OF A SAMPLE OBTAINED FROM A  
31 SPECIFIC REGISTRANT IN ACCORDANCE WITH PARAGRAPH (H) OF SUBDIVISION TWO  
32 OF THIS SECTION, review of practice coverage, generation of reminder  
33 notices, quality improvement and [vaccine] accountability and printing a  
34 copy of the immunization OR LEAD TESTING record for the registrant's  
35 medical record, for the registrant's parent or guardian, or other person  
36 in parental or custodial relation to a child, or for a registrant upon  
37 reaching eighteen years of age.

38 (d) The following authorized users shall have access to the STATEWIDE  
39 immunization [registry] INFORMATION SYSTEM AND THE BLOOD LEAD INFORMA-  
40 TION IN SUCH SYSTEM and the citywide immunization registry for the  
41 purposes stated in this paragraph: (i) schools for verifying IMMUNIZA-  
42 TION STATUS FOR eligibility for admission; (ii) health [maintenance  
43 organizations] INSURERS for performing quality assurance, accountability  
44 and outreach, relating to enrollees covered by the health [maintenance  
45 organization] INSURER; (iii) commissioners of local social services  
46 districts with regard to a child in his/her legal custody; [and] (iv)  
47 the commissioner of the office of children and family services with  
48 regard to children in their legal custody, and for quality assurance and  
49 accountability of commissioners of local social services districts, care  
50 and treatment of children in the custody of commissioners of local  
51 social services districts; AND (V) WIC PROGRAMS FOR THE PURPOSES OF  
52 VERIFYING IMMUNIZATION AND LEAD TESTING STATUS FOR THOSE SEEKING OR  
53 RECEIVING SERVICES.

54 9. The commissioner may judge the legitimacy of any request for immun-  
55 ization [registry] SYSTEM information and may refuse access to the  
56 STATEWIDE immunization [registry] INFORMATION SYSTEM based on the

1 authenticity of the request, credibility of the authorized user or other  
2 reasons as provided for in regulation. For the city of New York the  
3 commissioner of health and mental hygiene may judge the legitimacy of  
4 requests for access to the citywide immunization registry and refuse  
5 access to the immunization registry based on the authenticity of the  
6 request, credibility of the authorized user or other reasons as provided  
7 for in regulation.

8 10. The person to whom any immunization record relates, or his or her  
9 parent, or guardian, or other person in parental or custodial relation  
10 to such person may request a copy of an immunization OR LEAD TESTING  
11 record from the registrant's healthcare provider, the STATEWIDE immuni-  
12 zation [registry] INFORMATION SYSTEM or the citywide immunization regis-  
13 try according to procedures established by the commissioner or, in the  
14 case of the citywide immunization registry, by the city of New York  
15 commissioner of the department of health and mental hygiene.

16 11. The commissioner, OR IN THE CITY OF NEW YORK, THE COMMISSIONER OF  
17 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, may provide registrant  
18 specific immunization records to other state registries pursuant to a  
19 written agreement requiring that the [foreign] OUT-OF-STATE registry  
20 conform to national standards for maintaining the integrity of the data  
21 and will not be used for purposes inconsistent with the provisions of  
22 this section.

23 12. Information that would be provided upon the enrollment in the  
24 [registry] STATEWIDE IMMUNIZATION INFORMATION SYSTEM of a child being  
25 vaccinated, from birth records of all infants born in New York state on  
26 or after January first, two thousand four shall be entered into the  
27 STATEWIDE immunization [registry] INFORMATION SYSTEM, except in the city  
28 of New York, where birth record information shall be entered into the  
29 citywide immunization registry.

30 13. The commissioner shall promulgate regulations as necessary to  
31 effectuate the provisions of this section. Such regulations shall  
32 include provision for orderly implementation and operation of the  
33 [registry] STATEWIDE IMMUNIZATION INFORMATION SYSTEM, including the  
34 method by which each category of authorized user may access the [regis-  
35 try] SYSTEM. Access standards shall include at a minimum a method for  
36 assigning and authenticating each user identification and password  
37 assigned.

38 14. No authorized user shall be subjected to civil or criminal liabil-  
39 ity, or be deemed to have engaged in unprofessional conduct for report-  
40 ing to, receiving from, or disclosing information relating to the  
41 [registry] STATEWIDE IMMUNIZATION INFORMATION SYSTEM when made reason-  
42 ably and in good faith and in accordance with the provisions of this  
43 section or any regulation adopted thereto.

44 S 33. Section 215-b of the elder law is REPEALED.

45 S 34. Section 223 of the elder law is REPEALED.

46 S 35. Subdivision 21 of section 206 of the public health law, as added  
47 by section 24 of part B of chapter 58 of the laws of 2004, is REPEALED.

48 S 36. Section 210-a of the insurance law is REPEALED.

49 S 37. Paragraph (qq) of subdivision 1 of section 2807-v of the public  
50 health law is REPEALED.

51 S 38. This act shall take effect March 1, 2009; provided that the  
52 commissioner of health is authorized to promulgate emergency regulations  
53 to effectuate the requirements of subdivision 4 of section 2541 of the  
54 public health law as added by section one of this act; provided however  
55 that sections nineteen, twenty, twenty-one and twenty-two of this act



shall take effect immediately and be deemed to have been in full force and effect on and after January 1, 2009.

## PART B

Section 1. Subdivision 2 of section 3614-a of the public health law is amended by adding a new paragraph (c) to read as follows:

(C) NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW OR REGULATION, FOR CERTIFIED HOME HEALTH AGENCIES AND FOR PROVIDERS OF LONG TERM HOME HEALTH CARE PROGRAMS THE ASSESSMENT SHALL BE SEVEN-TENTHS OF ONE PERCENT OF EACH AGENCY'S OR PROVIDER'S GROSS RECEIPTS RECEIVED FROM ALL HOME HEALTH CARE SERVICES AND OTHER OPERATING INCOME ON A CASH BASIS FOR PERIODS ON AND AFTER MARCH FIRST, TWO THOUSAND NINE.

S 2. Subdivision 4 of section 3614-a of the public health law, as amended by section 66 of part B of chapter 58 of the laws of 2005, is amended to read as follows:

4. [For periods prior to January first, two thousand five, the] THE commissioner is authorized to contract with the article forty-three insurance law plans, or such other administrators as the commissioner shall designate, to receive and distribute home care provider assessment funds and personal care services provider assessment funds assessed pursuant to section three hundred sixty-seven-i of the social services law. In the event contracts with the article forty-three insurance law plans or other commissioner's designees are effectuated, the commissioner shall conduct annual audits of the receipt and distribution of the assessment funds. The reasonable costs and expenses of an administrator as approved by the commissioner, not to exceed for personnel services on an annual basis two hundred thousand dollars for all assessments established pursuant to this section and the personal care services provider assessment established pursuant to section three hundred sixty-seven-i of the social services law, shall be paid from the assessment funds.

S 3. Subdivision 2 of section 3614-b of the public health law, as amended by section 9 of part CC of chapter 407 of the laws of 1999, is amended to read as follows:

2. (A) The assessment shall be six-tenths of one percent of such licensed home care services agency's gross receipts received from all patient care services and other operating income on a cash basis beginning April first, nineteen hundred ninety-two; provided, however, that for all such gross receipts received on or after April first, nineteen hundred ninety-nine, such assessment shall be two-tenths of one percent, and further provided that such assessment shall expire and be of no further effect for all such gross receipts received on or after January first, two thousand.

(B) NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW OR REGULATION, THE ASSESSMENT SHALL BE SEVEN-TENTHS OF ONE PERCENT OF EACH SUCH LICENSED HOME CARE SERVICES AGENCY'S GROSS RECEIPTS RECEIVED FROM ALL PERSONAL CARE SERVICES AND OTHER OPERATING INCOME ON A CASH BASIS FOR PERIODS ON AND AFTER MARCH FIRST, TWO THOUSAND NINE.

S 4. Subdivision 2 of section 367-i of the social services law, as amended by section 10 of part CC of chapter 407 of the laws of 1999, is amended to read as follows:

2. (A) The assessment shall be six-tenths of one percent of each such provider's gross receipts received from all personal care services and other operating income on a cash basis beginning January first, nineteen

1 hundred ninety-one; provided, however, that for all such gross receipts  
2 received on or after April first, nineteen hundred ninety-nine, such  
3 assessment shall be two-tenths of one percent, and further provided that  
4 such assessment shall expire and be of no further effect for all such  
5 gross receipts received on or after January first, two thousand.

6 (B) NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS SECTION OR ANY  
7 OTHER CONTRARY PROVISION OF LAW OR REGULATION, THE ASSESSMENT SHALL BE  
8 SEVEN-TENTHS OF ONE PERCENT OF EACH SUCH PROVIDER'S GROSS RECEIPTS FROM  
9 ALL PERSONAL CARE SERVICES AND OTHER OPERATING INCOME ON A CASH BASIS  
10 FOR PERIODS ON AND AFTER MARCH FIRST, TWO THOUSAND NINE.

11 S 5. (a) Notwithstanding any provision of law to the contrary, in the  
12 event that certain "proposed or final regulations of the federal Centers  
13 for Medicare and Medicaid Services," as defined in subdivision (b) of  
14 this section, become final and enforceable, the commissioner of health,  
15 in consultation with the director of the budget, may impose federal  
16 financial participation contingency requirements on expenditures that  
17 would otherwise be required to be made pursuant to state law but which,  
18 as a result of such final and enforceable regulations, would be required  
19 to be made entirely with non-federal funds. In such event, the commis-  
20 sioner of health, in consultation with the director of the budget, may  
21 make expenditures of such non-federal funds as he or she, in his or her  
22 discretion, deems to be available for such purposes.

23 (b) For purposes of this section, "proposed or final regulations of  
24 the Centers for Medicare and Medicaid Services" are regulations subject  
25 to a moratorium in effect until April 1, 2009 pursuant to P.L. 110-252,  
26 specifically: (i) interim final regulation dealing with case management  
27 and targeted case management published December 4, 2007 (CMS-2237-IFC);  
28 (ii) final rule implementing changes to Medicaid provider tax provisions  
29 published February 22, 2008 (CMS-2275-F); (iii) final rule dealing with  
30 public provider cost limits published May 29, 2007 (CMS-2258-FC); (iv)  
31 proposed rule dealing with Medicaid graduate medical education published  
32 May 23, 2007 (CMS-2279-P); (v) proposed rule dealing with the Medicaid  
33 rehabilitation services option published August 13, 2007 (CMS-2261-P);  
34 and (vi) final rule concerning school-based services published December  
35 28, 2007 (CMS-2287-F).

36 S 6. Section 74 of the executive law is REPEALED.

37 S 7. Subdivision 2 of section 30-a of the public health law, as added  
38 by chapter 442 of the laws of 2006, is amended to read as follows:

39 2. "Investigation" means investigations of fraud, abuse, or illegal  
40 acts perpetrated within the medical assistance program, by providers or  
41 recipients of medical assistance care, services and supplies; PROVIDED  
42 THAT FOR THE PURPOSES OF SECTION THIRTY-TWO-A OF THIS TITLE, INVESTI-  
43 GATIONS OF FRAUD, ABUSE OR ILLEGAL ACTS RELATING TO THE PROGRAMS ADMIN-  
44 ISTERED OR PROVIDED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSIST-  
45 ANCE, THE OFFICE OF CHILDREN AND FAMILY SERVICES OR LOCAL SOCIAL  
46 SERVICES DISTRICTS PURSUANT TO THE SOCIAL SERVICES LAW, OR THOSE  
47 PROGRAMS OF THE DEPARTMENT OF HEALTH THAT WERE TRANSFERRED TO SUCH  
48 DEPARTMENT PURSUANT TO SECTION TWO HUNDRED THIRTY-THREE OF CHAPTER FOUR  
49 HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX AND  
50 SECTION ONE HUNDRED TWENTY-TWO OF PART B OF CHAPTER FOUR HUNDRED THIR-  
51 TY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN, INCLUDING BY  
52 CONTRACTEES OR RECIPIENTS OF SUCH PROGRAMS AS WELL AS SOCIAL SERVICES  
53 BENEFITS AS PROVIDED BY OR REGULATED BY THE DEPARTMENT OF LABOR.

54 S 8. Subdivisions 1, 3 and 7 of section 32 of the public health law,  
55 subdivisions 1 and 7 as added by chapter 442 of the laws of 2006 and

subdivision 3 as amended by chapter 109 of the laws of 2007, are amended to read as follows:

1. to appoint such deputies, directors, assistants and other officers and employees as may be needed for the performance of his or her duties and may prescribe their duties and fix their compensation within the amounts appropriated therefor; PROVIDED, HOWEVER, THAT THE INSPECTOR SHALL APPOINT A DEPUTY INSPECTOR GENERAL FOR SOCIAL SERVICES INVESTIGATIONS SUBJECT TO THE LIMITATIONS OF, AND AS SET FORTH IN, SECTION THIRTY-TWO-A OF THIS TITLE;

3. to coordinate, to the greatest extent possible, activities to prevent, detect and investigate medical assistance program fraud and abuse amongst the following: the department; the offices of mental health, mental retardation and developmental disabilities, alcoholism and substance abuse services, temporary disability assistance, and children and family services; the commission on quality of care and advocacy for persons with disabilities; the department of education; the fiscal agent employed to operate the medical assistance information and payment system; local governments and entities; and to work in a coordinated and cooperative manner with, to the greatest extent possible, the deputy attorney general for Medicaid fraud control; [the welfare inspector general,] federal prosecutors, district attorneys within the state, the special investigative unit maintained by each health insurer operating within the state, and the state comptroller;

7. to make information and evidence relating to suspected criminal acts which he or she may obtain in carrying out his or her duties available to appropriate law enforcement officials and to consult with the deputy attorney general for Medicaid fraud control[, the welfare inspector general,] and other state and federal law enforcement officials for coordination of criminal investigations and prosecutions.

The inspector shall refer suspected fraud or criminality to the deputy attorney general for Medicaid fraud control and make any other referrals to such deputy attorney general as required or contemplated by federal law. At any time after such referral, with ten days written notice to the deputy attorney general for Medicaid fraud control or such shorter time as such deputy attorney general consents to, the inspector may additionally provide relevant information about suspected fraud or criminality to any other federal or state law enforcement agency that the inspector deems appropriate under the circumstances;

S 9. The public health law is amended by adding a new section 32-a to read as follows:

S 32-A. FUNCTIONS, DUTIES AND RESPONSIBILITIES REGARDING INVESTIGATIONS OF WELFARE FRAUD. 1. THE INSPECTOR SHALL APPOINT A DEPUTY INSPECTOR GENERAL FOR SOCIAL SERVICES INVESTIGATIONS; PROVIDED, HOWEVER, THAT A PERSON WHO IS SERVING AS THE WELFARE INSPECTOR GENERAL, AS A RESULT OF AN APPOINTMENT BY THE GOVERNOR AND APPROVAL BY THE SENATE, ON THE EFFECTIVE DATE OF THIS SECTION, SHALL BECOME THE DEPUTY INSPECTOR GENERAL FOR SOCIAL SERVICES INVESTIGATIONS AND CONTINUE IN THAT ROLE WITH THE SUPPORT OF AND IN COLLABORATION WITH THE INSPECTOR, THROUGH THE WELFARE INSPECTOR GENERAL'S TERM, OR UNTIL HIS OR HER RESIGNATION FROM OFFICE OR HIS OR HER REMOVAL FROM OFFICE FOR NEGLIGENCE OR MALFEASANCE BY THE SENATE UPON A VOTE OF TWO-THIRDS OF ITS MEMBERS.

2. THE INSPECTOR SHALL, WITHIN AMOUNTS APPROPRIATED THEREFOR, APPOINT SUCH DIRECTORS, ASSISTANTS AND OTHER OFFICERS AND EMPLOYEES AS MAY BE NEEDED FOR THE PERFORMANCE OF THE DUTIES SET FORTH IN THIS SECTION; PROVIDED, HOWEVER, THAT ANY NECESSARY OFFICERS AND EMPLOYEES WHO ARE SUBSTANTIALLY ENGAGED IN THE PERFORMANCE OF THE FUNCTIONS OF THE OFFICE

1 OF THE WELFARE INSPECTOR GENERAL ON THE EFFECTIVE DATE OF THIS SECTION  
2 SHALL BE DEEMED EMPLOYEES OF THE OFFICE OF THE MEDICAID INSPECTOR GENER-  
3 AL. IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION SEVENTY OF THE CIVIL  
4 SERVICE LAW, OFFICERS AND EMPLOYEES SO TRANSFERRED SHALL BE TRANSFERRED  
5 WITHOUT FURTHER EXAMINATION OR QUALIFICATION AND SHALL RETAIN THEIR  
6 RESPECTIVE CIVIL SERVICE CLASSIFICATIONS AND STATUS.

7 3. THE INSPECTOR, THROUGH THE DEPUTY INSPECTOR GENERAL FOR SOCIAL  
8 SERVICES INVESTIGATIONS, AS SET FORTH IN SUBDIVISION TWO OF THIS  
9 SECTION, SHALL HAVE THE FOLLOWING FUNCTIONS, DUTIES AND RESPONSIBIL-  
10 ITIES:

11 (A) TO CONDUCT AND SUPERVISE INVESTIGATIONS OF FRAUD, ABUSE OR ILLEGAL  
12 ACTS RELATING TO THE PROGRAMS DESCRIBED IN SUBDIVISION TWO OF SECTION  
13 THIRTY-A OF THIS ARTICLE;

14 (B) TO THE GREATEST EXTENT POSSIBLE, TO COORDINATE ITS INVESTIGATIVE  
15 ACTIVITIES WITH THE COMMISSIONER, THE DEPUTY ATTORNEY GENERAL FOR MEDI-  
16 CAID FRAUD CONTROL OR SUCH OTHER PERSON DESIGNATED BY THE ATTORNEY  
17 GENERAL, THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY  
18 ASSISTANCE, THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY  
19 SERVICES, THE COMMISSIONER OF EDUCATION, THE COMMISSIONER OF LABOR, THE  
20 FISCAL AGENT EMPLOYED TO OPERATE THE MEDICAID MANAGEMENT INFORMATION  
21 SYSTEM AND THE STATE COMPTROLLER;

22 (C) TO MAKE INFORMATION AND EVIDENCE RELATING TO CRIMINAL ACTS WHICH  
23 HE OR SHE MAY OBTAIN AVAILABLE TO APPROPRIATE LAW ENFORCEMENT OFFICIALS  
24 AND TO CONSULT WITH LOCAL DISTRICT ATTORNEYS AND, WHERE APPROPRIATE, THE  
25 DEPUTY ATTORNEY GENERAL FOR MEDICAID FRAUD OR SUCH OTHER PERSON DESIG-  
26 NATED BY THE ATTORNEY GENERAL, IN ADDITION TO FEDERAL OFFICIALS, TO  
27 COORDINATE INVESTIGATIONS AND CRIMINAL PROSECUTIONS;

28 (D) TO SUBPOENA WITNESSES, ADMINISTER OATHS OR AFFIRMATIONS, TAKE  
29 TESTIMONY AND COMPEL THE PRODUCTION OF SUCH BOOKS, PAPERS, RECORDS AND  
30 DOCUMENTS AS HE OR SHE MAY DEEM TO BE RELEVANT TO AN INVESTIGATION  
31 UNDERTAKEN PURSUANT TO THIS SECTION;

32 (E) TO KEEP THE GOVERNOR, ATTORNEY GENERAL, STATE COMPTROLLER, TEMPO-  
33 RARY PRESIDENT OF THE SENATE AND THE MINORITY LEADER OF THE SENATE, THE  
34 SPEAKER OF THE ASSEMBLY AND THE MINORITY AND MAJORITY LEADERS OF THE  
35 ASSEMBLY, APPRISED OF FRAUD AND ABUSE IN SOCIAL SERVICES PROGRAMS AND  
36 EXPENDITURES;

37 (F) TO RECOMMEND POLICIES RELATING TO THE PREVENTION AND DETECTION OF  
38 FRAUD AND ABUSE OR THE IDENTIFICATION AND PROSECUTION OF PARTICIPANTS IN  
39 SUCH FRAUD AND ABUSE;

40 (G) TO MONITOR THE IMPLEMENTATION BY THE RELEVANT OFFICE OF HIS OR HER  
41 RECOMMENDATIONS AND THOSE OF OTHER INVESTIGATIVE AGENCIES; AND

42 (H) TO RECEIVE COMPLAINTS OF ALLEGED FAILURES OF STATE AND LOCAL OFFI-  
43 CIALS TO PREVENT, DETECT AND PROSECUTE FRAUD AND ABUSE IN SOCIAL  
44 SERVICES PROGRAMS AND EXPENDITURES.

45 4. (A) IN ADDITION TO THE AUTHORITY OTHERWISE PROVIDED BY THIS  
46 SECTION, IN CARRYING OUT THE PROVISIONS OF THIS SECTION, THE INSPECTOR  
47 AND THE DEPUTY INSPECTOR GENERAL FOR SOCIAL SERVICES INVESTIGATIONS, AS  
48 SET FORTH IN SUBDIVISION TWO OF THIS SECTION, ARE AUTHORIZED:

49 (I) TO HAVE FULL AND UNRESTRICTED ACCESS TO ALL RECORDS, REPORTS,  
50 AUDITS, REVIEWS, DOCUMENTS, PAPERS, RECOMMENDATIONS OR OTHER MATERIAL  
51 AVAILABLE TO THE DEPARTMENT, THE OFFICE OF TEMPORARY AND DISABILITY  
52 ASSISTANCE, THE OFFICE OF CHILDREN AND FAMILY SERVICES, THE DEPARTMENT  
53 OF LABOR AND LOCAL SOCIAL SERVICES DISTRICTS RELATING TO PROGRAMS AND  
54 OPERATIONS AS DESCRIBED IN SUBDIVISION TWO OF SECTION THIRTY-A OF THIS  
55 ARTICLE;

1 (II) TO MAKE SUCH INVESTIGATIONS RELATING TO THE ADMINISTRATION OF  
2 SOCIAL SERVICES PROGRAMS AND EXPENDITURES AS ARE, IN THE JUDGMENT OF THE  
3 INSPECTOR, NECESSARY OR DESIRABLE; AND

4 (III) TO REQUEST SUCH INFORMATION, ASSISTANCE AND COOPERATION FROM ANY  
5 FEDERAL, STATE OR LOCAL GOVERNMENTAL DEPARTMENT, BOARD, BUREAU, COMMIS-  
6 SION, OR OTHER AGENCY OR UNIT THEREOF AS MAY BE NECESSARY FOR CARRYING  
7 OUT THE DUTIES AND RESPONSIBILITIES ENJOINED UPON THEM BY THIS SECTION.  
8 STATE AND LOCAL AGENCIES OR UNITS THEREOF ARE HEREBY AUTHORIZED AND  
9 DIRECTED TO PROVIDE SUCH INFORMATION, ASSISTANCE AND COOPERATION.

10 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO  
11 THE CONTRARY, NO PERSON SHALL PREVENT, SEEK TO PREVENT, INTERFERE WITH,  
12 OBSTRUCT OR OTHERWISE HINDER ANY INVESTIGATION BEING CONDUCTED PURSUANT  
13 TO THIS SECTION. SECTION ONE HUNDRED THIRTY-SIX OF THE SOCIAL SERVICES  
14 LAW SHALL IN NO WAY BE CONSTRUED TO RESTRICT ANY PERSON OR GOVERNMENTAL  
15 BODY FROM COOPERATING AND ASSISTING THE INSPECTOR OR HIS OR HER EMPLOY-  
16 EES IN CARRYING OUT THEIR DUTIES UNDER THIS SECTION. ANY VIOLATION OF  
17 THIS PARAGRAPH SHALL CONSTITUTE CAUSE FOR SUSPENSION OR REMOVAL FROM  
18 OFFICE OR EMPLOYMENT.

19 5. THE INSPECTOR, IN CONSULTATION WITH THE DEPUTY INSPECTOR GENERAL  
20 FOR SOCIAL SERVICES INVESTIGATIONS, SHALL, NO LATER THAN OCTOBER FIRST  
21 OF EACH YEAR SUBMIT TO THE GOVERNOR, THE STATE COMPTROLLER, THE ATTORNEY  
22 GENERAL AND THE LEGISLATURE A REPORT SUMMARIZING THE ACTIVITIES OF THE  
23 OFFICE DURING THE PRECEDING CALENDAR YEAR WITH RESPECT TO ITS RESPONSI-  
24 BILITIES UNDER THIS SECTION.

25 6. (A) THE INSPECTOR AND THE DEPUTY INSPECTOR GENERAL FOR SOCIAL  
26 SERVICES INVESTIGATIONS SHALL NOT PUBLICLY DISCLOSE INFORMATION WHICH  
27 IS:

28 (I) A PART OF ANY ONGOING INVESTIGATION; OR

29 (II) SPECIFICALLY PROHIBITED FROM DISCLOSURE BY ANY OTHER PROVISION OF  
30 LAW.

31 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, ANY REPORT  
32 UNDER THIS SECTION MAY BE DISCLOSED TO THE PUBLIC IN A FORM WHICH  
33 INCLUDES INFORMATION WITH RESPECT TO A PART OF AN ONGOING CRIMINAL  
34 INVESTIGATION IF SUCH INFORMATION HAS BEEN INCLUDED IN A PUBLIC RECORD.

35 7. WITH THE EXCEPTION OF ANY DOCUMENTS OR RECORDS REQUIRED BY THE  
36 ATTORNEY GENERAL PURSUANT TO SUBDIVISION EIGHT OF THIS SECTION, ANY  
37 DOCUMENTS AND RECORDS RELEVANT AND NECESSARY AND RELATED TO THE TRANSFER  
38 OF FUNCTIONS FROM THE OFFICE OF THE WELFARE INSPECTOR GENERAL SHALL BE  
39 TRANSFERRED TO THE OFFICE OF THE MEDICAID INSPECTOR GENERAL.

40 8. IF, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE WELFARE  
41 INSPECTOR GENERAL HAS COMMENCED A CRIMINAL PROCEEDING AGAINST ANY  
42 PERSON, PROSECUTION OF SUCH A CASE SHALL BECOME THE RESPONSIBILITY OF  
43 THE ATTORNEY GENERAL; PROVIDED, HOWEVER, THAT THE WELFARE INSPECTOR  
44 GENERAL MAY CONTINUE TO ASSIST IN THE PROSECUTION OF THE CASE AS A  
45 SPECIAL ASSISTANT ATTORNEY GENERAL, AT THE DISCRETION OF THE ATTORNEY  
46 GENERAL. FOR PURPOSES OF THIS SUBDIVISION, A CRIMINAL PROCEEDING HAS  
47 BEEN COMMENCED WHEN CRIMINAL CHARGES ARE PENDING IN ANY COURT OR A GRAND  
48 JURY HAS COMMENCED AN INVESTIGATION OF THE MATTER.

49 9. THE DIRECTOR OF THE BUDGET IS HEREBY AUTHORIZED TO TRANSFER TO THE  
50 OFFICE OF THE MEDICAID INSPECTOR GENERAL, FOR USE BY THE OFFICE, FUNDS  
51 OTHERWISE APPROPRIATED OR REAPPROPRIATED TO THE OFFICE OF THE WELFARE  
52 INSPECTOR GENERAL CONSISTENT WITH THE PURPOSES OF THIS SECTION.

53 10. ALL RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF THE  
54 WELFARE INSPECTOR GENERAL WITH RESPECT TO THE FUNCTIONS, POWERS, DUTIES,  
55 AND OBLIGATIONS OF THE OFFICE OF THE WELFARE INSPECTOR GENERAL IN EFFECT  
56 ON THE EFFECTIVE DATE OF THIS SECTION SHALL CONTINUE IN FULL FORCE AND

1 EFFECT AS RULES, REGULATIONS, ACTS, DETERMINATIONS AND DECISIONS OF THE  
2 MEDICAID INSPECTOR GENERAL UNTIL AMENDED OR REVISED BY THE MEDICAID  
3 INSPECTOR GENERAL.

4 S 10. Subdivision 2 of section 93 of part C of chapter 58 of the laws  
5 of 2007 amending the social services law and other laws relating to  
6 enacting the major components of legislation necessary to implement the  
7 health and mental hygiene budget for the 2007-2008 fiscal year, is  
8 amended to read as follows:

9 2. section two of this act shall expire and be deemed repealed on  
10 March 31, [2010] 2013;

11 S 11. Paragraph (e-1) of subdivision 12 of section 2808 of the public  
12 health law, as amended by section 64 of part C of chapter 58 of the laws  
13 of 2007, is amended to read as follows:

14 (e-1) Notwithstanding any inconsistent provision of law or regulation,  
15 the commissioner shall provide, in addition to payments established  
16 pursuant to this article prior to application of this section, addi-  
17 tional payments under the medical assistance program pursuant to title  
18 eleven of article five of the social services law for non-state operated  
19 public residential health care facilities, including public residential  
20 health care facilities located in the county of Nassau, the county of  
21 Westchester and the county of Erie, but excluding public residential  
22 health care facilities operated by a town or city within a county, in  
23 aggregate annual amounts of up to one hundred fifty million dollars in  
24 additional payments for the state fiscal year beginning April first, two  
25 thousand six and for the state fiscal year beginning April first, two  
26 thousand seven and for the state fiscal year beginning April first, two  
27 thousand eight and for the state fiscal year beginning April first, two  
28 thousand nine, AND EACH STATE FISCAL YEAR THEREAFTER. The amount allo-  
29 cated to each eligible public residential health care facility for this  
30 period shall be computed in accordance with the provisions of paragraph  
31 (f) of this subdivision, provided, however, that patient days shall be  
32 utilized for such computation reflecting actual reported data for two  
33 thousand three and each representative succeeding year as applicable.

34 S 12. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of  
35 the laws of 1996, amending the education law and other laws relating to  
36 rates for residential health care facilities, as amended by section 65  
37 of part C of chapter 58 of the laws of 2007, is amended to read as  
38 follows:

39 (a) Notwithstanding any inconsistent provision of law or regulation to  
40 the contrary, effective beginning August 1, 1996, for the period April  
41 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,  
42 1998 through March 31, 1999, August 1, 1999, for the period April 1,  
43 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000  
44 through March 31, 2001, April 1, 2001, for the period April 1, 2001  
45 through March 31, 2002, April 1, 2002, for the period April 1, 2002  
46 through March 31, 2003, and for the state fiscal year beginning April 1,  
47 2005 through March 31, 2006, and for the state fiscal year beginning  
48 April 1, 2006 through March 31, 2007, and for the state fiscal year  
49 beginning April 1, 2007 through March 31, 2008, and for the state fiscal  
50 year beginning April 1, 2008 through March 31, 2009, AND EACH STATE  
51 FISCAL YEAR THEREAFTER, the department of health is authorized to pay  
52 public general hospitals, as defined in subdivision 10 of section 2801  
53 of the public health law, operated by the state of New York or by the  
54 state university of New York or by a county, which shall not include a  
55 city with a population of over one million, of the state of New York,  
56 and those public general hospitals located in the county of Westchester,

1 the county of Erie or the county of Nassau, additional payments for  
2 inpatient hospital services as medical assistance payments pursuant to  
3 title 11 of article 5 of the social services law for patients eligible  
4 for federal financial participation under title XIX of the federal  
5 social security act in medical assistance pursuant to the federal laws  
6 and regulations governing disproportionate share payments to hospitals  
7 up to one hundred percent of each such public general hospital's medical  
8 assistance and uninsured patient losses after all other medical assist-  
9 ance, including disproportionate share payments to such public general  
10 hospital for 1996, 1997, 1998, and 1999, based initially for 1996 on  
11 reported 1994 reconciled data as further reconciled to actual reported  
12 1996 reconciled data, and for 1997 based initially on reported 1995  
13 reconciled data as further reconciled to actual reported 1997 reconciled  
14 data, for 1998 based initially on reported 1995 reconciled data as  
15 further reconciled to actual reported 1998 reconciled data, for 1999  
16 based initially on reported 1995 reconciled data as further reconciled  
17 to actual reported 1999 reconciled data, for 2000 based initially on  
18 reported 1995 reconciled data as further reconciled to actual reported  
19 2000 data, for 2001 based initially on reported 1995 reconciled data as  
20 further reconciled to actual reported 2001 data, for 2002 based initial-  
21 ly on reported 2000 reconciled data as further reconciled to actual  
22 reported 2002 data, and for state fiscal years beginning on April 1,  
23 2005, based initially on reported 2000 reconciled data as further recon-  
24 ciled to actual reported data for 2005, and for state fiscal years  
25 beginning on April 1, 2006, based initially on reported 2000 reconciled  
26 data as further reconciled to actual reported data for 2006 and for  
27 state fiscal years beginning on and after April 1, 2007, based initially  
28 on reported 2000 reconciled data as further reconciled to actual  
29 reported data for 2007, and to actual reported data for each respective  
30 succeeding year. The payments may be added to rates of payment or made  
31 as aggregate payments to an eligible public general hospital.

32 S 13. Paragraph (b) of subdivision 1 of section 211 of chapter 474 of  
33 the laws of 1996, amending the education law and other laws relating to  
34 rates for residential health care facilities, as amended by section 66  
35 of part C of chapter 58 of the laws of 2007, is amended to read as  
36 follows:

37 (b) Notwithstanding any inconsistent provision of law or regulation to  
38 the contrary, effective beginning April 1, 2000, the department of  
39 health is authorized to pay public general hospitals, other than those  
40 operated by the state of New York or the state university of New York,  
41 as defined in subdivision 10 of section 2801 of the public health law,  
42 located in a city with a population of over 1 million, additional  
43 initial payments for inpatient hospital services of \$120 million during  
44 each state fiscal year until March 31, 2003, and up to \$120 million  
45 during the state fiscal year beginning April 1, 2005 through March 31,  
46 2006 and during the state fiscal year beginning April 1, 2006 through  
47 March 31, 2007 and during the state fiscal year beginning April 1, 2007  
48 through March 31, 2008 and during the state fiscal year beginning April  
49 1, 2008 through March 31, 2009, AND EACH STATE FISCAL YEAR THEREAFTER,  
50 as medical assistance payments pursuant to title 11 of article 5 of the  
51 social services law for patients eligible for federal financial partic-  
52 ipation under title XIX of the federal social security act in medical  
53 assistance pursuant to the federal laws and regulations governing  
54 disproportionate share payments to hospitals based on the relative share  
55 of each such non-state operated public general hospital of medical  
56 assistance and uninsured patient losses after all other medical assist-

1 ance, including disproportionate share payments to such public general  
2 hospitals for payments made during the state fiscal year ending March  
3 31, 2001, based initially on reported 1995 reconciled data as further  
4 reconciled to actual reported 2000 or 2001 data, for payments made  
5 during the state fiscal year ending March 31, 2002, based initially on  
6 reported 1995 reconciled data as further reconciled to actual reported  
7 2001 or 2002 data, for payments made during the state fiscal year ending  
8 March 31, 2003, based initially on reported 2000 reconciled data as  
9 further reconciled to actual reported 2002 or 2003 data, for payments  
10 made during the state fiscal year ending on and after March 31, 2006,  
11 based initially on reported 2000 reconciled data as further reconciled  
12 to actual reported 2005 or 2006 data, for payments made during the state  
13 fiscal year ending on and after March 31, 2007, based initially on  
14 reported 2000 reconciled data as further reconciled to actual reported  
15 2006 or 2007 data for payments made during the state fiscal years ending  
16 on and after March 31, 2008, based initially on reported 2000 reconciled  
17 data as further reconciled to actual reported 2007 or 2008 data, and to  
18 actual reported data for each respective succeeding year. The payments  
19 may be added to rates of payment or made as aggregate payments to an  
20 eligible public general hospital.

21 S 14. Section 11 of chapter 884 of the laws of 1990, amending the  
22 public health law relating to authorizing bad debt and charity care  
23 allowances for certified home health agencies, as amended by section 68  
24 of part C of chapter 58 of the laws of 2007, is amended to read as  
25 follows:

26 S 11. This act shall take effect immediately and:

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

28 (b) [sections four through ten shall expire on June 30, 2009, and

29 (c)] provided that the amendment to section 2807-b of the public  
30 health law by section two of this act shall not affect the expiration of  
31 such section 2807-b as otherwise provided by law and shall be deemed to  
32 expire therewith.

33 S 15. Subdivisions 2 and 4 of section 246 of chapter 81 of the laws of  
34 1995, amending the public health law and other laws relating to medical  
35 reimbursement and welfare reform, as amended by section 69 of part C of  
36 chapter 58 of the laws of 2007, are amended to read as follows:

37 2. Sections five, seven through nine, twelve through fourteen, and  
38 eighteen of this act shall be deemed to have been in full force and  
39 effect on and after April 1, 1995 through March 31, 1999 and on and  
40 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000  
41 through March 31, 2003 and on and after April 1, 2003 through March 31,  
42 2006 and on and after April 1, 2006 through March 31, 2007 and on and  
43 after April 1, 2007 through March 31, 2009 AND ON AND AFTER APRIL 1,  
44 2009;

45 4. Section one of this act shall be deemed to have been in full force  
46 and effect on and after April 1, 1995 through March 31, 1999 and on and  
47 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000  
48 through March 31, 2003 and on and after April 1, 2003 through March 31,  
49 2006 and on and after April 1, 2006 through March 31, 2007 and on and  
50 after April 1, 2007 through March 31, 2009 AND ON AND AFTER APRIL 1,  
51 2009.

52 S 16. Subparagraph (iii) of paragraph (f) of subdivision 4 of section  
53 2807-c of the public health law, as amended by section 70 of part C of  
54 chapter 58 of the laws of 2007, is amended to read as follows:

55 (iii) commencing April first, nineteen hundred ninety-seven through  
56 March thirty-first, nineteen hundred ninety-nine and commencing July



1 first, nineteen hundred ninety-nine through March thirty-first, two  
2 thousand and April first, two thousand through March thirty-first, two  
3 thousand five and for periods commencing April first, two thousand five  
4 through March thirty-first, two thousand six and for periods commencing  
5 on and after April first, two thousand six through March thirty-first,  
6 two thousand seven, and for periods commencing on and after April first,  
7 two thousand seven through March thirty-first, two thousand nine, AND  
8 FOR PERIODS COMMENCING ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, the  
9 reimbursable inpatient operating cost component of case based rates of  
10 payment per diagnosis-related group, excluding any operating cost compo-  
11 nents related to direct and indirect expenses of graduate medical educa-  
12 tion, for patients eligible for payments made by state governmental  
13 agencies shall be reduced by three and thirty-three hundredths percent  
14 to encourage improved productivity and efficiency. Such election shall  
15 not alter the calculation of the group price component calculated pursu-  
16 ant to subparagraph (i) of paragraph (a) of subdivision seven of this  
17 section;

18 S 17. Subparagraph (iii) of paragraph (k) of subdivision 4 of section  
19 2807-c of the public health law, as amended by section 71 of part C of  
20 chapter 58 of the laws of 2007, is amended to read as follows:

21 (iii) commencing April first, nineteen hundred ninety-seven through  
22 March thirty-first, nineteen hundred ninety-nine and commencing July  
23 first, nineteen hundred ninety-nine through March thirty-first, two  
24 thousand and April first, two thousand through March thirty-first, two  
25 thousand five and commencing April first, two thousand five through  
26 March thirty-first, two thousand six, and for periods commencing on and  
27 after April first, two thousand six through March thirty-first, two  
28 thousand seven, and for periods commencing on and after April first, two  
29 thousand seven through March thirty-first, two thousand nine, AND FOR  
30 PERIODS COMMENCING ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, the  
31 operating cost component of rates of payment, excluding any operating  
32 cost components related to direct and indirect expenses of graduate  
33 medical education, for patients eligible for payments made by a state  
34 governmental agency shall be reduced by three and thirty-three  
35 hundredths percent to encourage improved productivity and efficiency.  
36 The facility will be eligible to receive the financial incentives for  
37 the physician specialty weighting incentive towards primary care pursu-  
38 ant to subparagraph (ii) of paragraph (a) of subdivision twenty-five of  
39 this section.

40 S 18. The opening paragraph of subparagraph (vi) of paragraph (b) of  
41 subdivision 5 of section 2807-c of the public health law, as amended by  
42 section 72 of part C of chapter 58 of the laws of 2007, is amended to  
43 read as follows:

44 for discharges on or after April first, nineteen hundred ninety-seven  
45 through March thirty-first, nineteen hundred ninety-nine and for  
46 discharges on or after July first, nineteen hundred ninety-nine through  
47 March thirty-first, two thousand and for discharges on or after April  
48 first, two thousand through March thirty-first, two thousand five and  
49 for discharges on or after April first, two thousand five through March  
50 thirty-first, two thousand six, and for discharges on or after April  
51 first, two thousand six through March thirty-first, two thousand seven,  
52 and for discharges on or after April first, two thousand seven through  
53 March thirty-first, two thousand nine, AND FOR DISCHARGES ON OR AFTER  
54 APRIL FIRST, TWO THOUSAND NINE, for purposes of reimbursement of inpa-  
55 tient hospital services for patients eligible for payments made by state  
56 governmental agencies, the average reimbursable inpatient operating cost

per discharge of a general hospital shall, to encourage improved productivity and efficiency, be the sum of:

S 19. The opening paragraph and subparagraph (i) of paragraph (c) of subdivision 5 of section 2807-c of the public health law, as amended by section 73 of part C of chapter 58 of the laws of 2007, are amended to read as follows:

Notwithstanding any inconsistent provision of this section, commencing July first, nineteen hundred ninety-six through March thirty-first, nineteen hundred ninety-nine and July first, nineteen hundred ninety-nine through March thirty-first, two thousand and April first, two thousand and through March thirty-first, two thousand five and for periods on and after April first, two thousand five through March thirty-first, two thousand six, and for periods on and after April first, two thousand six through March thirty-first, two thousand seven, and for periods on and after April first, two thousand seven through March thirty-first, two thousand nine, AND FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, rates of payment for a general hospital for patients eligible for payments made by state governmental agencies shall be further reduced by the commissioner to encourage improved productivity and efficiency by providers by a factor determined as follows:

(i) an aggregate reduction shall be calculated for each general hospital commencing July first, nineteen hundred ninety-six through March thirty-first, nineteen hundred ninety-nine and July first, nineteen hundred ninety-nine through March thirty-first, two thousand and April first, two thousand through March thirty-first, two thousand five and for periods on and after April first, two thousand five through March thirty-first, two thousand six, and for periods on and after April first, two thousand six through March thirty-first, two thousand seven, and for periods on and after April first, two thousand seven through March thirty-first, two thousand nine, AND FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, as the result of (A) eighty-nine million dollars on an annualized basis for each year, multiplied by (B) the ratio of patient days for patients eligible for payments made by state governmental agencies provided in a base year two years prior to the rate year by a general hospital, divided by the total of such patient days summed for all general hospitals; and

S 20. Clause (B-1) of subparagraph (i) of paragraph (f) of subdivision 11 of section 2807-c of the public health law, as amended by section 74 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(B-1) The increase in the statewide average case mix in the periods January first, nineteen hundred ninety-seven through March thirty-first, two thousand and on and after April first, two thousand through March thirty-first, two thousand six and on and after April first, two thousand six through March thirty-first, two thousand seven, and on and after April first, two thousand seven through March thirty-first, two thousand nine, AND ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, from the statewide average case mix for the period January first, nineteen hundred ninety-six through December thirty-first, nineteen hundred ninety-six shall not exceed one percent for nineteen hundred ninety-seven, two percent for nineteen hundred ninety-eight, three percent for the period January first, nineteen hundred ninety-nine through September thirtieth, nineteen hundred ninety-nine, four percent for the period October first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, and four percent for two thousand plus an additional one percent per year thereafter, based on comparison

1 of data only for patients that are eligible for medical assistance  
2 pursuant to title eleven of article five of the social services law,  
3 including such patients enrolled in health maintenance organizations.

4 S 21. Subdivision 1 of section 46 of chapter 639 of the laws of 1996  
5 amending the public health law and other laws relating to welfare  
6 reform, as amended by section 75 of part C of chapter 58 of the laws of  
7 2007, is amended to read as follows:

8 1. Notwithstanding any inconsistent provision of law or regulation to  
9 the contrary, the trend factors used to project reimbursable operating  
10 costs to the rate period for purposes of determining rates of payment  
11 pursuant to article 28 of the public health law for general hospitals  
12 for reimbursement of inpatient hospital services provided to patients  
13 eligible for payments made by state governmental agencies on and after  
14 April 1, 1996 through June 30, 1996 and on or after July 1, 1996 through  
15 March 31, 1999 and on and after July 1, 1999 through March 31, 2000 and  
16 on and after April 1, 2000 through March 31, 2005 and on and after April  
17 1, 2005 through March 31, 2006 and on and after April 1, 2006 through  
18 March 31, 2007 and on and after April 1, 2007 through March 31, 2009,  
19 AND ON AND AFTER APRIL 1, 2009, shall reflect no trend factor projec-  
20 tions or adjustments for the period April 1, 1996, through March 31,  
21 1997.

22 S 22. Section 4 of chapter 81 of the laws of 1995, amending the public  
23 health law and other laws relating to medical reimbursement and welfare  
24 reform, as amended by section 76 of part C of chapter 58 of the laws of  
25 2007, is amended to read as follows:

26 S 4. Notwithstanding any inconsistent provision of law, except subdi-  
27 vision 15 of section 2807 of the public health law and section 364-j-2  
28 of the social services law and section 32-g of part F of chapter 412 of  
29 the laws of 1999, rates of payment for diagnostic and treatment centers  
30 established in accordance with paragraphs (b) and (h) of subdivision 2  
31 of section 2807 of the public health law for the period ending September  
32 30, 1995 shall continue in effect through September 30, 2000 and for the  
33 periods October 1, 2000 through September 30, 2003 and October 1, 2003  
34 through September 30, 2007 and October 1, 2007 through September 30,  
35 2009, AND ON AND AFTER OCTOBER 1, 2009, and further provided that rates  
36 in effect on March 31, 2003 as established in accordance with paragraph  
37 (e) of subdivision 2 of section 2807 of the public health law shall  
38 continue in effect for the period April 1, 2003 through September 30,  
39 2007 and October 1, 2007 through September 30, 2009, AND ON AND AFTER  
40 OCTOBER 1, 2009, provided however that, subject to the approval of the  
41 director of the budget, such rates may be adjusted to include expendi-  
42 tures in those components of rates not subject to the ceilings of the  
43 corresponding rate methodology.

44 S 23. Subdivision 5 of section 246 of chapter 81 of the laws of 1995,  
45 amending the public health law and other laws relating to medical  
46 reimbursement and welfare reform, as amended by section 77 of part C of  
47 chapter 58 of the laws of 2007, is amended to read as follows:

48 5. Section three of this act shall be deemed to have been in full  
49 force and effect on and after April 1, 1995 through March 31, 1999 and  
50 on and after July 1, 1999 through March 31, 2000 and on and after April  
51 1, 2000 through March 31, 2003 and on and after April 1, 2003 through  
52 March 31, 2007 and on and after April 1, 2007 through March 31, 2009,  
53 AND ON AND AFTER APRIL 1, 2009;

54 S 24. Section 194 of chapter 474 of the laws of 1996, amending the  
55 education law and other laws relating to rates of residential health

care facilities, as amended by section 78 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

S 194. 1. Notwithstanding any inconsistent provision of law or regulation, the trend factors used to project reimbursable operating costs to the rate period for purposes of determining rates of payment pursuant to article 28 of the public health law for residential health care facilities for reimbursement of inpatient services provided to patients eligible for payments made by state governmental agencies on and after April 1, 1996 through March 31, 1999 and for payments made on and after July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, 2007 and on and after April 1, 2007 through March 31, 2009 AND ON AND AFTER APRIL 1, 2009 shall reflect no trend factor projections or adjustments for the period April 1, 1996, through March 31, 1997.

2. The commissioner of health shall adjust such rates of payment to reflect the exclusion pursuant to this section of such specified trend factor projections or adjustments.

S 25. Subdivision 1 of section 89-a of part C of chapter 58 of the laws of 2007 amending the social services law and other laws relating to enacting major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 fiscal year, is amended to read as follows:

1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law and section 21 of chapter 1 of the laws of 1999, AS AMENDED, and any other inconsistent provision of law or regulation to the contrary, in determining rates of payments by state governmental agencies effective for services provided beginning April 1, 2006, through March 31, 2009, AND ON AND AFTER APRIL 1, 2009 for inpatient and outpatient services provided by general hospitals and for inpatient services and outpatient adult day health care services provided by residential health care facilities pursuant to article 28 of the public health law, the commissioner of health shall apply a trend factor projection of two and twenty-five hundredths percent attributable to the period January 1, 2006 through December 31, 2006, and on and after January 1, 2007, provided, however, that on reconciliation of such trend factor for the period January 1, 2006 through December 31, 2006 pursuant to paragraph (c) of subdivision 10 of section 2807-c of the public health law, such trend factor shall be the final US Consumer Price Index (CPI) for all urban consumers, as published by the US Department of Labor, Bureau of Labor Statistics less twenty-five hundredths of a percentage point.

S 26. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 79 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(f) Prior to February 1, 2001, February 1, 2002, February 1, 2003, February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007, February 1, 2008 [and], February 1, 2009 AND FEBRUARY 1 OF EACH YEAR THEREAFTER the commissioner of health shall calculate the result of the statewide total of residential health care facility days of care provided to beneficiaries of title XVIII of the federal social security act (medicare), divided by the sum of such days of care plus days of care provided to residents eligible for payments pursuant to title 11 of article 5 of the social services law minus the number of days provided to residents receiving hospice care, expressed as a percentage, for the period commencing January 1, through November 30, of the prior year

1 respectively, based on such data for such period. This value shall be  
2 called the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and],  
3 2009 AND EACH YEAR THEREAFTER statewide target percentage respectively.

4 S 27. Subparagraph (ii) of paragraph (b) of subdivision 3 of section  
5 64 of chapter 81 of the laws of 1995, amending the public health law and  
6 other laws relating to medical reimbursement and welfare reform, as  
7 amended by section 80 of part C of chapter 58 of the laws of 2007, is  
8 amended to read as follows:

9 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
10 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER statewide target  
11 percentages are not for each year at least three percentage points high-  
12 er than the statewide base percentage, the commissioner of health shall  
13 determine the percentage by which the statewide target percentage for  
14 each year is not at least three percentage points higher than the state-  
15 wide base percentage. The percentage calculated pursuant to this para-  
16 graph shall be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004,  
17 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER statewide  
18 reduction percentage respectively. If the 1997, 1998, 2000, 2001, 2002,  
19 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER  
20 statewide target percentage for the respective year is at least three  
21 percentage points higher than the statewide base percentage, the state-  
22 wide reduction percentage for the respective year shall be zero.

23 S 28. Subparagraph (iii) of paragraph (b) of subdivision 4 of section  
24 64 of chapter 81 of the laws of 1995, amending the public health law and  
25 other laws relating to medical reimbursement and welfare reform, as  
26 amended by section 81 of part C of chapter 58 of the laws of 2007, is  
27 amended to read as follows:

28 (iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008  
29 [and], 2009, AND EACH YEAR THEREAFTER statewide reduction percentage  
30 shall be multiplied by one hundred two million dollars respectively to  
31 determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008  
32 [and], 2009, AND EACH YEAR THEREAFTER statewide aggregate reduction  
33 amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004, 2005, 2006,  
34 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER statewide reduction  
35 percentage shall be zero respectively, there shall be no 1998, 2000,  
36 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH  
37 YEAR THEREAFTER reduction amount.

38 S 29. Paragraph (b) of subdivision 5 of section 64 of chapter 81 of  
39 the laws of 1995, amending the public health law and other laws relating  
40 to medical reimbursement and welfare reform, as amended by section 82 of  
41 part C of chapter 58 of the laws of 2007, is amended to read as follows:

42 (b) The 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005,  
43 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER statewide aggre-  
44 gate reduction amounts shall for each year be allocated by the commis-  
45 sioner of health among residential health care facilities that are  
46 eligible to provide services to beneficiaries of title XVIII of the  
47 federal social security act (medicare) and residents eligible for  
48 payments pursuant to title 11 of article 5 of the social services law on  
49 the basis of the extent of each facility's failure to achieve a two  
50 percentage points increase in the 1996 target percentage, a three  
51 percentage point increase in the 1997, 1998, 2000, 2001, 2002, 2003,  
52 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER  
53 target percentage and a two and one-quarter percentage point increase in  
54 the 1999 target percentage for each year, compared to the base percent-  
55 age, calculated on a facility specific basis for this purpose, compared  
56 to the statewide total of the extent of each facility's failure to

1 achieve a two percentage points increase in the 1996 and a three  
2 percentage point increase in the 1997 and a three percentage point  
3 increase in the 1998 and a two and one-quarter percentage point increase  
4 in the 1999 target percentage and a three percentage point increase in  
5 the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009,  
6 AND EACH YEAR THEREAFTER target percentage compared to the base percent-  
7 age. These amounts shall be called the 1996, 1997, 1998, 1999, 2000,  
8 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH  
9 YEAR THEREAFTER facility specific reduction amounts respectively.

10 S 30. Section 228 of chapter 474 of the laws of 1996, amending the  
11 education law and other laws relating to rates for residential health  
12 care facilities, as amended by section 85 of part C of chapter 58 of the  
13 laws of 2007, is amended to read as follows:

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

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

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

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

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

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

35 (g) Target period. For purposes of this section, the 1996 target peri-  
36 od shall mean August 1, 1996 through March 31, 1997, the 1997 target  
37 period shall mean January 1, 1997 through November 30, 1997, the 1998  
38 target period shall mean January 1, 1998 through November 30, 1998, the  
39 1999 target period shall mean January 1, 1999 through November 30, 1999,  
40 the 2000 target period shall mean January 1, 2000 through November 30,  
41 2000, the 2001 target period shall mean January 1, 2001 through November  
42 30, 2001, the 2002 target period shall mean January 1, 2002 through  
43 November 30, 2002, the 2003 target period shall mean January 1, 2003  
44 through November 30, 2003, the 2004 target period shall mean January 1,  
45 2004 through November 30, 2004, and the 2005 target period shall mean  
46 January 1, 2005 through November 30, 2005, the 2006 target period shall  
47 mean January 1, 2006 through November 30, 2006, and the 2007 target  
48 period shall mean January 1, 2007 through November 30, 2007 and the 2008  
49 target period shall mean January 1, 2008 through November 30, 2008, and  
50 the 2009 target period shall mean January 1, 2009 through November 30,  
51 2009 AND EACH YEAR THEREAFTER THE TARGET PERIOD SHALL BE JANUARY 1  
52 THROUGH NOVEMBER 30, FOR THAT RESPECTIVE YEAR.

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

(b) Prior to February 1, 1998, prior to February 1, 1999, prior to February 1, 2000, prior to February 1, 2001, prior to February 1, 2002, prior to February 1, 2003, prior to February 1, 2004, prior to February 1, 2005, prior to February 1, 2006, and prior to February 1, 2007, and prior to February 1, 2008 and prior to February 1, 2009, AND PRIOR TO FEBRUARY 1 OF EACH YEAR THEREAFTER for each regional group the commissioner of health shall calculate the prior year's medicaid revenue percentages for the period commencing January 1 through November 30 of such prior year.

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

4. (a) For each regional group, the 1996 target medicaid revenue percentage shall be calculated by subtracting the 1996 medicaid revenue reduction percentages from the base period medicaid revenue percentages. The 1996 medicaid revenue reduction percentage, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to:

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

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

(iii) one and eight-tenths percentage points for LTHHCPS located within the downstate region; and

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

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER for each regional group, the target medicaid revenue percentage for the respective year shall be calculated by subtracting the respective year's medicaid revenue reduction percentage from the base period medicaid revenue percentage. The medicaid revenue reduction percentages for 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to for each such year:

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

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

(iii) one and eight-tenths percentage points for LTHHCPS located within the downstate region; and

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

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

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

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

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

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

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

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER for each regional group, if the medicaid revenue percentage for the respective year is not equal to or less than the target medicaid revenue percentage for such respective year, the commissioner of health shall compare such respective year's medicaid revenue percentage to such respective year's target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the respective year's medicaid revenue reduction percentage, shall be called the reduction factor for such respective year. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the medicaid revenue percentage for a particular year is equal to or less than the target medicaid revenue percentage for that year, the reduction factor for that year shall be zero.

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

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

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

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

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

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

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER for each regional group, the reduction factor for the respective year shall be multiplied by the following amounts to determine each regional group's applicable state share reduction amount for such respective year:

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

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

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

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

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



(c) For each regional group, the 1999 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1999 state share reduction amount:

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

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

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

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

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

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

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER for each regional group, the state share reduction amount for the respective year shall be allocated by the commissioner of health among CHHAs and LTHHCPS on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year within the applicable regional group. This proportion shall be multiplied by the applicable year's state share reduction amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of this section. This amount shall be called the provider specific state share reduction amount for the applicable year.

8. (a) The 1996 provider specific state share reduction amount shall be due to the state from each CHHA and LTHHCP and may be recouped by the state by March 31, 1997 in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

(b) The provider specific state share reduction amount for 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 [and], 2009, AND EACH YEAR THEREAFTER respectively, shall be due to the state from each CHHA and LTHHCP and each year the amount due for such year may be recouped by the state by March 31 of the following year in a lump sum amount or amounts from payments due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the social services law.

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

10. On or about June 1, 1997, for each regional group the commissioner of health shall calculate for the period August 1, 1996 through March

31, 1997 a medicaid revenue percentage, a reduction factor, a state share reduction amount, and a provider specific state share reduction amount in accordance with the methodology provided in paragraph (a) of subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivision 6 and paragraph (a) of subdivision 7 of this section. The provider specific state share reduction amount calculated in accordance with this subdivision shall be compared to the 1996 provider specific state share reduction amount calculated in accordance with paragraph (a) of subdivision 7 of this section. Any amount in excess of the amount determined in accordance with paragraph (a) of subdivision 7 of this section shall be due to the state from each CHHA and LTHHCP and may be recouped in accordance with paragraph (a) of subdivision 8 of this section. If the amount is less than the amount determined in accordance with paragraph (a) of subdivision 7 of this section, the difference shall be refunded to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs and LTHHCPs shall submit data for the period August 1, 1996 through March 31, 1997 to the commissioner of health by April 15, 1997.

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

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

(b) the commissioner of health shall reduce the current rate paid to such CHHA and such LTHHCP by state governmental agencies pursuant to article 36 of the public health law by one percent for a period beginning on the first day of the calendar month following the applicable due date as established by the commissioner of health and continuing until the last day of the calendar month in which the required data and information are submitted.

12. The commissioner of health shall inform in writing the director of the budget and the chair of the senate finance committee and the chair of the assembly ways and means committee of the results of the calculations pursuant to this section.

S 31. Notwithstanding any inconsistent provision of law, rule or regulation, the annual percentage reductions set forth in sections twenty-six through thirty of this act shall be prorated by the commissioner of health for periods on and after April 1, 2009.

S 32. Subdivision 5-a of section 246 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 86 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

5-a. Section sixty-four-a of this act shall be deemed to have been in full force and effect on and after April 1, 1995 through March 31, 1999 and on and after July 1, 1999 through March 31, 2000 and on and after April 1, 2000 through March 31, 2003 and on and after April 1, 2003 through March 31, 2007, and on and after April 1, 2007 through March 31, 2009, AND ON AND AFTER APRIL 1, 2009;

S 33. Section 64-b of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 87 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

S 64-b. Notwithstanding any inconsistent provision of law, the provisions of subdivision 7 of section 3614 of the public health law, as amended, shall remain and be in full force and effect on April 1, 1995 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on

1 and after April 1, 2000 through March 31, 2003 and on and after April 1,  
2 2003 through March 31, 2007, and on and after April 1, 2007 through  
3 March 31, 2009, AND ON AND AFTER APRIL 1, 2009.

4 S 34. Paragraph (s-8) of subdivision 11 of section 2807-c of the  
5 public health law, as amended by section 57 of part C of chapter 58 of  
6 the laws of 2008, is amended to read as follows:

7 (s-8) To the extent funds are available and otherwise notwithstanding  
8 any inconsistent provision of law to the contrary, for rate periods on  
9 and after April first, two thousand seven through [March thirty-first]  
10 JUNE THIRTIETH, two thousand nine, the commissioner shall increase rates  
11 of payment for patients eligible for payments made by state governmental  
12 agencies by an amount not to exceed sixty million dollars annually in  
13 the aggregate. Such amount shall be allocated among those voluntary  
14 non-profit general hospitals which continue to provide inpatient  
15 services as of April first, two thousand seven through March thirty-  
16 first, two thousand eight and which have medicaid inpatient discharges  
17 percentages equal to or greater than thirty-five percent. This percent-  
18 age shall be computed based upon data reported to the department in each  
19 hospital's two thousand four institutional cost report, as submitted to  
20 the department on or before January first, two thousand seven. The rate  
21 adjustments calculated in accordance with this paragraph shall be allo-  
22 cated proportionally based on each eligible hospital's total reported  
23 medicaid inpatient discharges in two thousand four, to the total  
24 reported medicaid inpatient discharges for all such eligible hospitals  
25 in two thousand four, provided, however, that such rate adjustments  
26 shall be subject to reconciliation to ensure that each hospital receives  
27 in the aggregate its proportionate share of the full allocation to the  
28 extent allowable under federal law. Such payments may be added to rates  
29 of payment or made as aggregate payments to eligible hospitals,  
30 provided, however, that subject to the availability of federal financial  
31 participation and solely for the period April first, two thousand seven  
32 through March thirty-first, two thousand eight, six million dollars in  
33 the aggregate of this sixty million dollars shall be allocated to volun-  
34 tary non-profit hospitals which continue to provide inpatient services  
35 as of April first, two thousand seven through March thirty-first, two  
36 thousand eight and which have Medicaid inpatient discharge percentages  
37 of less than thirty-five percent and which had previously qualified for  
38 distributions pursuant to paragraph (s-7) of this subdivision. The rate  
39 adjustment calculated in accordance with this paragraph shall be allo-  
40 cated proportionally based on the amount of money the hospital had  
41 received in two thousand six.

42 S 35. Section 3 of chapter 629 of the laws of 1986, amending the  
43 social services law relating to establishing a demonstration program for  
44 the delivery of long term home health care services to certain persons,  
45 as amended by section 71 of part C of chapter 58 of the laws of 2008, is  
46 amended to read as follows:

47 S 3. This act shall take effect July 1, 1986, and shall remain in  
48 effect until March 31, [2012] 2013, when upon such date the provisions  
49 of this act shall be deemed repealed.

50 S 36. Subdivision 1 of section 2807-p of the public health law is  
51 amended by adding two new paragraphs (c) and (d) to read as follows:

52 (C) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, SUBDIVISION  
53 FOUR-C OF THIS SECTION OR ANY OTHER INCONSISTENT PROVISION OF THIS  
54 SECTION, DISTRIBUTIONS MADE PURSUANT TO THIS SECTION FOR ANNUAL PERIODS  
55 ON AND AFTER JULY FIRST, TWO THOUSAND NINE SHALL BE SUBJECT TO A UNIFORM  
56 REDUCTION OF TWO PERCENT.

(D) THE COMMISSIONER MAY REQUIRE FACILITIES RECEIVING DISTRIBUTIONS PURSUANT TO THIS SECTION AS A CONDITION OF PARTICIPATING IN SUCH DISTRIBUTIONS, TO PROVIDE REPORTS AND DATA TO THE DEPARTMENT AS THE COMMISSIONER DEEMS NECESSARY TO ADEQUATELY IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 37. Subdivision 6-a of section 93 of part C of chapter 58 of the laws of 2007 amending the social services law and other laws relating to enacting major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 fiscal year, is amended to read as follows:

6-a. section fifty-seven of this act shall expire and be deemed repealed on [March] DECEMBER 31, [2010] 2013; provided that such section shall not apply to any person as to whom federal financial participation is available for the costs of services provided under the provisions of subdivision 4 of section 366-c of the social services law in effect immediately prior to the effective date of this act.

S 38. Subdivision 1 of section 20 of chapter 451 of the laws of 2007 amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, is amended to read as follows:

1. sections four, eleven and thirteen of this act shall take effect immediately and shall expire and be deemed repealed June 30, [2009] 2011;

S 39. Subdivision (r) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, as amended by section 15 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

(r) the provisions of sections two hundred eighty-six through two hundred ninety-one of this act shall apply to all persons released on medical parole prior to September 1, [2009] 2011, and shall expire and be of no further effect on September 1, [2009] 2011;

S 40. Section 3 of chapter 942 of the laws of 1983, relating to foster family care demonstration programs, as amended by chapter 219 of the laws of 2007, is amended to read as follows:

S 3. This act shall take effect immediately and shall expire December 31, [2009] 2013.

S 41. Section 3 of chapter 541 of the laws of 1984, relating to foster family care demonstration programs, as amended by chapter 219 of the laws of 2007, is amended to read as follows:

S 3. This section and subdivision two of section two of this act shall take effect immediately and the remaining provisions of this act shall take effect on the one hundred twentieth day next thereafter. This act shall expire December 31, [2009] 2013.

S 42. Section 6 of chapter 256 of the laws of 1985, amending the social services law and other laws relating to foster family care demonstration programs, as amended by chapter 219 of the laws of 2007, is amended to read as follows:

S 6. This act shall take effect immediately and shall expire December 31, [2009] 2013 and upon such date the provisions of this act shall be deemed to be repealed.

S 43. Section 2 of chapter 693 of the laws of 1996, amending the social services law relating to authorizing patient discharge to hospices and residential health care facilities, under the medical assistance presumptive eligibility program, as amended by chapter 124 of the laws of 2006, is amended to read as follows:

1 S 2. This act shall take effect immediately and shall be deemed  
2 repealed on July 31, [2009] 2012.

3 S 44. Section 2 of chapter 631 of the laws of 1997, amending the  
4 social services law relating to authorizing medical assistance payments  
5 to certain clinics or diagnostic and treatment centers, as amended by  
6 chapter 47 of the laws of 2007, is amended to read as follows:

7 S 2. This act shall take effect immediately and shall be deemed to  
8 apply to claims for reimbursement payments whether submitted before, on  
9 or after the effective date of this act, and shall expire and be deemed  
10 repealed July 1, [2009] 2011.

11 S 45. Section 4 of chapter 519 of the laws of 1999, amending the alco-  
12 holic beverage control law and the public health law relating to the  
13 sale of alcohol and tobacco products to minors, as amended by chapter  
14 594 of the laws of 2007, is amended to read as follows:

15 S 4. This act shall take effect September 1, 1999[, and shall remain  
16 in full force and effect until January 1, 2010 when upon such date the  
17 provisions of this act shall expire and be deemed repealed]; provided,  
18 however, the state liquor authority, state department of motor vehicles  
19 and state department of health shall promulgate rules and regulations  
20 necessary to implement the provisions of this act on or before such  
21 date; [provided further that the provisions of this act shall apply  
22 after such expiration date to any proceeding pursuant to the alcoholic  
23 beverage control law or public health law to invoke or enforce the  
24 provisions of this act which were commenced prior to such expiration  
25 date;] and provided, further however, that the amendments to section  
26 65-b of the alcoholic beverage control law made by section two of this  
27 act shall not affect the repeal of such section and shall be deemed  
28 repealed therewith.

29 S 46. The opening paragraph of subdivision 7-a of section 3614 of the  
30 public health law, as amended by section 89 of part C of chapter 58 of  
31 the laws of 2007, is amended to read as follows:

32 Notwithstanding any inconsistent provision of law or regulation, for  
33 the purposes of establishing rates of payment by governmental agencies  
34 for long term home health care programs for the period April first, two  
35 thousand five, through December thirty-first, two thousand five, and for  
36 the period January first, two thousand six through March thirty-first,  
37 two thousand seven, and on and after April first, two thousand seven  
38 through March thirty-first, two thousand nine, AND ON AND AFTER APRIL  
39 FIRST, TWO THOUSAND NINE, the reimbursable base year administrative and  
40 general costs of a provider of services shall not exceed the statewide  
41 average of total reimbursable base year administrative and general costs  
42 of such providers of services.

43 S 47. This act shall take effect immediately; provided, however, that  
44 the amendments to section 2807-c of the public health law made by  
45 sections sixteen, seventeen, eighteen, and nineteen of this act shall  
46 not affect the expiration of such provisions and shall be deemed to  
47 expire therewith.

48 PART C

49 Section 1. Legislative intent. (a) The legislature finds that New York  
50 leads the nation in Medicaid spending per capita and ranks third highest  
51 in overall health care spending per capita. Despite this extraordinary  
52 level of spending, 2.3 million New Yorkers are uninsured and New York's  
53 health care system is ranked average among states and below average on  
54 hospitalizations that could have been avoided if patients had timely

1 access to quality outpatient care. It is the intent of this legislation  
2 to ensure that New Yorkers have access to a high-performing health  
3 system and that New York Medicaid buys quality, cost-effective care by:  
4 implementing a transparent and accurate inpatient reimbursement system  
5 that rewards quality and efficiency; investing in ambulatory care  
6 services and supporting the development of health care homes; supporting  
7 providers that serve uninsured patients; increasing affordable coverage  
8 in partnership with the federal government; investing in health informa-  
9 tion technology; and more effectively and efficiently managing pharma-  
10 ceutical benefits.

11 (b) With respect to improper influences exerted on prescribing deci-  
12 sions and the lack of transparency in the administration of pharmacy  
13 benefits by pharmacy benefit managers, the legislature finds that:

14 i. The pharmaceutical, biological product and medical device indus-  
15 tries spend billions of dollars annually to attempt to influence pres-  
16 cribers' decisions about which drugs or other treatment to prescribe to  
17 their patients, including more than half of all formal continuing  
18 medical education programs. Legislation is necessary to prohibit drug  
19 and device manufacturers from making payments to prescribers in an  
20 attempt to influence their prescribing decisions and further to require  
21 prescribers and manufacturers to disclose the things of value that are  
22 legitimately transferred from drug and device manufacturers to prescri-  
23 bers.

24 ii. There is compelling evidence that the vast majority of physicians  
25 accept some type of gift or payment from pharmaceutical and medical  
26 device manufacturers, and often such gifts and payments, even when of  
27 little value, influence physicians to prescribe treatments that are more  
28 expensive and no more effective or safe, and are sometimes less effec-  
29 tive and more dangerous, than other available treatments.

30 iii. Legislation is necessary to prohibit presenters at continuing  
31 professional education programs from providing false or misleading  
32 information to prescribers and to require all potential conflicts of  
33 interest be disclosed to attendees of such programs.

34 iv. Drug manufacturers, including labelers, make payments to pharmacy  
35 benefit managers and their affiliates in an effort to influence the  
36 drugs covered by the health plans which contract with the pharmacy bene-  
37 fit manager and, therefore, the drugs purchased by the health plans'  
38 participants. Health plans have been unable to obtain from pharmacy  
39 benefit managers information about these payments and other information  
40 material to a health plan's choice of pharmacy benefit manager and to  
41 the health plan's evaluation of the quality and value of the pharmacy  
42 benefit services it receives. Legislation is needed to require pharmacy  
43 benefit managers to disclose to the health plans that contract with them  
44 basic information about their financial dealings that affect the health  
45 plans and their participants.

46 S 1-a. Short title. This act shall be known and may be cited as the  
47 "health care improvement act".

48 S 1-b. Subparagraph (ii) of paragraph (a) of subdivision 33 of section  
49 3807-c of the public health law, as added by section 12 of part C of  
50 chapter 58 of the laws of 2008, is amended to read as follows:

51 (ii) for the period April first, two thousand nine through March thir-  
52 ty-first, two thousand ten, such rates shall be revised pursuant to a  
53 chapter of the laws of two thousand nine and as reflecting the findings  
54 and recommendations of the commissioner as issued pursuant to the  
55 provisions of paragraph (b) of this subdivision, provided, however, that  
56 such revisions shall reflect an aggregate reduction in such rates of no

1 less than one hundred fifty-four million five hundred thousand dollars,  
2 PROVIDED FURTHER, HOWEVER, THAT, AS DETERMINED BY THE COMMISSIONER, TO  
3 THE EXTENT THAT A CHAPTER OF THE LAWS OF TWO THOUSAND NINE IS NOT  
4 ENACTED RESULTING IN SUCH A AGGREGATE REDUCTION OF NO LESS THAN ONE  
5 HUNDRED FIFTY-FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS IN SUCH RATES,  
6 THE COMMISSIONER SHALL IMPLEMENT A UNIFORM REDUCTION OF SUCH RATES IN  
7 ACCORDANCE WITH THE METHODOLOGY DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
8 PARAGRAPH TO THE EXTENT NECESSARY, AS DETERMINED BY THE COMMISSIONER, TO  
9 ACHIEVE SUCH AN AGGREGATE REDUCTION IN SUCH RATES FOR THE STATE FISCAL  
10 YEAR BEGINNING APRIL FIRST, TWO THOUSAND NINE; and

11 S 2. Section 2807-c of the public health law is amended by adding a  
12 new subdivision 35 to read as follows:

13 35. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, OR ANY  
14 OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF  
15 FEDERAL FINANCIAL PARTICIPATION, RATES OF PAYMENT BY GOVERNMENTAL AGEN-  
16 CIES FOR GENERAL HOSPITAL INPATIENT SERVICES WITH REGARD TO DISCHARGES  
17 OCCURRING ON AND AFTER JULY FIRST, TWO THOUSAND NINE SHALL BE IN ACCORD-  
18 ANCE WITH THE FOLLOWING:

19 (A) FOR PERIODS ON AND AFTER JULY FIRST, TWO THOUSAND NINE THE OPERAT-  
20 ING COST COMPONENT OF SUCH RATES OF PAYMENTS SHALL REFLECT THE USE OF  
21 TWO THOUSAND FIVE OPERATING COSTS AS REPORTED BY EACH FACILITY TO THE  
22 DEPARTMENT PRIOR TO DECEMBER FIRST, TWO THOUSAND EIGHT AND AS OTHERWISE  
23 COMPUTED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION;

24 (B) THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE  
25 EMERGENCY REGULATIONS, ESTABLISHING METHODOLOGIES FOR THE COMPUTATION OF  
26 GENERAL HOSPITAL INPATIENT RATES AND SUCH REGULATIONS SHALL INCLUDE, BUT  
27 NOT BE LIMITED TO, THE FOLLOWING:

28 (I) THE COMPUTATION OF A CASE MIX NEUTRAL STATEWIDE BASE PRICE APPLI-  
29 CABLE TO EACH RATE PERIOD, BUT EXCLUDING ADJUSTMENTS FOR GRADUATE  
30 MEDICAL EDUCATION COSTS, HIGH COST OUTLIER COSTS AND COST RELATED TO  
31 PATIENT TRANSFERS, AND AS MAY BE PERIODICALLY ADJUSTED TO REFLECT CHANG-  
32 ES IN PROVIDER CODING PATTERNS AND CASE-MIX.

33 (II) ONLY THOSE TWO THOUSAND FIVE BASE YEAR COSTS WHICH RELATE TO THE  
34 COST OF SERVICES PROVIDED TO MEDICAID INPATIENTS, AS DETERMINED BY THE  
35 APPLICABLE RATIO OF COSTS TO CHARGES METHODOLOGY, SHALL BE UTILIZED FOR  
36 RATE-SETTING AND CASE-MIX PURPOSES;

37 (III) SUCH RATES SHALL REFLECT THE APPLICATION OF HOSPITAL SPECIFIC  
38 WAGE EQUALIZATION FACTORS AND POWER EQUALIZATION FACTORS REFLECTING  
39 DIFFERENCES IN WAGE RATES AND UTILITY COSTS;

40 (IV) SUCH RATES SHALL REFLECT THE UTILIZATION OF THE ALL PATIENT  
41 REFINED (APR) CASE MIX METHODOLOGY, UTILIZING DIAGNOSTIC RELATED GROUPS  
42 WITH ASSIGNED WEIGHTS THAT INCORPORATE DIFFERING LEVELS OF SEVERITY OF  
43 PATIENT CONDITION AND THE ASSOCIATED RISK OF MORTALITY, AND AS MAY BE  
44 PERIODICALLY UPDATED BY THE COMMISSIONER;

45 (V) SUCH REGULATIONS MAY INCORPORATE QUALITY RELATED MEASURES PERTAIN-  
46 ING TO POTENTIALLY PREVENTABLE COMPLICATIONS AND RE-ADMISSIONS;

47 (VI) SUCH REGULATIONS SHALL ADDRESS ADJUSTMENTS BASED ON THE COSTS OF  
48 HIGH COST OUTLIER PATIENTS;

49 (VII) SUCH RATES SHALL CONTINUE TO REFLECT TREND FACTOR ADJUSTMENTS AS  
50 OTHERWISE PROVIDED IN PARAGRAPH (C) OF SUBDIVISION TEN OF THIS SECTION;

51 (VIII) SUCH RATES SHALL NOT INCLUDE ANY ADJUSTMENTS PURSUANT TO SUBDI-  
52 VISION NINE OF THIS SECTION;

53 (IX) RATES FOR NON-PUBLIC, NOT-FOR-PROFIT GENERAL HOSPITALS WHICH HAVE  
54 NOT, AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, PUBLISHED AN ANCIL-  
55 LARY CHARGES SCHEDULE AS PROVIDED IN PARAGRAPH (J) OF SUBDIVISION ONE OF  
56 SECTION TWENTY-EIGHT HUNDRED THREE OF THIS ARTICLE SHALL HAVE THEIR

1 INLIER PAYMENTS INCREASED BY AN AMOUNT EQUAL TO THE STATEWIDE AVERAGE OF  
2 COST OUTLIER PAYMENTS AS DETERMINED BY SUCH REGULATIONS;

3 (X) SUCH REGULATIONS SHALL PROVIDE FOR ADMINISTRATIVE RATE APPEALS,  
4 BUT ONLY WITH REGARD TO: (A) THE CORRECTION OF COMPUTATIONAL ERRORS OR  
5 OMISSIONS OF DATA, INCLUDING WITH REGARD TO THE HOSPITAL SPECIFIC COMPU-  
6 TATIONS PERTAINING TO GRADUATE MEDICAL EDUCATION, WAGE EQUALIZATION  
7 FACTOR ADJUSTMENTS AND POWER EQUALIZATION FACTOR ADJUSTMENTS, AND (B)  
8 CAPITAL COST REIMBURSEMENT;

9 (XI) RATES FOR TEACHING GENERAL HOSPITALS SHALL INCLUDE REIMBURSEMENT  
10 FOR DIRECT AND INDIRECT GRADUATE MEDICAL EDUCATION AS DEFINED AND CALCU-  
11 LATED PURSUANT TO SUCH REGULATIONS. IN ADDITION, SUCH REGULATIONS SHALL  
12 SPECIFY THE REPORTS AND INFORMATION REQUIRED BY THE COMMISSIONER TO  
13 ASSESS THE COST, QUALITY AND HEALTH SYSTEM NEEDS FOR MEDICAL EDUCATION  
14 PROVIDED.

15 (C) THE BASE PERIOD REPORTED COSTS AND STATISTICS USED FOR RATE-SET-  
16 TING FOR OPERATING COST COMPONENTS, INCLUDING THE WEIGHTS ASSIGNED TO  
17 DIAGNOSTIC RELATED GROUPS, SHALL BE UPDATED NO LESS FREQUENTLY THAN  
18 EVERY FOUR YEARS AND THE NEW BASE PERIOD SHALL BE NO MORE THAN FOUR  
19 YEARS PRIOR TO THE FIRST APPLICABLE RATE PERIOD THAT UTILIZES SUCH NEW  
20 BASE PERIOD.

21 (D) CAPITAL COST REIMBURSEMENT FOR GENERAL HOSPITALS OTHERWISE SUBJECT  
22 TO THE PROVISIONS OF THIS SUBDIVISION SHALL REMAIN SUBJECT TO THE  
23 PROVISIONS OF SUBDIVISION EIGHT OF THIS SECTION.

24 (E) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THOSE GENER-  
25 AL HOSPITALS OR DISTINCT UNITS OF GENERAL HOSPITALS WHOSE INPATIENT  
26 REIMBURSEMENT DOES NOT, AS OF JUNE THIRTIETH, TWO THOUSAND NINE, REFLECT  
27 CASE BASED PAYMENT PER DIAGNOSIS-RELATED GROUP OR WHOSE INPATIENT  
28 REIMBURSEMENT IS, FOR PERIODS ON AND AFTER JULY FIRST, TWO THOUSAND  
29 NINE, GOVERNED BY THE PROVISIONS OF PARAGRAPHS (E-1) OR (E-2) OF SUBDI-  
30 VISION FOUR OF THIS SECTION.

31 (F) NOTWITHSTANDING SECTION ONE HUNDRED TWELVE OR ONE HUNDRED  
32 SIXTY-THREE OF THE STATE FINANCE LAW OR ANY OTHER LAW, RULE OR REGU-  
33 LATION TO THE CONTRARY, THE COMMISSIONER MAY CONTRACT WITH A VENDOR FOR  
34 CONSIDERATION TO DEVELOP THE SPECIFICATIONS FOR THE DIAGNOSIS-RELATED  
35 GROUPS METHODOLOGY AS PROVIDED FOR IN REGULATIONS PROMULGATED PURSUANT  
36 TO PARAGRAPH (B) OF THIS SUBDIVISION IF THE COMMISSIONER CERTIFIES TO  
37 THE COMPTROLLER THAT SUCH CONTRACT IS IN THE BEST INTEREST OF THE HEALTH  
38 OF THE PEOPLE OF THE STATE. NOTWITHSTANDING THAT SUCH SPECIFICATIONS  
39 SHALL BE AVAILABLE PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW,  
40 SUCH CONTRACT MAY PROVIDE THAT THE SPECIFICATIONS FOR SUCH ADJUSTED OR  
41 ADDITIONAL DIAGNOSIS-RELATED GROUPS PROVIDED BY THE VENDOR SHALL BE  
42 SUBJECT TO COPYRIGHT PROTECTION PURSUANT TO FEDERAL COPYRIGHT LAW.

43 (G) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION OR  
44 ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER MAY, FOR RATE  
45 PERIODS ON AND AFTER JULY FIRST, TWO THOUSAND NINE AND SUBJECT TO THE  
46 AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, MAKE ADDITIONAL ADJUST-  
47 MENTS TO THE INPATIENT RATES OF PAYMENT OF ELIGIBLE GENERAL HOSPITALS,  
48 TO FACILITATE IMPROVEMENTS IN HOSPITAL OPERATIONS AND FINANCES, IN  
49 ACCORDANCE WITH THE FOLLOWING:

50 (I) GENERAL HOSPITALS ELIGIBLE FOR DISTRIBUTIONS PURSUANT TO THIS  
51 PARAGRAPH SHALL BE THOSE NON-PUBLIC HOSPITALS WHICH, AS DETERMINED BY  
52 THE COMMISSIONER, EXPERIENCE A REDUCTION IN THEIR MEDICAID INPATIENT  
53 REVENUE OF A PERCENTAGE AS DETERMINED BY THE COMMISSIONER, AS A RESULT  
54 OF THE APPLICATION OF THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS  
55 SUBDIVISION.



1 (II) FUNDS DISTRIBUTED PURSUANT TO THIS PARAGRAPH SHALL BE ALLOCATED  
2 BASED ON EACH ELIGIBLE FACILITY'S RELATIVE NEED AS DETERMINED BY THE  
3 COMMISSIONER.

4 (III) FUNDING PURSUANT TO THIS PARAGRAPH SHALL BE AVAILABLE FOR THE  
5 FOLLOWING PERIODS AND IN THE FOLLOWING AMOUNTS:

6 (A) FOR THE PERIOD JULY FIRST, TWO THOUSAND NINE THROUGH MARCH THIR-  
7 TY-FIRST, TWO THOUSAND TEN, UP TO SEVENTY-FIVE MILLION DOLLARS;

8 (B) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIR-  
9 TY-FIRST, TWO THOUSAND ELEVEN, UP TO SEVENTY-FIVE MILLION DOLLARS;

10 (C) FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH  
11 THIRTY-FIRST, TWO THOUSAND TWELVE, UP TO FIFTY MILLION DOLLARS;

12 (D) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH  
13 THIRTY-FIRST, TWO THOUSAND THIRTEEN, UP TO TWENTY-FIVE MILLION DOLLARS.

14 (IV) PAYMENTS MADE PURSUANT TO THIS PARAGRAPH SHALL NOT BE SUBJECT TO  
15 RETROACTIVE ADJUSTMENT OR RECONCILIATION AND MAY BE ADDED TO RATES OF  
16 PAYMENT OR MADE AS LUMP SUM PAYMENTS.

17 (V) EACH HOSPITAL RECEIVING FUNDS PURSUANT TO THIS PARAGRAPH SHALL, AS  
18 A CONDITION FOR ELIGIBILITY FOR SUCH FUNDS, ADOPT A RESOLUTION OF THE  
19 BOARD OF DIRECTORS OF EACH SUCH HOSPITAL SETTING FORTH ITS CURRENT  
20 FINANCIAL CONDITION AND A PLAN FOR REFORMING AND IMPROVING SUCH FINAN-  
21 CIAL CONDITION, INCLUDING ONGOING BOARD OVERSIGHT, AND SHALL, AFTER TWO  
22 YEARS, ISSUE A REPORT AS ADOPTED BY EACH SUCH BOARD OF DIRECTORS SETTING  
23 FORTH WHAT PROGRESS HAS BEEN ACHIEVED REGARDING SUCH IMPROVEMENT,  
24 PROVIDED, HOWEVER, IF SUCH REPORT IS NOT ISSUED AND ADOPTED BY EACH SUCH  
25 BOARD OF DIRECTORS, OR IF SUCH REPORT FAILS TO SET FORTH ADEQUATE  
26 PROGRESS, AS DETERMINED BY THE COMMISSIONER, THE COMMISSIONER MAY DEEM  
27 SUCH FACILITY INELIGIBLE FOR FURTHER DISTRIBUTIONS PURSUANT TO THIS  
28 PARAGRAPH AND MAY REDISTRIBUTE SUCH FURTHER DISTRIBUTIONS TO OTHER  
29 ELIGIBLE FACILITIES IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH.  
30 THE COMMISSIONER SHALL BE PROVIDED WITH COPIES OF ALL SUCH RESOLUTIONS  
31 AND REPORTS.

32 (H) INPATIENT RATE ADJUSTMENTS MADE PURSUANT TO PARAGRAPHS (A) THROUGH  
33 (F) OF THIS SUBDIVISION AFTER APPLICATION OF ADJUSTMENTS AUTHORIZED  
34 PURSUANT TO SUBDIVISION THIRTY-THREE OF THIS SECTION SHALL RESULT IN A  
35 NET STATEWIDE DECREASE IN AGGREGATE MEDICAID PAYMENTS OF NO LESS THAN  
36 ONE HUNDRED SIXTY-EIGHT MILLION DOLLARS FOR THE PERIOD JULY FIRST, TWO  
37 THOUSAND NINE THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TEN, AND NO LESS  
38 THAN TWO HUNDRED SEVENTY-EIGHT MILLION DOLLARS FOR THE PERIOD APRIL  
39 FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN.

40 S 3. Notwithstanding any contrary provision of law, if the commission-  
41 er of health determines that federal financial participation will not be  
42 available with regard to the provisions of subparagraph (ii) of para-  
43 graph (g) of subdivision 35 of section 2807-c of the public health law,  
44 such commissioner may deem such provision null and void and instead may  
45 allocate funds pursuant to such paragraph (g) proportionally, based on  
46 each eligible facility's relative share of Medicaid inpatient discharges  
47 in the year two years prior to the distribution year.

48 S 4. Clause (A) of subparagraph (i) of paragraph (a) of subdivision 30  
49 of section 2807-c of the public health law, as amended by section 22-b  
50 of part B of chapter 58 of the laws of 2008, is amended to read as  
51 follows:

52 (A) ninety-three million two hundred thousand dollars on an annualized  
53 basis for the period April first, two thousand two through December  
54 thirty-first, two thousand two; one hundred eighty-seven million eight  
55 hundred thousand dollars on an annualized basis for the period January  
56 first, two thousand three through December thirty-first, two thousand

1 three; two hundred sixty-two million one hundred thousand dollars on an  
2 annualized basis for the period January first, two thousand four through  
3 December thirty-first, two thousand six; one hundred thirty-one million  
4 one hundred thousand dollars for the period January first, two thousand  
5 seven through June thirtieth, two thousand seven, and two hundred  
6 forty-three million five hundred thousand dollars for the period July  
7 first, two thousand seven through March thirty-first, two thousand  
8 eight, two hundred forty-three million five hundred thousand dollars for  
9 the period April first, two thousand eight through March thirty-first,  
10 two thousand nine; [two hundred forty-three] SIXTY million [five] EIGHT  
11 hundred SEVENTY-FIVE thousand dollars for the period April first, two  
12 thousand nine through [March thirty-first] JUNE THIRTIETH, two thousand  
13 [ten] NINE[; two hundred forty-three million five hundred thousand  
14 dollars for the period April first, two thousand ten through March thir-  
15 ty-first, two thousand eleven].

16 S 5. Clause (A) of subparagraph (i) of paragraph (b) of subdivision 30  
17 of section 2807-c of the public health law, as amended by section 22-b  
18 of part B of chapter 58 of the laws of 2008, is amended to read as  
19 follows:

20 (A) eighteen million five hundred thousand dollars on an annualized  
21 basis for the period April first, two thousand two through December  
22 thirty-first, two thousand two; thirty-seven million four hundred thou-  
23 sand dollars on an annualized basis for the period January first, two  
24 thousand three through December thirty-first, two thousand three;  
25 fifty-two million two hundred thousand dollars on an annualized basis  
26 for the period January first, two thousand four through December thir-  
27 ty-first, two thousand six; twenty-six million one hundred thousand  
28 dollars for the period January first, two thousand seven through June  
29 thirtieth, two thousand seven[;], forty-nine million dollars for the  
30 period July first, two thousand seven through March thirty-first, two  
31 thousand eight[;], AND forty-nine million dollars for the period April  
32 first, two thousand eight through March thirty-first, two thousand  
33 nine[; forty-nine million dollars for the period April first, two thou-  
34 sand nine through March thirty-first, two thousand ten; and forty-nine  
35 million dollars for the period April first, two thousand ten through  
36 March thirty-first, two thousand eleven].

37 S 6. Paragraphs (x) and (y) of subdivision 1 of section 2807-v of the  
38 public health law, as amended by section 5 of part B of chapter 58 of  
39 the laws of 2008, are amended to read as follows:

40 (x) Funds shall be deposited by the commissioner, within amounts  
41 appropriated, and the state comptroller is hereby authorized and  
42 directed to receive for deposit to the credit of the state special  
43 revenue funds - other, HCRA transfer fund, medical assistance account,  
44 or any successor fund or account, for purposes of funding the state  
45 share of the non-public general hospital rates increases for recruitment  
46 and retention of health care workers from the tobacco control and insur-  
47 ance initiatives pool established for the following periods in the  
48 following amounts:

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

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

1 (iii) sixty-nine million three hundred thousand dollars on an annual-  
2 ized basis for the period January first, two thousand four through  
3 December thirty-first, two thousand four;  
4 (iv) sixty-nine million three hundred thousand dollars for the period  
5 January first, two thousand five through December thirty-first, two  
6 thousand five;  
7 (v) sixty-nine million three hundred thousand dollars for the period  
8 January first, two thousand six through December thirty-first, two thou-  
9 sand six;  
10 (vi) sixty-five million three hundred thousand dollars for the period  
11 January first, two thousand seven through December thirty-first, two  
12 thousand seven;  
13 (vii) sixty-one million one hundred fifty thousand dollars for the  
14 period January first, two thousand eight through December thirty-first,  
15 two thousand eight; AND  
16 (viii) [fifty-three] TWENTY-SIX million [one] FIVE hundred [fifty]  
17 SEVENTY-FIVE thousand dollars for the period January first, two thousand  
18 nine through [December thirty-first] JUNE THIRTIETH, two thousand nine[;  
19 (ix) thirty million twenty-five thousand dollars for the period Janu-  
20 ary first, two thousand ten through December thirty-first, two thousand  
21 ten; and  
22 (x) eight million eight hundred thousand dollars for the period Janu-  
23 ary first, two thousand eleven through March thirty-first, two thousand  
24 eleven].  
25 (y) Funds shall be reserved and accumulated from year to year and  
26 shall be available, including income from invested funds, for purposes  
27 of grants to public general hospitals for recruitment and retention of  
28 health care workers pursuant to paragraph (b) of subdivision thirty of  
29 section twenty-eight hundred seven-c of this article from the tobacco  
30 control and insurance initiatives pool established for the following  
31 periods in the following amounts:  
32 (i) eighteen million five hundred thousand dollars on an annualized  
33 basis for the period January first, two thousand two through December  
34 thirty-first, two thousand two;  
35 (ii) thirty-seven million four hundred thousand dollars on an annual-  
36 ized basis for the period January first, two thousand three through  
37 December thirty-first, two thousand three;  
38 (iii) fifty-two million two hundred thousand dollars on an annualized  
39 basis for the period January first, two thousand four through December  
40 thirty-first, two thousand four;  
41 (iv) fifty-two million two hundred thousand dollars for the period  
42 January first, two thousand five through December thirty-first, two  
43 thousand five;  
44 (v) fifty-two million two hundred thousand dollars for the period  
45 January first, two thousand six through December thirty-first, two thou-  
46 sand six;  
47 (vi) forty-nine million dollars for the period January first, two  
48 thousand seven through December thirty-first, two thousand seven;  
49 (vii) forty-nine million dollars for the period January first, two  
50 thousand eight through December thirty-first, two thousand eight; AND  
51 (viii) [forty-nine] TWELVE million TWO HUNDRED FIFTY THOUSAND dollars  
52 for the period January first, two thousand nine through [December] MARCH  
53 thirty-first, two thousand nine[;  
54 (ix) forty-nine million dollars for the period January first, two  
55 thousand ten through December thirty-first, two thousand ten; and

(x) twelve million two hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven].

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

S 7. Paragraphs (ggg) and (hhh) of subdivision 1 of section 2807-v of the public health law, as added by section 5 of part B of chapter 58 of the laws of 2008, are amended to read as follows:

(ggg) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for hospital translation services as authorized pursuant to paragraph (k) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

(i) sixteen million dollars for the period July first, two thousand eight through December thirty-first, two thousand eight; AND

(ii) [sixteen] EIGHT million dollars for the period January first, two thousand nine through [December thirty-first] JUNE THIRTIETH, two thousand nine[;

(iii) sixteen million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(iv) four million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven].

(hhh) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for adjustments to inpatient rates of payment for general hospitals located in the counties of Nassau and Suffolk as authorized pursuant to paragraph (l) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

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

(ii) [two] ONE million [five] TWO hundred FIFTY thousand dollars for the period January first, two thousand nine through [December thirty-first] JUNE THIRTIETH, two thousand nine[;

(iii) two million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(iv) six hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first two thousand eleven].

S 8. Paragraph (s) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

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

(i) eighteen million dollars for the period January first, two thousand and through December thirty-first, two thousand;

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

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

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

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

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

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

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

AND

(ix) up to [twenty-four] TWELVE million dollars for the period January first, two thousand nine through [December thirty-first] JUNE THIRTIETH, two thousand nine[;

(x) up to twenty-four million dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(xi) up to six million dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven].

S 9. Paragraph (n) of subdivision 1 of section 2807-1 of the public health law, as amended by section 4 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(n) Funds shall be accumulated and transferred from the health care reform act (HCRA) resources fund as follows: for the period April first, two thousand seven through March thirty-first, two thousand eight, and on an annual basis for the periods April first, two thousand eight through [March thirty-first] JUNE THIRTIETH, two thousand [eleven] NINE, funds within amounts appropriated shall be transferred and deposited and credited to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, for purposes of funding the state share of rate adjustments made to public and voluntary hospitals in accordance with paragraphs (i) and (j) of subdivision one of section twenty-eight hundred seven-c of this article.

S 10. Paragraph (xx) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(xx) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the general hospital rates increases for rural hospitals pursu-

ant to subdivision thirty-two of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

(iv) three million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; AND

(v) [three] ONE million [five hundred] SEVEN HUNDRED FIFTY thousand dollars for the period January first, two thousand nine through [December thirty-first] JUNE THIRTIETH, two thousand nine[;

(vi) three million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(vii) eight hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

(viii) provided, however, in the event federal financial participation is not available with regard to rate adjustments pursuant to subdivision thirty-two of section twenty-eight hundred seven-c of this article, allocations pursuant to this paragraph shall, on an annualized basis be increased to seven million dollars for the period January first, two thousand five through March thirty-first, two thousand eleven].

S 11. Paragraph (1) of subdivision 4 of section 2807-c of the public health law, as added by section 15 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(1) Notwithstanding any inconsistent provision of this section and subject to the availability of federal financial participation, rates of payment by governmental agencies for general hospitals which are certified by the office of alcoholism and substance abuse services to provide inpatient detoxification and withdrawal services and, with regard to inpatient services provided to patients discharged on and after December first, two thousand eight and who are determined to be in diagnosis-related groups numbered seven hundred forty-three, seven hundred forty-four, seven hundred forty-five, seven hundred forty-six, seven hundred forty-seven, seven hundred forty-eight, seven hundred forty-nine, seven hundred fifty, or seven hundred fifty-one, shall be made on a per diem basis in accordance with the following:

(i) for the period December first, two thousand eight through [December thirty-first] FEBRUARY TWENTY-EIGHTH, two thousand nine, seventy-five percent of the operating cost component of such rates of payments shall reflect the operating cost component of rates of payment effective for December thirty-first, two thousand seven, as adjusted for inflation pursuant to paragraph (c) of subdivision ten of this section, as otherwise modified by any applicable statutes, and twenty-five percent of such rates shall reflect the use of two thousand six operating costs as reported by each facility to the department prior to two thousand eight and as computed in accordance with the provisions of subparagraph [(v)] (III) of this paragraph;

1 (ii) [for the period January first, two thousand ten through December  
2 thirty-first, two thousand ten, fifty percent of the operating cost  
3 component of such rates of payment shall reflect the operating cost  
4 component of rates of payment effective December thirty-first, two thou-  
5 sand seven, as adjusted for inflation pursuant to paragraph (c) of  
6 subdivision ten of this section, as otherwise modified by any applicable  
7 statutes, and fifty percent of such rates of payment shall reflect the  
8 use of two thousand six operating costs as reported by each facility to  
9 the department prior to two thousand eight and as computed in accordance  
10 with the provisions of subparagraph (v) of this paragraph;

11 (iii) for the period January first, two thousand eleven through Decem-  
12 ber thirty-first, two thousand eleven, twenty-five percent of the oper-  
13 ating cost component of such rates of payment shall reflect the operat-  
14 ing cost component of rates of payment effective December thirty-first,  
15 two thousand seven, as adjusted for inflation pursuant to paragraph (c)  
16 of subdivision ten of this section, as otherwise modified by any appli-  
17 cable statutes, and seventy-five percent of such rates of payment shall  
18 reflect the use of two thousand six operating costs as reported by each  
19 facility to the department prior to two thousand eight and as computed  
20 in accordance with the provisions of subparagraph (v) of this paragraph;  
21 and

22 (iv)] for periods on and after [January] MARCH first, two thousand  
23 [twelve] NINE, one hundred percent of the operating cost component of  
24 such rates of payment shall reflect the use of two thousand six operat-  
25 ing costs as reported to the department prior to two thousand eight and  
26 as computed in accordance with the provisions of subparagraph [(v)]  
27 (III) of this paragraph.

28 [(v)] (III) rates of payment computed in accordance with this para-  
29 graph and reflecting the use of two thousand six base year operating  
30 costs shall be in accord with the following, provided, however that the  
31 commissioner may establish criteria under which reimbursement may be  
32 provided at higher percentages and for longer periods.

33 (A) For each of the regions within the state as described in clause  
34 (E) of this subparagraph the commissioner shall determine the average  
35 per diem cost incurred by general hospitals in that region subject to  
36 the provisions of this paragraph with regard to inpatients requiring  
37 medically managed detoxification services, as defined by applicable  
38 regulations promulgated by the office of alcoholism and substance abuse  
39 services. In determining such costs the commissioner shall utilize two  
40 thousand six costs and statistics as reported by such hospitals to the  
41 department prior to two thousand eight.

42 (B) Per diem payments for inpatients requiring medically managed inpa-  
43 tient detoxification services shall reflect one hundred percent of the  
44 per diem amounts computed pursuant to clause (A) of this subparagraph  
45 for the applicable region in which the facility is located and as trend-  
46 ed forward to adjust for inflation, provided however, that such payments  
47 shall be reduced by fifty percent for any such services provided on or  
48 after the sixth day of services through the tenth day of services, and  
49 further provided that no payments shall be made for any services  
50 provided on or after the eleventh day.

51 (C) Per diem payments for inpatients requiring medically supervised  
52 withdrawal services, as defined by applicable regulations promulgated by  
53 the office of alcoholism and substance abuse services, shall reflect one  
54 hundred percent of the per diem amounts computed pursuant to clause (A)  
55 of this subparagraph for the applicable region in which the facility is  
56 located for the period [January first, two thousand nine] DECEMBER

FIRST, TWO THOUSAND EIGHT through December thirty-first, two thousand nine, and as trended forward to adjust for inflation, and shall reflect seventy-five percent of such per diem amounts for periods on and after January first, two thousand ten, as trended forward to adjust for inflation, provided, however, that such payments shall be reduced by fifty percent for any services provided on or after the sixth day of services through the tenth day of services, and further provided that no payments shall be made for any services provided on and after the eleventh day.

(D) Per diem payments for inpatients placed in observation beds, as defined by applicable regulations promulgated by the office of alcoholism and substance abuse services, shall be at the same level as would be paid pursuant to clause (A) of this [paragraph] SUBPARAGRAPH, provided, however, that such payments shall not apply for more than two days of care, after which payments for such inpatients shall reflect their designation as requiring either medically managed detoxification services or medically supervised withdrawal services, and further provided that days of care provided in such observation beds shall, for reimbursement purposes, be fully reflected in the computation of the initial five days of care as set forth in clauses (A) and (B) of this [paragraph] SUBPARAGRAPH.

(E) For the purposes of this paragraph, the regions of the state shall be as follows:

(I) New York city, consisting of the counties of Bronx, New York, Kings, Queens and Richmond;

(II) Long Island, consisting of the counties of Nassau and Suffolk;

(III) Northern metropolitan, consisting of the counties of Columbia, Delaware, Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester;

(IV) Northeast, consisting of the counties of Albany, Clinton, Essex, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington;

(V) Utica/Watertown, consisting of the counties of Franklin, Herkimer, Lewis, Oswego, Otsego, St. Lawrence, Jefferson, Chenango, Madison and Oneida;

(VI) Central, consisting of the counties of Broome, Cayuga, Chemung, Cortland, Onondaga, Schuyler, Seneca, Steuben, Tioga and Tompkins;

(VII) Rochester, consisting of Monroe, Ontario, Livingston, Wayne and Yates; AND

(VIII) Western, consisting of the counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming.

(F) Capital cost reimbursement for general hospitals otherwise subject to the provisions of this paragraph shall remain subject to the provisions of subdivision eight of this section.

S 12. Subdivision 4 of section 2807-c of the public health law is amended by adding a new paragraph (e-1) to read as follows:

(E-1) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF PARAGRAPH (E) OF THIS SUBDIVISION OR ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, PER DIEM RATES OF PAYMENT BY GOVERNMENTAL AGENCIES FOR A GENERAL HOSPITAL OR A DISTINCT UNIT OF A GENERAL HOSPITAL FOR INPATIENT PSYCHIATRIC SERVICES THAT WOULD OTHERWISE BE SUBJECT TO THE PROVISIONS OF PARAGRAPH (E) OF THIS SUBDIVISION, AND RATES OF PAYMENT FOR OUTPATIENT PSYCHIATRIC SERVICES PROVIDED BY SUCH FACILITIES AS SPECIFIED IN THIS PARAGRAPH, SHALL, WITH REGARD TO DAYS OF SERVICE AND VISITS OCCURRING ON AND AFTER JULY FIRST, TWO THOUSAND NINE, BE IN ACCORDANCE WITH THE FOLLOWING:



1 (I) FOR THE PERIOD JULY FIRST, TWO THOUSAND NINE THROUGH DECEMBER  
2 THIRTY-FIRST, TWO THOUSAND NINE, THE OPERATING COST COMPONENT OF SUCH  
3 INPATIENT RATES SHALL REFLECT THE USE OF TWO THOUSAND FIVE OPERATING  
4 COSTS AS REPORTED BY EACH FACILITY TO THE DEPARTMENT PRIOR TO DECEMBER  
5 FIRST, TWO THOUSAND EIGHT AND AS ADJUSTED FOR INFLATION PURSUANT TO  
6 PARAGRAPH (C) OF SUBDIVISION TEN OF THIS SECTION, AS OTHERWISE MODIFIED  
7 BY ANY APPLICABLE STATUE, PROVIDED, HOWEVER, THAT SUCH TWO THOUSAND FIVE  
8 REPORTED OPERATING COSTS, SHALL, FOR INPATIENT RATE-SETTING PURPOSES, BE  
9 HELD TO A CEILING OF ONE HUNDRED TEN PERCENT OF THE AVERAGE OF SUCH  
10 REPORTED INPATIENT COSTS BY SUCH FACILITIES IN THE REGION IN WHICH THE  
11 FACILITY IS LOCATED, AS DETERMINED PURSUANT TO CLAUSE (E) OF SUBPARA-  
12 GRAPH (III) OF PARAGRAPH (L) OF THIS SUBDIVISION.

13 (II) FOR RATE PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN,  
14 THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF THE OFFICE OF  
15 MENTAL HEALTH, SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGEN-  
16 CY REGULATIONS, ESTABLISHING METHODOLOGIES FOR DETERMINING THE OPERATING  
17 COST COMPONENTS OF RATES OF PAYMENTS FOR SERVICES DESCRIBED IN THIS  
18 PARAGRAPH. SUCH REGULATIONS SHALL UTILIZE TWO THOUSAND FIVE OPERATING  
19 COSTS AS SUBMITTED TO THE DEPARTMENT PRIOR TO DECEMBER FIRST, TWO THOU-  
20 SAND EIGHT AND SHALL PROVIDE FOR METHODOLOGIES ESTABLISHING PER DIEM  
21 INPATIENT RATES THAT UTILIZE CASE MIX ADJUSTMENT MECHANISMS AND PROVIDE  
22 FOR POST-DISCHARGE REFERRAL TO OUTPATIENT SERVICES. SUCH REGULATIONS  
23 SHALL CONTAIN CRITERIA FOR ADJUSTMENTS BASED ON LENGTH OF STAY. SUCH  
24 REGULATIONS SHALL ALSO ESTABLISH OUTPATIENT RATES OF PAYMENT FOR THE  
25 EVALUATION OF POTENTIAL INPATIENT PSYCHIATRIC PATIENTS AND THE PRE-AD-  
26 MISSION REFERRAL OF SUCH PATIENTS, WHEN APPROPRIATE, TO OUTPATIENT  
27 SERVICES.

28 (III) RATES OF PAYMENT ESTABLISHED PURSUANT TO SUBPARAGRAPH (II) OF  
29 THIS PARAGRAPH SHALL REFLECT AN AGGREGATE NET STATEWIDE INCREASE IN  
30 REIMBURSEMENT FOR SUCH SERVICES OF UP TO TWENTY-FIVE MILLION DOLLARS ON  
31 AN ANNUAL BASIS.

32 (IV) CAPITAL COST REIMBURSEMENT FOR GENERAL HOSPITALS OTHERWISE  
33 SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH SHALL REMAIN SUBJECT TO THE  
34 PROVISIONS OF SUBDIVISION EIGHT OF THIS SECTION.

35 S 13. Subdivision 4 of section 2807-c of the public health law is  
36 amended by adding a new paragraph (e-2) to read as follows:

37 (E-2) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF PARAGRAPH (E) OF  
38 THIS SUBDIVISION OR ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO  
39 THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, PER DIEM RATES OF  
40 PAYMENT BY GOVERNMENTAL AGENCIES FOR INPATIENT SERVICES PROVIDED BY A  
41 GENERAL HOSPITAL OR A DISTINCT UNIT OF A GENERAL HOSPITAL FOR SERVICES,  
42 AS DESCRIBED BELOW, THAT WOULD OTHERWISE BE SUBJECT TO THE PROVISIONS OF  
43 PARAGRAPH (E) OF THIS SUBDIVISION, SHALL, WITH REGARD TO DAYS OF SERVICE  
44 OCCURRING ON AND AFTER JULY FIRST, TWO THOUSAND NINE, BE IN ACCORD WITH  
45 THE FOLLOWING:

46 (I) FOR PHYSICAL MEDICAL REHABILITATION SERVICES AND FOR CHEMICAL  
47 DEPENDENCY REHABILITATION SERVICES, THE OPERATING COST COMPONENT OF SUCH  
48 RATES SHALL REFLECT THE USE OF TWO THOUSAND FIVE OPERATING COSTS FOR  
49 EACH RESPECTIVE CATEGORY OF SERVICES AS REPORTED BY EACH FACILITY TO THE  
50 DEPARTMENT PRIOR TO DECEMBER FIRST, TWO THOUSAND EIGHT AND AS ADJUSTED  
51 FOR INFLATION PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TEN OF THIS  
52 SECTION, AS OTHERWISE MODIFIED BY ANY APPLICABLE STATUTE, PROVIDED,  
53 HOWEVER, THAT SUCH TWO THOUSAND FIVE REPORTED OPERATING COSTS SHALL, FOR  
54 RATE-SETTING PURPOSES, BE HELD TO A CEILING OF ONE HUNDRED TEN PERCENT  
55 OF THE AVERAGE OF SUCH REPORTED COSTS IN THE REGION IN WHICH THE FACILI-

TY IS LOCATED, AS DETERMINED PURSUANT TO CLAUSE (E) OF SUBPARAGRAPH (III) OF PARAGRAPH (1) OF THIS SUBDIVISION.

(II) FOR SERVICES PROVIDED BY RURAL HOSPITALS DESIGNATED AS CRITICAL ACCESS HOSPITALS IN ACCORDANCE WITH TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT, THE OPERATING COST COMPONENT OF SUCH RATES SHALL REFLECT THE USE OF TWO THOUSAND FIVE OPERATING COSTS AS REPORTED BY EACH FACILITY TO THE DEPARTMENT PRIOR TO DECEMBER FIRST, TWO THOUSAND EIGHT AND AS ADJUSTED FOR INFLATION PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TEN OF THIS SECTION, AS OTHERWISE MODIFIED BY ANY APPLICABLE STATUTES, PROVIDED, HOWEVER, THAT SUCH TWO THOUSAND FIVE REPORTED OPERATING COSTS SHALL, FOR RATE-SETTING PURPOSES, BE HELD TO A CEILING OF ONE HUNDRED TEN PERCENT OF THE AVERAGE OF SUCH REPORTED COSTS FOR ALL SUCH DESIGNATED HOSPITALS STATEWIDE.

(III) FOR INPATIENT SERVICES PROVIDED BY SPECIALTY LONG TERM ACUTE CARE HOSPITALS AND FOR INPATIENT SERVICES PROVIDED BY CANCER HOSPITALS AS SO DESIGNATED AS OF DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHT, THE OPERATING COST COMPONENT OF SUCH RATES SHALL REFLECT THE USE OF TWO THOUSAND FIVE OPERATING COSTS FOR EACH RESPECTIVE CATEGORY OF FACILITY AS REPORTED BY EACH FACILITY TO THE DEPARTMENT PRIOR TO DECEMBER FIRST, TWO THOUSAND EIGHT AND AS ADJUSTED FOR INFLATION PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TEN OF THIS SECTION, AS OTHERWISE MODIFIED BY ANY APPLICABLE STATUTES.

(IV) FOR FACILITIES DESIGNATED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES AS EXEMPT ACUTE CARE CHILDREN'S HOSPITALS, FOR WHICH A DISCRETE INSTITUTIONAL COST REPORT WAS FILED FOR THE TWO THOUSAND SIX CALENDAR YEAR, AND WHICH HAS REPORTED MEDICAID DISCHARGES GREATER THAN FIFTY PERCENT OF TOTAL DISCHARGES IN SUCH COST REPORT, THE OPERATING COST COMPONENT OF SUCH RATES SHALL REFLECT THE USE OF TWO THOUSAND SIX OPERATING COSTS AS REPORTED BY EACH FACILITY TO THE DEPARTMENT PRIOR TO DECEMBER FIRST, TWO THOUSAND EIGHT AND AS ADJUSTED FOR INFLATION PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TEN OF THIS SECTION, AS OTHERWISE MODIFIED BY ANY APPLICABLE STATUTES, AND AS DETERMINED ON A PER CASE BASIS OR PER DIEM BASIS, AS SET FORTH IN REGULATIONS PROMULGATED BY THE COMMISSIONER.

(V) RATES ESTABLISHED PURSUANT TO THIS PARAGRAPH SHALL BE DEEMED AS EXCLUDING REIMBURSEMENT FOR PHYSICIAN SERVICES FOR INPATIENT SERVICES AND CLAIMS FOR MEDICAID FEE PAYMENTS FOR SUCH PHYSICIAN SERVICES FOR SUCH INPATIENT CARE MAY BE SUBMITTED SEPARATELY FROM THE RATE IN ACCORDANCE WITH OTHERWISE APPLICABLE LAW.

(VI) CAPITAL COST REIMBURSEMENT FOR GENERAL HOSPITALS OTHERWISE SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH SHALL REMAIN SUBJECT TO THE PROVISIONS OF SUBDIVISION EIGHT OF THIS SECTION.

(VII) THE COMMISSIONER MAY PROMULGATE REGULATIONS, INCLUDING EMERGENCY REGULATIONS, IMPLEMENTING THE PROVISIONS OF THIS PARAGRAPH.

(VIII) THE OPERATING COST COMPONENT OF RATES OF PAYMENT PURSUANT TO THIS PARAGRAPH FOR A GENERAL HOSPITAL OR DISTINCT UNIT OF A GENERAL HOSPITAL WITHOUT ADEQUATE COST EXPERIENCE SHALL BE BASED ON THE LOWER OF THE FACILITY'S OR UNIT'S INPATIENT BUDGETED OPERATING COSTS PER DAY, ADJUSTED TO ACTUAL, OR THE APPLICABLE REGIONAL CEILING, IF ANY.

S 14. Paragraphs (a) and (b) of subdivision 2-a of section 2807 of the public health law, as added by section 18 of part C of chapter 58 of the laws of 2008, are amended to read as follows:

(a)(i) for the period December first, two thousand eight through [December thirty-first] JUNE THIRTIETH, two thousand nine, seventy-five percent of such rates of payment for each general hospital's outpatient services shall reflect the average Medicaid payment per claim, as deter-

1 mined by the commissioner, for services provided by that facility in the  
2 two thousand seven calendar year, but excluding any payments for  
3 services covered by the facility's licensure, if any, under the mental  
4 hygiene law, and twenty-five percent of such rates of payment shall, for  
5 the operating cost component, reflect the utilization of the ambulatory  
6 patient groups reimbursement methodology described in paragraph (e) of  
7 this subdivision;

8 (ii) for the period [January] JULY first, two thousand [ten] NINE  
9 through [December thirty-first] JUNE THIRTIETH, two thousand ten, fifty  
10 percent of such rates for each facility shall reflect the average Medi-  
11 caid payment per claim, as determined by the commissioner, for services  
12 provided by that facility in the two thousand seven calendar year, but  
13 excluding any payments for services covered by the facility's licensure,  
14 if any, under the mental hygiene law, and fifty percent of such rates of  
15 payment shall, for the operating cost component, reflect the utilization  
16 of the ambulatory patient groups reimbursement methodology described in  
17 paragraph (e) of this subdivision;

18 (iii) for the period [January] JULY first, two thousand [eleven] TEN  
19 through [December thirty-first] JUNE THIRTIETH, two thousand eleven,  
20 twenty-five percent of such rates shall reflect the average Medicaid  
21 payment per claim, as determined by the commissioner, for services  
22 provided by that facility for the two thousand seven calendar year, but  
23 excluding any payments for services covered by the facility's licensure,  
24 if any, under the mental hygiene law, and seventy-five percent of such  
25 rates of payment shall, for the operating cost component, reflect the  
26 utilization of the ambulatory patient groups reimbursement methodology  
27 described in paragraph (e) of this subdivision; and

28 (iv) for periods on and after [January] JULY first, two thousand  
29 [twelve] ELEVEN, one hundred percent of such rates of payment shall  
30 reflect the utilization of the ambulatory patient groups reimbursement  
31 methodology described in paragraph (e) of this subdivision.

32 (v) This paragraph shall be effective the later of: (i) December  
33 first, two thousand eight, or (ii) after the commissioner receives final  
34 approval of federal financial participation in payments made for benefi-  
35 ciaries eligible for medical assistance under title XIX of the federal  
36 social security act for the rate methodology established pursuant to  
37 subparagraph (i) of paragraph (a) of subdivision thirty-three of section  
38 twenty-eight hundred seven-c of this article.

39 (b)(i) for the period March first, two thousand nine through [December  
40 thirty-first] JUNE THIRTIETH, two thousand nine, seventy-five percent of  
41 such rates of payment for services provided by each diagnostic and  
42 treatment center and each free-standing ambulatory surgery center shall  
43 reflect the average Medicaid payment per claim, as determined by the  
44 commissioner, for services provided by that facility in the two thousand  
45 seven calendar year, but excluding any payments for services covered by  
46 the facility's licensure, if any, under the mental hygiene law, and  
47 twenty-five percent of such rates of payment shall, for the operating  
48 cost component, reflect the utilization of the ambulatory patient groups  
49 reimbursement methodology described in paragraph (e) of this subdivi-  
50 sion;

51 (ii) for the period [January] JULY first, two thousand [ten] NINE  
52 through [December thirty-first] JUNE THIRTIETH, two thousand ten, fifty  
53 percent of such rates for each facility shall reflect the average Medi-  
54 caid payment per claim, as determined by the commissioner, for services  
55 provided by that facility in the two thousand seven calendar year, but  
56 excluding any payments for services covered by the facility's licensure,

1 if any, under the mental hygiene law, and fifty percent of such rates of  
2 payment shall, for the operating cost component, reflect the utilization  
3 of the ambulatory patient groups reimbursement methodology described in  
4 paragraph (e) of this subdivision;

5 (iii) for the period [January] JULY first, two thousand [eleven] TEN  
6 through [December thirty-first] JUNE THIRTIETH, two thousand eleven,  
7 twenty-five percent of such rates for each facility shall reflect the  
8 average Medicaid payment per claim, as determined by the commissioner,  
9 for services provided by that facility in the two thousand seven calen-  
10 dar year, but excluding any payments for services covered by the facili-  
11 ty's licensure, if any, under the mental hygiene law, and seventy-five  
12 percent of such rates of payment shall, for the operating cost compo-  
13 nent, reflect the utilization of the ambulatory patient groups  
14 reimbursement methodology described in paragraph (e) of this subdivi-  
15 sion; and

16 (iv) for periods on and after [January] JULY first, two thousand  
17 [twelve] ELEVEN, one hundred percent of such rates of payment shall  
18 reflect the utilization of the ambulatory patient groups reimbursement  
19 methodology described in paragraph (e) of this subdivision.

20 S 15. Paragraph (e) subdivision 2-a of section 2807 of the public  
21 health law, as added by section 18 of part C of chapter 58 of the laws  
22 2008, is amended to read as follows:

23 (e) (I) notwithstanding any inconsistent provisions of this subdivi-  
24 sion, the commissioner shall promulgate regulations establishing,  
25 subject to the approval of the state director of the budget, methodol-  
26 ogies for determining rates of payment for the services described in  
27 this subdivision. Such regulations shall reflect utilization of the  
28 ambulatory patient group (APG) methodology, in which patients are  
29 grouped based on their diagnosis, the intensity of the services provided  
30 and the medical procedures performed, and with each APG assigned a  
31 weight reflecting the projected utilization of resources. Such regu-  
32 lations shall provide for the development of one or more base rates and  
33 the multiplication of such base rates by the assigned weight for each  
34 APG to establish the appropriate payment level for each such APG. Such  
35 regulations may also utilize bundling, packaging and discounting mech-  
36 anisms.

37 IF THE COMMISSIONER DETERMINES THAT THE USE OF THE APG METHODOLOGY IS  
38 NOT, OR IS NOT YET, APPROPRIATE OR PRACTICAL FOR SPECIFIED SERVICES, THE  
39 COMMISSIONER MAY UTILIZE EXISTING PAYMENT METHODOLOGIES FOR SUCH  
40 SERVICES OR MAY PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY  
41 REGULATIONS, ESTABLISHING ALTERNATIVE PAYMENT METHODOLOGIES FOR SUCH  
42 SERVICES.

43 (II) NOTWITHSTANDING THIS SUBDIVISION AND ANY OTHER CONTRARY PROVISION  
44 OF LAW, THE COMMISSIONER MAY INCORPORATE WITHIN THE PAYMENT METHODOLOGY  
45 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH PAYMENT FOR SERVICES  
46 PROVIDED BY FACILITIES PURSUANT TO LICENSURE UNDER THE MENTAL HYGIENE  
47 LAW, PROVIDED, HOWEVER, THAT SUCH APG PAYMENT METHODOLOGY MAY BE PHASED  
48 INTO EFFECT IN ACCORDANCE WITH A SCHEDULE OR SCHEDULES AS JOINTLY DETER-  
49 MINED BY THE COMMISSIONER, THE COMMISSIONER OF MENTAL HEALTH, THE  
50 COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, AND THE COMMIS-  
51 SIONER OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES.

52 S 16. Paragraph (i) of subdivision 2-a of section 2807 of the public  
53 health law, as added by section 19 of part 00 of chapter 57 of the laws  
54 of 2008, is amended to read as follows:

55 (i) Notwithstanding any provision of law to the contrary, rates of  
56 payment by governmental agencies for general hospital outpatient

1 services, general hospital emergency services and ambulatory surgical  
2 services provided by a general hospital established pursuant to para-  
3 graphs (a), (c) and (d) of this subdivision shall result in an aggregate  
4 increase in such rates of payment of fifty-six million dollars for the  
5 period December first, two thousand eight through March thirty-first,  
6 two thousand nine and one hundred seventy-eight million dollars for  
7 periods after April first, two thousand nine, PROVIDED, HOWEVER, THAT  
8 FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, SUCH AMOUNTS  
9 MAY BE ADJUSTED TO REFLECT PROJECTED DECREASES IN FEE-FOR-SERVICE MEDI-  
10 CAID UTILIZATION AND CHANGES IN CASE-MIX WITH REGARD TO SUCH SERVICES  
11 FROM THE TWO THOUSAND SEVEN CALENDAR YEAR TO THE APPLICABLE RATE YEAR,  
12 AND PROVIDED FURTHER, HOWEVER, THAT FUNDS MADE AVAILABLE AS A RESULT OF  
13 ANY SUCH DECREASES MAY BE UTILIZED BY THE COMMISSIONER TO INCREASE CAPI-  
14 TATION RATES PAID TO MEDICAID MANAGED CARE PLANS AND FAMILY HEALTH PLUS  
15 PLANS TO COVER INCREASED PAYMENTS TO HEALTH CARE PROVIDERS FOR AMBULATO-  
16 RY CARE SERVICES AND TO INCREASE SUCH OTHER AMBULATORY CARE PAYMENT  
17 RATES AS THE COMMISSIONER DETERMINES NECESSARY TO FACILITATE ACCESS TO  
18 QUALITY AMBULATORY CARE SERVICES.

19 S 16-a. Subparagraph (ii) of paragraph (f) of subdivision 2-a of  
20 section 2807 of the public health law, as added by section 18 of part C  
21 of chapter 58 of the laws of 2008, is amended to read as follows:

22 (ii) notwithstanding the provisions of paragraphs (a) and (b) of this  
23 subdivision, for periods on and after January first, two thousand nine,  
24 the following services provided by general hospital outpatient depart-  
25 ments and diagnostic and treatment centers shall be reimbursed with  
26 rates of payment based entirely upon the ambulatory patient group meth-  
27 odology as described in paragraph (e) of this subdivision, PROVIDED,  
28 HOWEVER, THAT THE COMMISSIONER MAY UTILIZE EXISTING PAYMENT METHODOL-  
29 OGIES OR MAY PROMULGATE REGULATIONS ESTABLISHING ALTERNATIVE PAYMENT  
30 METHODOLOGIES FOR ONE OR MORE OF THE SERVICES SPECIFIED IN CLAUSES (C)  
31 AND (D) OF THIS SUBPARAGRAPH, EFFECTIVE FOR PERIODS ON AND AFTER MARCH  
32 FIRST, TWO THOUSAND NINE:

33 (A) services provided in accordance with the provisions of paragraphs  
34 (q) and (r) of subdivision two of section three hundred sixty-five-a of  
35 the social services law; and

36 (B) all services, but only with regard to additional payment amounts,  
37 as determined in accordance with regulations issued in accordance with  
38 paragraph (e) of this subdivision, for the provision of such services  
39 during times outside the facility's normal hours of operation, as deter-  
40 mined in accordance with criteria set forth in such regulations; and

41 (C) individual psychotherapy services provided by licensed social  
42 workers, in accordance with licensing criteria set forth in applicable  
43 regulations, to persons under the age of nineteen and to persons requir-  
44 ing such services as a result of or related to pregnancy or giving  
45 birth[.]; AND

46 (D) individual psychotherapy services provided by licensed social  
47 workers, in accordance with licensing criteria set forth in applicable  
48 regulations, at diagnostic and treatment centers that provided, billed  
49 for, and received payment for these services between January first, two  
50 thousand seven and December thirty-first, two thousand seven[.]; AND

51 (E) SERVICES PROVIDED TO PREGNANT WOMEN PURSUANT TO PARAGRAPH (S) OF  
52 SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THE SOCIAL  
53 SERVICES LAW AND, FOR PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND  
54 TEN, ALL OTHER SERVICES PROVIDED PURSUANT TO SUCH PARAGRAPH (S) AND  
55 SERVICES PROVIDED PURSUANT TO PARAGRAPH (T) OF SUBDIVISION TWO OF  
56 SECTION THREE HUNDRED SIXTY-FIVE-A OF THE SOCIAL SERVICES LAW.

1 S 17. Notwithstanding any contrary provision of law, except section  
2 43.02 of the mental hygiene law, subject to availability of federal  
3 financial participation, and within amounts appropriated therefore,  
4 commencing on or after October 1, 2009 the commissioners of mental  
5 health and health are jointly authorized to implement and enhance fund-  
6 ing of the Ambulatory Patient Group (APG) reimbursement methodology, for  
7 clinic services rendered by providers pursuant to their licensure under  
8 article 31 of the mental hygiene law.

9 S 18. The commissioners of mental health and health, subject to the  
10 approval of the state director of the budget, are jointly authorized to  
11 implement and enhance funding of the Ambulatory Patient Group (APG)  
12 reimbursement methodology for determining rates of payment for outpa-  
13 tient clinic services rendered pursuant to providers' licensure under  
14 article 31 of the mental hygiene law. The commissioner of mental health,  
15 subject to the approval of the commissioner of health and the director  
16 of the budget, shall promulgate regulations pursuant to article 31 of  
17 the mental hygiene law which shall reflect utilization of the Ambulatory  
18 Patient Group (APG) methodology, as described in subdivision 2-a of  
19 section 2807 of the public health law, in which patients are grouped  
20 based on their diagnosis, the intensity of the services provided and the  
21 medical procedures performed, and with each APG assigned a weight  
22 reflecting the projected utilization of resources. Such regulations  
23 shall provide for the development of one or more base rates and the  
24 multiplication of such base rates by the assigned weight for each APG to  
25 establish the appropriate payment level for each such APG. Such regu-  
26 lations may also utilize bundling, packaging and discounting mechanisms.

27 S 19. Notwithstanding any contrary provision of law, and within  
28 amounts appropriated, commencing October 1, 2009, the commissioners of  
29 mental health and health are jointly authorized to expand programs  
30 including but not limited to the home-based crisis intervention program  
31 and critical time intervention programs to reduce utilization of inpa-  
32 tient hospital services.

33 S 20. Notwithstanding any contrary provision of law, and subject to  
34 federal financial participation under Title XIX of the Social Security  
35 Act, and within amounts appropriated therefore, commencing on or after  
36 October 1, 2009, the commissioners of health and mental retardation and  
37 developmental disabilities are jointly authorized to implement the Ambu-  
38 latory Patient Group (APG) reimbursement methodology, for clinic  
39 services rendered by providers pursuant to their licensure under article  
40 16 of the mental hygiene law.

41 S 21. The commissioners of mental retardation and developmental disa-  
42 bilities, and health, subject to the approval of the state director of  
43 the budget, are jointly authorized to implement the Ambulatory Patient  
44 Group (APG) reimbursement methodology for determining rates of payment  
45 for clinic services rendered pursuant to providers' licensure under  
46 article 16 of the mental hygiene law. The commissioner of mental retar-  
47 dation and developmental disabilities, subject to the approval of the  
48 commissioner of health and director of the budget, shall promulgate  
49 regulations pursuant to article 16 of the mental hygiene law which shall  
50 reflect utilization of the Ambulatory Patient Group (APG) methodology,  
51 as described in subdivision 2-a of section 2807 of the public health  
52 law, in which patients are grouped based on their diagnosis, the inten-  
53 sity of the services provided and the procedures performed, and with  
54 each APG assigned a weight reflecting the projected utilization of  
55 resources. Such regulations shall provide for the development of one or  
56 more base rates and the multiplication of such base rates by the

1 assigned weight for each APG to establish the appropriate payment level  
2 for each such APG. Such regulations may also utilize bundling, packaging  
3 and discounting mechanisms.

4 S 22. Notwithstanding any contrary provision of law, subject to feder-  
5 al financial participation under Title XIX of the Social Security Act,  
6 and within amounts appropriated therefore, commencing on or after Octo-  
7 ber 1, 2009 the commissioners of health, and alcoholism and substance  
8 abuse services are authorized to implement and enhance funding of the  
9 Ambulatory Patient Group (APG) reimbursement methodology for clinic  
10 services rendered pursuant to providers' operating certificates under  
11 article 32 of the mental hygiene law.

12 S 23. The commissioners of alcoholism and substance abuse services,  
13 and health, subject to the approval of the state director of the budget,  
14 are jointly authorized to implement and enhance funding of the Ambulato-  
15 ry Patient Group (APG) reimbursement methodology for determining rates  
16 of payment for outpatient clinic services rendered pursuant to provid-  
17 ers' operating certificates under article 32 of the mental hygiene law.  
18 The commissioner of alcoholism and substance abuse services, subject to  
19 the approval of the commissioner of health and the director of the  
20 budget, shall promulgate regulations pursuant to article 32 of the  
21 mental hygiene law which shall reflect utilization of the Ambulatory  
22 Patient Group (APG) methodology, as described in subdivision 2-a of  
23 section 2807 of the public health law, in which patients are grouped  
24 based on their diagnosis, the intensity of the services provided and the  
25 procedures performed, and with each APG assigned a weight reflecting the  
26 projected utilization of resources. Such regulations shall provide for  
27 the development of one or more base rates and the multiplication of such  
28 base rates by the assigned weight for each APG to establish the appro-  
29 priate payment level for each such APG. Such regulations may also  
30 utilize bundling, packaging and discounting mechanisms.

31 S 23-a. Notwithstanding any contrary provision of law, and within  
32 amounts appropriated, commencing April 1, 2009 the commissioners of  
33 alcoholism and substance abuse services, and health are jointly author-  
34 ized to increase medical assistance fees for medically supervised with-  
35 drawal services.

36 S 24. Intentionally omitted.

37 S 25. The social services law is amended by adding a new section 364-m  
38 to read as follows:

39 S 364-M. STATEWIDE HEALTH CARE HOME PROGRAM. 1. NOTWITHSTANDING ANY  
40 INCONSISTENT PROVISION OF LAW, THE COMMISSIONER OF HEALTH IS AUTHORIZED  
41 TO CERTIFY CERTAIN CLINICIANS AND CLINICS AS HEALTH CARE HOMES IN ORDER  
42 TO IMPROVE HEALTH OUTCOMES AND EFFICIENCY THROUGH PATIENT CARE CONTINUI-  
43 TY AND COORDINATION OF HEALTH SERVICES. THESE PROVIDERS WILL BE ELIGIBLE  
44 FOR ENHANCED PAYMENTS FOR SERVICES PROVIDED TO: RECIPIENTS ELIGIBLE FOR  
45 MEDICAL ASSISTANCE PURSUANT TO THIS TITLE ("MEDICAID FEE-FOR-SERVICE");  
46 ENROLLEES ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SUCH TITLE AND  
47 ENROLLED IN APPROVED MANAGED CARE ORGANIZATIONS PURSUANT TO SECTION  
48 THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE ("MEDICAID MANAGED CARE");  
49 ENROLLEES ELIGIBLE FOR FAMILY HEALTH PLUS AND ENROLLED IN APPROVED  
50 ORGANIZATIONS PURSUANT TO TITLE ELEVEN-D OF THIS ARTICLE ("FAMILY HEALTH  
51 PLUS"); AND ENROLLEES ELIGIBLE FOR THE CHILD HEALTH INSURANCE PROGRAM  
52 AND ENROLLED IN APPROVED ORGANIZATIONS PURSUANT TO TITLE ONE-A OF ARTI-  
53 CLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW ("CHILD HEALTH PLUS PROGRAM").

54 2. BY OCTOBER FIRST, TWO THOUSAND NINE, THE COMMISSIONER OF HEALTH  
55 SHALL DEVELOP AND IMPLEMENT STANDARDS OF CERTIFICATION FOR HEALTH CARE  
56 HOMES FOR MEDICAID FEE-FOR-SERVICE AND MEDICAID MANAGED CARE, FAMILY

1 HEALTH PLUS AND CHILD HEALTH PLUS PROGRAMS. IN DEVELOPING SUCH STAND-  
2 ARDS, THE COMMISSIONER OF HEALTH SHALL: (A) CONSIDER EXISTING STANDARDS  
3 DEVELOPED BY NATIONAL ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND  
4 (B) CONSULT WITH NATIONAL AND LOCAL ORGANIZATIONS WORKING ON MEDICAL  
5 HOME MODELS, PHYSICIANS, HOSPITALS, CLINICS, HEALTH PLANS AND CONSUMERS  
6 AND THEIR REPRESENTATIVES.

7 3. TO MAINTAIN THEIR CERTIFICATION, HEALTH CARE HOMES MUST: (A) RENEW  
8 THEIR CERTIFICATION AT A FREQUENCY DETERMINED BY THE COMMISSIONER OF  
9 HEALTH; AND (B) PROVIDE DATA TO THE DEPARTMENT OF HEALTH AND TO HEALTH  
10 PLANS TO PERMIT THE COMMISSIONER OF HEALTH, OR HIS OR HER CONTRACTOR OR  
11 DESIGNEE, TO EVALUATE THE IMPACT OF HEALTH CARE HOMES ON QUALITY,  
12 OUTCOMES AND COST.

13 4. SUBJECT TO THE AVAILABILITY OF FUNDING AND FEDERAL FINANCIAL  
14 PARTICIPATION, THE COMMISSIONER OF HEALTH IS AUTHORIZED:

15 (A) TO PAY ENHANCED RATES OF PAYMENT TO CLINICS AND CLINICIANS THAT  
16 ARE CERTIFIED AS HEALTH CARE HOMES UNDER THIS SECTION. SUCH ENHANCEMENTS  
17 MAY BE TIERED BASED ON THE LEVEL OF STANDARD ACHIEVED BY THE CLINICIAN  
18 OR CLINIC; AND

19 (B) TO PAY ADDITIONAL AMOUNTS FOR HEALTH CARE HOMES THAT MEET SPECIFIC  
20 PROCESS OR OUTCOME STANDARDS SPECIFIED BY THE COMMISSIONER OF HEALTH.

21 5. BY DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE, THE COMMISSIONER OF  
22 HEALTH SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE IMPACT OF  
23 THE STATEWIDE HEALTH CARE HOME PROGRAM ON QUALITY, COST AND OUTCOMES FOR  
24 ENROLLEES IN MEDICAID FEE-FOR-SERVICE, MEDICAID MANAGED CARE, FAMILY  
25 HEALTH PLUS AND CHILD HEALTH PLUS.

26 S 26. Sections 2950 through 2958 of article 29-A of the public health  
27 law are designated title 1 and a new title heading is added to read as  
28 follows:

29 RURAL HEALTH CARE ACCESS

30 S 26-a. Article 29-A of the public health law is amended by adding a  
31 new title 2 to read as follows:

32 TITLE 2

33 ADIRONDACK HEALTH CARE HOME MULTIPAYOR

34 DEMONSTRATION PROGRAM

35 SECTION 2959. ADIRONDACK HEALTH CARE HOME MULTIPAYOR DEMONSTRATION  
36 PROGRAM.

37 S 2959. ADIRONDACK HEALTH CARE HOME MULTIPAYOR DEMONSTRATION PROGRAM.  
38 1. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE COMMISSIONER  
39 IS AUTHORIZED TO ESTABLISH AN ADIRONDACK HEALTH CARE HOME MULTIPAYOR  
40 DEMONSTRATION PROGRAM FOR THE PURPOSE OF CERTIFYING CERTAIN CLINICIANS  
41 AND CLINICS IN THE UPPER NORTHEASTERN REGION OF NEW YORK AS HEALTH CARE  
42 HOMES ELIGIBLE FOR ENHANCED PAYMENTS FOR SERVICES PROVIDED TO: RECIPI-  
43 ENTS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE  
44 FIVE OF THE SOCIAL SERVICES LAW ("MEDICAID FEE-FOR-SERVICE"); ENROLLEES  
45 ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SUCH TITLE AND ENROLLED IN  
46 APPROVED MANAGED CARE ORGANIZATIONS PURSUANT TO SECTION THREE HUNDRED  
47 SIXTY-FOUR-J OF SUCH TITLE ("MEDICAID MANAGED CARE"); ENROLLEES ELIGIBLE  
48 FOR FAMILY HEALTH PLUS AND ENROLLED IN APPROVED ORGANIZATIONS PURSUANT  
49 TO TITLE ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW ("FAMILY  
50 HEALTH PLUS"); ENROLLEES ELIGIBLE FOR THE CHILD HEALTH INSURANCE PROGRAM  
51 AND ENROLLED IN APPROVED ORGANIZATIONS PURSUANT TO TITLE ONE-A OF ARTI-  
52 CLE TWENTY-FIVE OF THIS CHAPTER ("CHILD HEALTH PLUS PROGRAM"); ENROLLEES  
53 AND SUBSCRIBERS OF COMMERCIAL MANAGED CARE PLANS OPERATING IN ACCORDANCE  
54 WITH THE PROVISIONS OF ARTICLE FORTY-FOUR OF THIS CHAPTER OR BY HEALTH  
55 MAINTENANCE ORGANIZATIONS ORGANIZED AND OPERATING IN ACCORDANCE WITH  
56 ARTICLE FORTY-THREE OF THE INSURANCE LAW; ENROLLEES AND SUBSCRIBERS OF



1 OTHER COMMERCIAL INSURANCE PRODUCTS; AND EMPLOYEES OF EMPLOYER-SPONSORED  
2 SELF-INSURED PLANS. THE PURPOSE OF THIS DEMONSTRATION PROGRAM IS TO  
3 IMPROVE HEALTH CARE OUTCOMES AND EFFICIENCY THROUGH PATIENT CARE CONTI-  
4 NUIITY AND COORDINATION OF HEALTH SERVICES.

5 2. (A) IN ORDER TO PROMOTE IMPROVED QUALITY OF, AND ACCESS TO, HEALTH  
6 CARE SERVICES AND PROMOTE IMPROVED CLINICAL OUTCOMES TO THE RESIDENTS IN  
7 THE UPPER NORTHEASTERN REGION OF NEW YORK, IT SHALL BE THE POLICY OF THE  
8 STATE TO ENCOURAGE COOPERATIVE, COLLABORATIVE AND INTEGRATIVE ARRANGE-  
9 MENTS BETWEEN PAYORS OF HEALTH CARE SERVICES AND HEALTH CARE SERVICES  
10 PROVIDERS WHO MIGHT OTHERWISE BE COMPETITORS, UNDER THE ACTIVE SUPER-  
11 VISION OF THE COMMISSIONER. TO THE EXTENT SUCH ARRANGEMENTS MIGHT BE  
12 ANTI-COMPETITIVE WITHIN THE MEANING AND INTENT OF THE FEDERAL ANTITRUST  
13 LAWS, THE INTENT OF THE STATE IS TO SUPPLANT COMPETITION WITH SUCH  
14 ARRANGEMENT TO THE EXTENT NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS  
15 ARTICLE, AND PROVIDE STATE ACTION IMMUNITY UNDER THE STATE AND FEDERAL  
16 ANTITRUST LAWS WITH RESPECT TO THE PLANNING, IMPLEMENTATION AND OPERA-  
17 TION OF THE ADIRONDACK HEALTH CARE HOME MULTIPAYOR DEMONSTRATION PROGRAM  
18 AND PAYORS OF HEALTH CARE SERVICES AND HEALTH CARE SERVICES PROVIDERS.

19 (B) THE COMMISSIONER OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE MAY  
20 ALSO ENGAGE IN APPROPRIATE STATE SUPERVISION NECESSARY TO PROMOTE STATE  
21 ACTION IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS, AND MAY  
22 INSPECT OR REQUEST ADDITIONAL DOCUMENTATION TO VERIFY THAT THE DEMON-  
23 STRATION IS IMPLEMENTED IN ACCORDANCE WITH ITS INTENT AND PURPOSE.

24 3. THE COMMISSIONER IS AUTHORIZED TO PARTICIPATE IN, ACTIVELY SUPER-  
25 VISE, FACILITATE AND APPROVE A PRIMARY CARE HEALTH CARE HOME COLLABORA-  
26 TIVE WITH HEALTH CARE SERVICES PROVIDERS, WHICH MAY INCLUDE HOSPITALS,  
27 DIAGNOSTIC AND TREATMENT CENTERS, AND PRIVATE PRACTICES, AND PAYORS OF  
28 HEALTH CARE SERVICES, INCLUDING EMPLOYERS, HEALTH PLANS AND INSURERS, TO  
29 ESTABLISH: (A) THE BOUNDARIES OF THE DEMONSTRATION AND THE PROVIDERS  
30 ELIGIBLE TO PARTICIPATE; (B) PRACTICE STANDARDS FOR THE HEALTH CARE HOME  
31 CONSISTENT WITH EXISTING STANDARDS DEVELOPED BY NATIONAL ACCREDITING AND  
32 PROFESSIONAL ORGANIZATIONS INCLUDING THE JOINT PRINCIPLES OF THE AMERI-  
33 CAN COLLEGE OF PHYSICIANS ("ACP"), THE AMERICAN ACADEMY OF FAMILY PHYSI-  
34 CIANS ("AAFP"), THE AMERICAN ACADEMY OF PEDIATRICS ("AAP"), THE AMERICAN  
35 OSTEOPATHIC ASSOCIATION ("AOA"), AND AS FURTHER DEFINED BY "PATIENT-CEN-  
36 TERED MEDICAL HOME," AS REPRESENTED IN CERTIFICATION PROGRAMS DEVELOPED  
37 BY THE NATIONAL COMMITTEE FOR QUALITY ASSURANCE ("NCQA"); (C) METHODOL-  
38 OGIES BY WHICH PAYORS WILL PROVIDE ENHANCED RATES OF PAYMENT TO CERTI-  
39 FIED HEALTH CARE HOMES; AND (D) METHODOLOGIES TO PAY ADDITIONAL AMOUNTS  
40 FOR HEALTH CARE HOMES THAT MEET SPECIFIC PROCESS OR OUTCOME STANDARDS  
41 ESTABLISHED BY THE ADIRONDACK HEALTH CARE HOME COLLABORATIVE.

42 4. PATIENT AND HEALTH CARE SERVICES PROVIDER PARTICIPATION IN THE  
43 ADIRONDACK HEALTH CARE HOME MULTIPAYOR DEMONSTRATION PROGRAM SHALL BE ON  
44 A VOLUNTARY BASIS.

45 5. CLINICS AND CLINICIANS PARTICIPATING IN THIS DEMONSTRATION ARE NOT  
46 ELIGIBLE FOR ADDITIONAL ENHANCEMENTS OR BONUSES UNDER THE STATEWIDE  
47 HEALTH CARE HOME PROGRAM, ESTABLISHED PURSUANT TO SECTION THREE HUNDRED  
48 SIXTY-FOUR-M OF THE SOCIAL SERVICES LAW, FOR SERVICES PROVIDED TO  
49 PARTICIPANTS IN MEDICAID FEE-FOR-SERVICE, MEDICAID MANAGED CARE, FAMILY  
50 HEALTH PLUS OR CHILD HEALTH PLUS.

51 6. SUBJECT TO THE AVAILABILITY OF FUNDING AND FEDERAL FINANCIAL  
52 PARTICIPATION, THE COMMISSIONER IS AUTHORIZED:

53 (A) TO PAY ENHANCED RATES OF PAYMENT UNDER MEDICAID FEE-FOR-SERVICE,  
54 MEDICAID MANAGED CARE, FAMILY HEALTH PLUS AND CHILD HEALTH PLUS TO CLIN-  
55 ICES AND CLINICIANS THAT ARE CERTIFIED AS HEALTH CARE HOMES UNDER THIS  
56 TITLE; AND

(B) TO PAY ADDITIONAL AMOUNTS FOR HEALTH CARE HOMES THAT MEET SPECIFIC PROCESS OR OUTCOME STANDARDS SPECIFIED BY THE COMMISSIONER, IN CONSULTATION WITH THE ADIRONDACK HEALTH CARE HOME COLLABORATIVE.

S 27. Subdivision 2 of section 365-a of the social services law is amended by adding three new paragraphs (s), (t) and (u) to read as follows:

(S) SMOKING CESSATION COUNSELING SERVICES FOR A PREGNANT WOMAN ON ANY DAY OF HER PREGNANCY THROUGH THE END OF THE MONTH IN WHICH THE ONE HUNDRED EIGHTIETH DAY FOLLOWING THE END OF THE PREGNANCY OCCURS, AND CHILDREN AND ADOLESCENTS TEN TO NINETEEN YEARS OF AGE, DURING A MEDICAL VISIT WHEN PROVIDED BY A GENERAL HOSPITAL OUTPATIENT DEPARTMENT OR A FREE-STANDING CLINIC, OR BY A PHYSICIAN, REGISTERED PHYSICIAN'S ASSISTANT, REGISTERED NURSE PRACTITIONER OR LICENSED MIDWIFE IN OFFICE-BASED SETTINGS; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS PARAGRAPH RELATING TO SMOKING CESSATION COUNSELING SERVICES SHALL NOT TAKE EFFECT UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SUCH SERVICES.

(T) CARDIAC REHABILITATION SERVICES WHEN ORDERED BY THE ATTENDING PHYSICIAN AND PROVIDED IN A HOSPITAL-BASED OR FREE-STANDING CLINIC IN AN AREA SET ASIDE FOR CARDIAC REHABILITATION, OR IN A PHYSICIAN'S OFFICE; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS PARAGRAPH RELATING TO CARDIAC REHABILITATION SERVICES SHALL NOT TAKE EFFECT UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SUCH SERVICES.

(U) SCREENING, BRIEF INTERVENTION, REFERRAL AND TREATMENT IN HOSPITAL EMERGENCY DEPARTMENTS OF INDIVIDUALS AT RISK FOR SUBSTANCE ABUSE INCLUDING REFERRAL TO THE APPROPRIATE LEVEL OF INTERVENTION AND TREATMENT IN A COMMUNITY SETTING; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS PARAGRAPH RELATING TO SCREENING, BRIEF INTERVENTION, REFERRAL AND TREATMENT SERVICES SHALL NOT TAKE EFFECT UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN SUCH COSTS.

S 28. Notwithstanding any contrary provision of law, in the event sections two through ten of this act are not enacted into law then the provisions of sections twenty-five through twenty-seven and section twenty-nine of this act shall be deemed null and void and of no effect.

S 28-a. Notwithstanding any contrary provision of section 14 of part B of chapter 1 of the laws of 2002 or any other contrary provision of law, distributions made pursuant to section 14 of part B of chapter 1 of the laws of 2002, shall be based on each eligible hospitals' proportionate share of the sum of all Medicaid outpatient visits for all eligible hospitals in the base year two years prior to the rate year.

S 29. Section 365-h of the social services law, as added by chapter 81 of the laws of 1995, subdivision 3 as amended by section 26 of part B of chapter 1 of the laws of 2002, is amended to read as follows:

S 365-h. Provision and reimbursement of transportation costs. 1. The local social services official AND, SUBJECT TO THE PROVISIONS OF SUBDIVISION FOUR OF THIS SECTION, THE COMMISSIONER OF HEALTH, shall have responsibility for prior authorizing transportation of eligible persons and for limiting the provision of such transportation to those recipients and circumstances where such transportation is essential, medically necessary and appropriate to obtain medical care, services or supplies otherwise available under this title.

2. In exercising this responsibility, the local social services official AND, AS APPROPRIATE, THE COMMISSIONER OF HEALTH shall:

1 (a) make appropriate and economical use of transportation resources  
2 available in the district in meeting the anticipated demand for trans-  
3 portation within the district, including, but not limited to: transpor-  
4 tation generally available free-of-charge to the general public or  
5 specific segments of the general public, public transportation,  
6 promotion of group rides, county vehicles, coordinated transportation,  
7 and direct purchase of services; and

8 (b) maintain quality assurance mechanisms in order to ensure that (i)  
9 only such transportation as is essential, medically necessary and appro-  
10 priate to obtain medical care, services or supplies otherwise available  
11 under this title is provided and (ii) no expenditures for taxi or livery  
12 transportation are made when public transportation or lower cost trans-  
13 portation is reasonably available to eligible persons.

14 3. In the event that coordination or other such cost savings measures  
15 are implemented, the commissioner shall assure compliance with applica-  
16 ble standards governing the safety and quality of transportation of the  
17 population served.

18 4. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ASSUME RESPONSIBILITY  
19 FROM A LOCAL SOCIAL SERVICES OFFICIAL FOR THE PROVISION AND REIMBURSE-  
20 MENT OF TRANSPORTATION COSTS UNDER THIS SECTION. IF THE COMMISSIONER  
21 ELECTS TO ASSUME SUCH RESPONSIBILITY, THE COMMISSIONER SHALL NOTIFY THE  
22 LOCAL SOCIAL SERVICES OFFICIAL IN WRITING AS TO THE ELECTION, THE DATE  
23 UPON WHICH THE ELECTION SHALL BE EFFECTIVE AND SUCH INFORMATION AS TO  
24 TRANSITION OF RESPONSIBILITIES AS THE COMMISSIONER DEEMS PRUDENT. THE  
25 COMMISSIONER IS AUTHORIZED TO CONTRACT WITH A TRANSPORTATION MANAGER OR  
26 MANAGERS THAT HAVE EXPERIENCE IN COORDINATING TRANSPORTATION SERVICES IN  
27 THE STATE TO MANAGE THE PROVISION OF SERVICES UNDER THIS SECTION. SUCH A  
28 CONTRACT OR CONTRACTS MAY INCLUDE, WITHOUT LIMITATION, RESPONSIBILITY  
29 FOR: REVIEW, APPROVAL AND PROCESSING OF TRANSPORTATION ORDERS; MANAGE-  
30 MENT OF THE APPROPRIATE LEVEL OF TRANSPORTATION BASED ON DOCUMENTED  
31 PATIENT MEDICAL NEED; AND DEVELOPMENT OF NEW TECHNOLOGIES AND APPROACHES  
32 LEADING TO EFFICIENT TRANSPORTATION SERVICES. NOTWITHSTANDING ANY INCON-  
33 SISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-  
34 THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE  
35 ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER OF HEALTH  
36 IS AUTHORIZED TO ENTER INTO A CONTRACT UNDER THIS SUBDIVISION WITHOUT A  
37 COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

38 S 30. Section 364-f of the social services law, as added by chapter  
39 904 of the laws of 1984, is amended to read as follows:

40 S 364-f. [Physician] PRIMARY CARE case management programs. 1. The  
41 department is authorized to establish [physician] PRIMARY CARE case  
42 management [demonstration] programs, under the medical assistance  
43 program, in accordance with applicable federal law and regulations.  
44 PRIMARY CARE CASE MANAGEMENT PROGRAMS SHALL ONLY BE AUTHORIZED IN AREAS  
45 OF THE STATE WHERE COMPREHENSIVE HEALTH SERVICES PLANS, AS DEFINED IN  
46 SECTION FORTY-FOUR HUNDRED ONE OF THE PUBLIC HEALTH LAW, ARE NOT YET  
47 AVAILABLE. Subject to the approval of the director of the budget, the  
48 commissioner is authorized to apply for the appropriate waivers under  
49 federal law and regulation, and may waive any of the provisions of  
50 sections three hundred sixty-five-a, three hundred sixty-six, three  
51 hundred sixty-seven-b [and], three hundred sixty-eight-a AND THREE  
52 HUNDRED SIXTY-FOUR-J of this chapter or any regulation of the department  
53 when such action would be necessary to assist in promoting the objec-  
54 tives of this section.

55 2. (a) A [physician] PRIMARY CARE case management program shall  
56 provide individuals eligible for medical assistance with the opportunity

1 to select [voluntarily] a PRIMARY CARE case [management provider] MANAG-  
2 ER who shall provide medical assistance services to such eligible indi-  
3 viduals, either directly, or through referral [by a physician case  
4 manager].

5 (b) [Physician] PRIMARY CARE case managers shall be limited to quali-  
6 fied, licensed primary care [physicians] PRACTITIONERS, AS DEFINED IN  
7 PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION THREE HUNDRED SIXTY-FOUR-J  
8 OF THIS CHAPTER, who meet standards established by the commissioner [of  
9 health] for the purposes of this program.

10 (c) Services [for which a physician case manager will be responsible]  
11 THAT MAY BE COVERED BY THE PRIMARY CARE CASE MANAGEMENT PROGRAM ARE  
12 DEFINED BY THE COMMISSIONER IN THE BENEFIT PACKAGE. COVERED SERVICES MAY  
13 include all medical assistance services defined under section three  
14 hundred sixty-five-a of this chapter, except:

15 (i) SERVICES EXCLUDED UNDER PARAGRAPH (E) OF SUBDIVISION THREE OF  
16 SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS CHAPTER SHALL BE EXCLUDED  
17 UNDER THIS SECTION;

18 (II) services provided by residential health care facilities, long  
19 term home health care programs, child care agencies, and entities offer-  
20 ing comprehensive health services plans;

21 [(ii)] (III) services provided by dentists and optometrists; and

22 [(iii)] (IV) eyeglasses, emergency care, mental health services and  
23 family planning services.

24 (d) Case management services provided by [physician] PRIMARY CARE case  
25 managers shall include, but need not be limited to:

26 (i) management of the medical and health care of each recipient to  
27 assure that all services provided under paragraph (c) of this subdivi-  
28 sion and which are found to be necessary, are made available in a timely  
29 manner;

30 (ii) referral to, and coordination, monitoring and follow-up of,  
31 appropriate providers for diagnosis and treatment, the need for which  
32 has been identified by the [physician] PRIMARY CARE case manager but  
33 which is not directly available from the [physician] PRIMARY CARE case  
34 manager, and assisting medical assistance recipients in the prudent  
35 selection of medical services;

36 (iii) arrangements for referral of recipients to appropriate provid-  
37 ers; and

38 (iv) [services provided in accordance with child health assurance  
39 program standards for individuals under twenty-one years of age] ALL  
40 EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT SERVICES, AS WELL AS  
41 INTERPERIODIC SCREENING AND REFERRAL, TO EACH PARTICIPANT UNDER THE AGE  
42 OF TWENTY-ONE AT REGULAR INTERVALS.

43 3. (a) [Physician] PRIMARY CARE case management programs may be  
44 conducted only in accordance with [plans submitted by social services  
45 districts and approved] GUIDELINES ESTABLISHED by the commissioner[,  
46 after consultation with the commissioner of health, and only to the  
47 extent and period for which such plans have been approved by the commis-  
48 sioner. The commissioner shall not authorize the implementation of such  
49 plans in more than ten social services districts. For the purpose of  
50 implementing and administering the physician case management programs,  
51 social services districts may]. NOTWITHSTANDING ANY INCONSISTENT  
52 PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF  
53 THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC  
54 DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER IS AUTHORIZED TO  
55 ENTER INTO A contract with [private not-for-profit and public agencies]  
56 QUALIFIED ENTITIES AS DEFINED IN GUIDELINES ESTABLISHED BY THE COMMIS-

SIONER for the management AND ADMINISTRATION of [these plans provided, however, that such contracts shall require prior approval by the commissioner] THE PRIMARY CARE CASE MANAGEMENT PROGRAM WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

(b) The [commissioner shall only approve plans submitted pursuant to this section which: (i) identify and document the specific problems which the physician case management program is designed to address within the social services district;] PRIMARY CARE CASE MANAGEMENT PROGRAM MUST:

[(ii)] (I) assure access to and delivery of high quality, appropriate medical services;

[(iii)] include a description of the quality assurance mechanisms to be implemented] (II) PARTICIPATE IN QUALITY ASSURANCE ACTIVITIES AS REQUIRED BY THE COMMISSIONER, as well as other mechanisms designed to protect recipient rights under such program;

[(iv)] designate the entity to be responsible for the administration of the program within the social services district and describe the responsibilities of this entity;

(v) include a fiscal impact statement which describes the anticipated savings to federal, state and local governments, including an estimate of those costs, including both inpatient and ambulatory costs, which would have been incurred in the absence of the program and the projected costs under the program;

(vi)] (III) ensure that persons eligible for medical assistance will be provided sufficient information regarding the program to make an informed and voluntary choice whether to participate; AND

[(vii)] (IV) provide for adequate safeguards to protect recipients from being misled concerning the program and from being coerced into participating in the [physician] PRIMARY CARE case management program[;].

[(viii)] assure adequate opportunity for public review and comment prior to implementation of the program and provide adequate grievance procedures for recipients who participate in the program; and

(ix) include any other information which the department shall deem appropriate.]

4. (a) Individuals eligible [for medical assistance] TO PARTICIPATE IN THE STATE'S MANAGED CARE PROGRAM, as defined in SUBPARAGRAPH THREE OF section three hundred [sixty-six] SIXTY-FOUR-J of this chapter, may [voluntarily] participate in a [physician] PRIMARY CARE case management program, subject to the availability of such a program within the applicable social services district, except for individuals: (i) enrolled in an entity offering a comprehensive health services plan as defined in paragraph (k) of subdivision two of section three hundred sixty-five-a of this chapter; (ii) participating in another medical assistance reimbursed demonstration or pilot project, or (iii) receiving services as an inpatient from a nursing home or intermediate care facility or residential services from a child care agency or services from a long term home health care program.

(b) [All individuals eligible for medical assistance] INDIVIDUALS choosing to participate [voluntarily] in a [physician] PRIMARY CARE case management program will be given thirty days from the effective date of enrollment in the program to disenroll without cause. After this thirty day disenrollment period, all individuals participating in the program will be enrolled for a period of [six] TWELVE months, except that all participants will be permitted to disenroll for good cause, as defined IN GUIDELINES ESTABLISHED by the commissioner [in regulation].

1 5. (a) [Physician] PRIMARY CARE case management programs may include  
2 provisions for innovative payment mechanisms, including, but not limited  
3 to, [sharing of any savings with providers,] payment of case management  
4 fees [and], capitation arrangements, AND FEE-FOR-SERVICE PAYMENTS.

5 (b) Any new payment mechanisms and levels of payment implemented under  
6 the [physician] PRIMARY CARE case management program shall be developed  
7 [jointly] by the commissioner [and the commissioner of health] subject  
8 to the approval of the director of the budget.

9 6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, PARTIC-  
10 IPATION IN A PRIMARY CARE CASE MANAGEMENT PROGRAM WILL NOT DIMINISH THE  
11 SCOPE OF AVAILABLE MEDICAL SERVICES TO WHICH A RECIPIENT IS ENTITLED.

12 7. This section shall be effective if, and as long as, federal finan-  
13 cial participation is available therefor.

14 S 31. Intentionally omitted.

15 S 32. Intentionally omitted.

16 S 33. Section 2818 of the public health law is amended by adding a  
17 new subdivision 4 to read as follows:

18 4. (A) NOTWITHSTANDING SUBDIVISION ONE, TWO OR THREE OF THIS SECTION,  
19 THE COMMISSIONER, WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, MAY  
20 EXPEND FUNDS FOR THE PURPOSE OF PROVIDING COST EFFECTIVE INCREASED  
21 ACCESS TO THE CAPITAL MARKETS, INCLUDING BUT NOT LIMITED TO THROUGH THE  
22 USE OF MORTGAGE INSURANCE, CREDIT ENHANCEMENT, LETTERS OF CREDIT, BOND  
23 INSURANCE OR OTHER ARRANGEMENTS, FOR CAPITAL PROJECTS THAT ARE DETER-  
24 MINED TO MEET ONE OR MORE OF THE FOLLOWING OBJECTIVES FOR HOSPITALS  
25 LICENSED UNDER THIS ARTICLE:

26 (I) SECURING FINANCING FOR FACILITIES IN A MANNER THAT WILL IMPROVE  
27 THE OPERATION AND EFFICIENCY OF THE HEALTH CARE DELIVERY SYSTEM WITHIN  
28 THE STATE;

29 (II) SECURING FINANCING FOR FACILITIES IN A MANNER CONSISTENT WITH THE  
30 OBJECTIVES AND DETERMINATIONS OF THE COMMISSION ON HEALTH CARE FACILI-  
31 TIES IN THE TWENTY-FIRST CENTURY, ESTABLISHED PURSUANT TO CHAPTER  
32 SIXTY-THREE OF THE LAWS OF TWO THOUSAND FIVE;

33 (III) SECURING FINANCING FOR FACILITIES IN A MANNER THAT WILL HELP  
34 RIGHTSIZED THE STATE'S ACUTE CARE INFRASTRUCTURE, INCLUDING REDUCING  
35 INPATIENT CAPACITY, DOWNSIZING, RESTRUCTURING, AND CLOSING FACILITIES;

36 (IV) SECURING FINANCING FOR FACILITIES IN A MANNER THAT ADVANCES THE  
37 REFORM OF THE LONG-TERM CARE SYSTEM, INCLUDING THROUGH RIGHTSIZING AND  
38 PROVIDING COMMUNITY-BASED SERVICES;

39 (V) SECURING FINANCING FOR FACILITIES IN A MANNER THAT IMPROVES THE  
40 PRIMARY AND AMBULATORY CARE SYSTEM; AND

41 (VI) SUCH OTHER OBJECTIVES AS THE COMMISSIONER DEEMS APPROPRIATE TO  
42 EFFECTUATE THE INTENT OF THIS SUBDIVISION.

43 (B) THE COMMISSIONER MAY TRANSFER FUNDS TO OTHER STATE AGENCIES OR  
44 PUBLIC AUTHORITIES, WITH THE APPROVAL OF THE DIRECTOR OF BUDGET, TO  
45 EFFECTUATE THE PURPOSES OF THIS SUBDIVISION.

46 S 34. Subdivision 3 of section 1680-j of the public authorities law,  
47 as amended by section 7 of part B of chapter 58 of the laws of 2008, is  
48 amended to read as follows:

49 3. Notwithstanding any law to the contrary, and in accordance with  
50 section four of the state finance law, the comptroller is hereby author-  
51 ized and directed to transfer from the health care reform act (HCRA)  
52 resources fund (061) to the general fund, upon the request of the direc-  
53 tor of the budget, up to \$6,500,000 on or before March 31, 2006, and the  
54 comptroller is further hereby authorized and directed to transfer from  
55 the healthcare reform act (HCRA); Resources fund (061) to the Capital  
56 Projects Fund, upon the request of the director of budget, up to

1 \$139,000,000 for the period April 1, 2006 through March 31, 2007, up to  
2 \$171,100,000 for the period April 1, 2007 through March 31, 2008, up to  
3 \$208,100,000 for the period April 1, 2008 through March 31, 2009, up to  
4 \$151,600,000 for the period April 1, 2009 through March 31, 2010, and up  
5 to [\$182,000,000] \$238,000,000 for the period April 1, 2010 through  
6 March 31, 2011.

7 S 35. Subdivision 7 of section 367-a of the social services law is  
8 amended by adding a new paragraph (e) to read as follows:

9 (E) THE COMMISSIONER IS AUTHORIZED TO NEGOTIATE DIRECTLY WITH PHARMA-  
10 CEUTICAL MANUFACTURERS FOR REBATES, AND TO ENTER INTO A CONTRACT OR  
11 CONTRACTS WITH QUALIFIED ENTITIES FOR SUCH PURPOSE. NOTWITHSTANDING ANY  
12 INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED  
13 SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO  
14 OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER IS  
15 AUTHORIZED TO ENTER INTO A CONTRACT UNDER THIS SUBDIVISION WITHOUT A  
16 COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

17 S 36. Subdivision 4 of section 272 of the public health law is  
18 REPEALED.

19 S 37. Section 3-a of part Z2 of chapter 62 of the laws of 2003, amend-  
20 ing the social services law and the public health law relating to  
21 expanding Medicaid coverage and rates of payment for residential health  
22 care facilities is REPEALED.

23 S 38. Section 369-aa of the social services law is amended by adding a  
24 new subdivision 16 to read as follows:

25 16. "STEP THERAPY" SHALL MEAN THE PRACTICE OF BEGINNING DRUG THERAPY  
26 FOR A MEDICAL CONDITION WITH THE MOST MEDICALLY APPROPRIATE AND COST  
27 EFFECTIVE THERAPY AND PROGRESSING TO OTHER DRUGS AS MEDICALLY NECESSARY.

28 S 39. Section 369-cc of the social services law is amended by adding a  
29 new subdivision 4 to read as follows:

30 4. THE COMMISSIONER, THROUGH THE PROSPECTIVE DUR PROGRAM, MAY REQUIRE  
31 STEP THERAPY WHEN THERE IS MORE THAN ONE DRUG APPROPRIATE TO TREAT A  
32 MEDICAL CONDITION. THE PURPOSE OF STEP THERAPY IS TO ENCOURAGE THE USE  
33 OF MEDICALLY APPROPRIATE, COST EFFECTIVE DRUGS WHEN CLINICALLY INDICATED  
34 AND TO LIMIT USE OF ALTERNATIVE DRUG THERAPIES UNLESS CERTAIN CLINICAL  
35 REQUIREMENTS ARE MET. THE DUR BOARD SHALL RECOMMEND GUIDELINES FOR  
36 SPECIFIC DIAGNOSES AND THERAPY REGIMENS WITHIN WHICH PRACTITIONERS MAY  
37 PRESCRIBE DRUGS WITHOUT THE REQUIREMENT FOR PRIOR AUTHORIZATION OF THOSE  
38 DRUGS. IN ESTABLISHING THESE GUIDELINES, THE BOARD SHALL CONSIDER CLIN-  
39 ICAL EFFECTIVENESS, SAFETY, AND COST EFFECTIVENESS.

40 S 40. Paragraph (g) of subdivision 2 of section 365-a of the social  
41 services law, as amended by section 1 of part F of chapter 497 of the  
42 laws of 2008, is amended to read as follows:

43 (g) sickroom supplies, eyeglasses, prosthetic appliances and dental  
44 prosthetic appliances furnished in accordance with the regulations of  
45 the department, provided that the commissioner of health is authorized  
46 to implement a preferred diabetic supply program wherein the department  
47 of health will receive enhanced rebates from preferred manufacturers of  
48 glucometers and test strips, and may subject non-preferred manufactur-  
49 ers' glucometers and test strips to prior authorization under section  
50 two hundred seventy-three of the public health law; drugs provided on an  
51 in-patient basis, those drugs contained on the list established by regu-  
52 lation of the commissioner of health pursuant to subdivision four of  
53 this section, and those drugs which may not be dispensed without a  
54 prescription as required by section sixty-eight hundred ten of the  
55 education law and which the commissioner of health shall determine to be  
56 reimbursable based upon such factors as the availability of such drugs

1 or alternatives at low cost if purchased by a medicaid recipient, or the  
2 essential nature of such drugs as described by such commissioner in  
3 regulations, provided, however, that such drugs, exclusive of long-term  
4 maintenance drugs, shall be dispensed in quantities no greater than a  
5 thirty day supply or one hundred doses, whichever is greater; provided  
6 further that the commissioner of health is authorized to require prior  
7 authorization for any refill of a prescription when less than seventy-  
8 five percent of the previously dispensed amount per fill should have  
9 been used were the product used as normally indicated; PROVIDED FURTHER  
10 THAT THE COMMISSIONER OF HEALTH MAY FROM TIME TO TIME LIMIT THE AMOUNT,  
11 FREQUENCY AND DURATION OF DRUG THERAPY THROUGH PRIOR AUTHORIZATION AS  
12 PART OF THE DRUG UTILIZATION REVIEW PROGRAM ESTABLISHED UNDER TITLE  
13 ELEVEN-C OF THIS ARTICLE; medical assistance shall not include any drug  
14 provided on other than an in-patient basis for which a recipient is  
15 charged or a claim is made in the case of a prescription drug, in excess  
16 of the maximum reimbursable amounts to be established by department  
17 regulations in accordance with standards established by the secretary of  
18 the United States department of health and human services, or, in the  
19 case of a drug not requiring a prescription, in excess of the maximum  
20 reimbursable amount established by the commissioner of health pursuant  
21 to paragraph (a) of subdivision four of this section;

22 S 41. Paragraph (b) of subdivision 8 of section 369-bb of the social  
23 services law is amended by adding a new subparagraph (viii) to read as  
24 follows:

25 (VIII) THE DEVELOPMENT OF CLINICAL PRESCRIBING GUIDELINES RELATING TO  
26 QUANTITY, FREQUENCY AND DURATION OF DRUG THERAPY FOR THE COMMISSIONER'S  
27 USE IN DETERMINING WHEN TO REQUIRE PRIOR AUTHORIZATION OF DRUGS IN THE  
28 DUR PROGRAM PURSUANT TO THE AUTHORITY OF PARAGRAPH (G) OF SUBDIVISION  
29 TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS ARTICLE; EXCEPTIONS TO  
30 ANY PRIOR AUTHORIZATION IMPOSED AS A RESULT OF THESE GUIDELINES SHALL  
31 INCLUDE, BUT NEED NOT BE LIMITED TO, PROVISION FOR EMERGENCY CIRCUM-  
32 STANCES WHERE A MEDICAL CONDITION REQUIRES ALLEVIATION OF SEVERE PAIN OR  
33 WHICH THREATENS TO CAUSE DISABILITY OR TO TAKE A LIFE IF NOT PROMPTLY  
34 TREATED.

35 S 42. Paragraph (g) of subdivision 4 of section 365-a of the social  
36 services law, as amended by section 61 of part C of chapter 58 of the  
37 laws of 2007, is amended to read as follows:

38 (g) for eligible persons who are also beneficiaries under part D of  
39 title XVIII of the federal social security act, drugs which are denomi-  
40 nated as "covered part D drugs" under section 1860D-2(e) of such act[;  
41 provided however that, for purposes of this paragraph, "covered part D  
42 drugs" shall not mean atypical anti-psychotics, anti-depressants, anti-  
43 retrovirals used in the treatment of HIV/AIDS, or anti-rejection drugs  
44 used for the treatment of organ and tissue transplants].

45 S 43. Subparagraph (ii) of paragraph (b) of subdivision 9 of section  
46 367-a of the social services law, as amended by section 4 of part C of  
47 chapter 58 of the laws of 2008, is amended to read as follows:

48 (ii) if the drug dispensed is a multiple source prescription drug or a  
49 brand-name prescription drug for which no specific upper limit has been  
50 set by such federal agency, the lower of the estimated acquisition cost  
51 of such drug to pharmacies, or the dispensing pharmacy's usual and  
52 customary price charged to the general public. For sole and multiple  
53 source brand name drugs, estimated acquisition cost means the average  
54 wholesale price of a prescription drug based upon the package size  
55 dispensed from, as reported by the prescription drug pricing service  
56 used by the department, less sixteen and twenty-five one hundredths



1 percent thereof, and updated monthly by the department[; or, for a  
2 specialized HIV pharmacy, as defined in paragraph (f) of this subdivi-  
3 sion, acquisition cost means the average wholesale price of a  
4 prescription drug based upon the package size dispensed from, as  
5 reported by the prescription drug pricing service used by the depart-  
6 ment, less twelve percent thereof, and updated monthly by the depart-  
7 ment]. For multiple source generic drugs, estimated acquisition cost  
8 means the lower of the average wholesale price of a prescription drug  
9 based on the package size dispensed from, as reported by the  
10 prescription drug pricing service used by the department, less twenty-  
11 five percent thereof, or the maximum acquisition cost, if any, estab-  
12 lished pursuant to paragraph (e) of this subdivision[; or, for a  
13 specialized HIV pharmacy, as defined in paragraph (f) of this subdivi-  
14 sion, acquisition cost means the lower of the average wholesale price of  
15 a prescription drug based on the package size dispensed from, as  
16 reported by the prescription drug pricing service used by the depart-  
17 ment, less twelve percent thereof, or the maximum acquisition cost, if  
18 any, established pursuant to paragraph (e) of this subdivision].

19 S 44. Paragraph (f) of subdivision 9 of section 367-a of the social  
20 services law is REPEALED.

21 S 45. Subdivision 7 of section 274 of the public health law, as added  
22 by section 10 of part C of chapter 58 of the laws of 2005, is amended to  
23 read as follows:

24 7. In the event that the patient does not meet the criteria for  
25 approval established by the commissioner in subdivision six of this  
26 section, the clinical drug review program shall provide a reasonable  
27 opportunity for a prescriber to reasonably present his or her justifica-  
28 tion for prior authorization. If, after [consultation with] the  
29 program[, the prescriber, in his or her reasonable professional judg-  
30 ment, determines that the use of the prescription drug is warranted, the  
31 prescriber's determination shall be final and prior authorization shall  
32 be granted under this section; provided, however, that] PROVIDES THE  
33 PRESCRIBER SUCH REASONABLE OPPORTUNITY, THE PROGRAM DETERMINES THAT THE  
34 USE OF THE DRUG IS NOT MEDICALLY NECESSARY, PRIOR AUTHORIZATION MAY BE  
35 DENIED. IN ADDITION, prior authorization may be denied in cases where  
36 the department has substantial evidence that the prescriber or patient  
37 is engaged in fraud or abuse relating to the drug.

38 S 46. Paragraph (a-1) of subdivision 4 of section 365-a of the social  
39 services law, as amended by section 11 of part C of chapter 58 of the  
40 laws of 2005, is amended to read as follows:

41 (a-1) (I) a brand name drug for which a multi-source therapeutically  
42 and generically equivalent drug, as determined by the federal food and  
43 drug administration, is available, unless previously authorized by the  
44 department of health. The commissioner of health is authorized to  
45 exempt, for good cause shown, any brand name drug from the restrictions  
46 imposed by this [paragraph] SUBPARAGRAPH. This [paragraph] SUBPARAGRAPH  
47 shall not apply to any drug that is in a therapeutic class included on  
48 the preferred drug list under section two hundred seventy-two of the  
49 public health law or is in the clinical drug review program under  
50 section two hundred seventy-four of the public health law;

51 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARA-  
52 GRAPH, THE COMMISSIONER IS AUTHORIZED TO DENY REIMBURSEMENT FOR A GENER-  
53 IC EQUIVALENT, INCLUDING A GENERIC EQUIVALENT THAT IS ON THE PREFERRED  
54 DRUG LIST OR THE CLINICAL DRUG REVIEW PROGRAM, WHEN THE NET COST OF THE  
55 BRAND NAME DRUG, AFTER CONSIDERATION OF ALL REBATES, IS LESS THAN THE  
56 COST OF THE GENERIC EQUIVALENT;

1 S 47. Subparagraph (iii) of paragraph (c) of subdivision 6 of section  
2 367-a of the social services law, as amended by section 9 of part C of  
3 chapter 58 of the laws of 2008, is amended to read as follows:

4 (iii) Notwithstanding any other provision of this paragraph, co-  
5 payments charged for each generic prescription drug dispensed shall be  
6 one dollar and for each brand name prescription drug dispensed shall be  
7 three dollars; provided, however, that the co-payments charged for each  
8 brand name prescription drug on the preferred drug list established  
9 pursuant to section two hundred seventy-two of the public health law AND  
10 THE CO-PAYMENTS CHARGED FOR EACH BRAND NAME PRESCRIPTION DRUG REIMBURSED  
11 PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (A-2) OF SUBDIVISION FOUR OF  
12 SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE shall be one dollar.

13 S 48. Subparagraph (ii) of paragraph (d) of subdivision 9 of section  
14 367-a of the social services law, as amended by chapter 19 of the laws  
15 of 1998, is amended to read as follows:

16 (ii) for prescription drugs categorized as brand-name prescription  
17 [drug] DRUGS by the prescription drug pricing service used by the  
18 department, three dollars and fifty cents per prescription, PROVIDED,  
19 HOWEVER, THAT FOR BRAND NAME PRESCRIPTION DRUGS REIMBURSED PURSUANT TO  
20 SUBPARAGRAPH (II) OF PARAGRAPH (A-2) OF SUBDIVISION FOUR OF SECTION  
21 THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE, THE DISPENSING FEE SHALL BE  
22 FOUR DOLLARS AND FIFTY CENTS PER PRESCRIPTION.

23 S 49. Subdivision 9 of section 367-a of the social services law is  
24 amended by adding a new paragraph (i) to read as follows:

25 (I) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO PAY FINANCIAL INCEN-  
26 TIVES TO MEDICAL PRACTITIONERS AND TO PHARMACIES FOR THE PURPOSE OF  
27 ENCOURAGING THE ELECTRONIC TRANSMISSION OF PRESCRIPTIONS FOR DRUGS FOR  
28 WHICH PAYMENTS ARE MADE UNDER THIS SUBDIVISION. SUCH PAYMENTS SHALL BE  
29 IN THE FOLLOWING AMOUNTS: FOR MEDICAL PRACTITIONERS, EIGHTY CENTS PER  
30 DISPENSED ELECTRONIC PRESCRIPTION; FOR DISPENSING PHARMACIES, TWENTY  
31 CENTS PER DISPENSED ELECTRONIC PRESCRIPTION. ELECTRONIC PRESCRIBING  
32 SOFTWARE SHALL NOT USE ANY MEANS OR PERMIT ANY OTHER PERSON TO USE ANY  
33 MEANS, INCLUDING, BUT NOT LIMITED TO, ADVERTISING, INSTANT MESSAGING,  
34 AND POP-UP ADS, TO INFLUENCE OR ATTEMPT TO INFLUENCE, THROUGH ECONOMIC  
35 INCENTIVES OR OTHERWISE, THE PRESCRIBING DECISION OF A PRESCRIBING PRAC-  
36 TITIONER AT THE POINT OF CARE. SUCH MEANS SHALL NOT BE TRIGGERED OR IN  
37 SPECIFIC RESPONSE TO THE INPUT, SELECTION, OR ACT OF A PRESCRIBING PRAC-  
38 TITIONER OR HIS OR HER AGENT IN PRESCRIBING A CERTAIN PHARMACEUTICAL OR  
39 DIRECTING A PATIENT TO A CERTAIN PHARMACY. THE PROVISIONS OF THIS PARA-  
40 GRAPH SHALL NOT TAKE EFFECT UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL  
41 LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL  
42 PARTICIPATION IN THE COSTS OF SERVICES PROVIDED UNDER THIS PARAGRAPH.

43 S 50. The public health law is amended by adding a new section 279 to  
44 read as follows:

45 S 279. PROHIBITED ACTS AND DISCLOSURE REQUIREMENTS RELATING TO DRUG  
46 MANUFACTURERS' PROVISION OF THINGS OF VALUE TO PRESCRIBERS. 1. DEFINI-  
47 TIONS. AS USED IN THIS SECTION:

48 (A) "DRUG" MEANS: (I) ARTICLES RECOGNIZED IN THE OFFICIAL UNITED  
49 STATES PHARMACOPOEIA, OFFICIAL HOMEOPATHIC PHARMACOPOEIA OF THE UNITED  
50 STATES, OR OFFICIAL NATIONAL FORMULARY;

51 (II) ARTICLES INTENDED FOR USE IN THE DIAGNOSIS, CURE, MITIGATION,  
52 TREATMENT OR PREVENTION OF DISEASE IN HUMANS;

53 (III) ARTICLES (OTHER THAN FOOD) INTENDED TO AFFECT THE STRUCTURE OR  
54 ANY FUNCTION OF THE BODY OF HUMANS;

(IV) ARTICLES INTENDED FOR USE AS A COMPONENT OF ANY ARTICLE SPECIFIED IN SUBPARAGRAPH (I), (II) OR (III) OF THIS PARAGRAPH BUT DOES NOT INCLUDE DEVICES OR THEIR COMPONENTS, PARTS OR ACCESSORIES;

(B) "DEVICE" MEANS ANY INSTRUMENT, APPARATUS, OR CONTRIVANCE, INCLUDING COMPONENTS, PARTS OR ACCESSORIES, INTENDED:

(I) FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN HUMANS; OR

(II) TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE BODY OF HUMANS.

(C) "MANUFACTURER" MEANS (I) A PERSON OR ENTITY THAT FABRICATES, MAKES, COMPOUNDS, MIXES, PREPARES, PRODUCES, BOTTLES OR PACKS DRUGS OR DEVICES FOR THE PURPOSE OF DISTRIBUTING OR SELLING TO PHARMACIES, HEALTH CARE PROVIDERS OR OTHER CHANNELS OF DISTRIBUTION, OR (II) A PERSON OR ENTITY THAT, PURSUANT TO AN AGREEMENT WITH A PERSON OR ENTITY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, MARKETS A DRUG OR DEVICE UNDER A DIFFERENT NAME OR LABELER CODE.

(D) "PRESCRIBER" MEANS A PHYSICIAN, DENTIST, PHYSICIAN ASSISTANT, SPECIALIST'S ASSISTANT, NURSE PRACTITIONER, MIDWIFE, OPTOMETRIST AND OTHER LICENSED HEALTH CARE PROVIDER AUTHORIZED UNDER TITLE EIGHT OF THE EDUCATION LAW TO PRESCRIBE DRUGS OR DEVICES.

(E) "HEALTH CARE PROVIDER" MEANS (I) A PRESCRIBER WHO PRACTICES IN THIS STATE IN AN INDIVIDUAL PRACTICE, GROUP PRACTICE, PARTNERSHIP, PROFESSIONAL CORPORATION OR OTHER AUTHORIZED FORM OF ASSOCIATION, OR IN A HOSPITAL OR OTHER HEALTH CARE INSTITUTION ISSUED AN OPERATING CERTIFICATE PURSUANT TO THIS CHAPTER OR THE MENTAL HYGIENE LAW; (II) SUCH PRESCRIBER'S INDIVIDUAL PRACTICE, GROUP PRACTICE, PARTNERSHIP, PROFESSIONAL CORPORATION OR OTHER AUTHORIZED FORM OF ASSOCIATION; AND (III) AN EMPLOYEE OF A PERSON OR ENTITY DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH.

(F) "DOCTOR-IN-TRAINING" MEANS A PERSON ACTIVELY ENGAGED IN THE STATE IN POST-BACCALAUREATE EDUCATION OR PROFESSIONAL TRAINING DESIGNED TO PREPARE PERSONS TO BE ELIGIBLE TO BE LICENSED AS A DOCTOR OF MEDICINE OR DOCTOR OF OSTEOPATHY AND IS NOT AUTHORIZED TO PRESCRIBE DRUGS OR DEVICES.

(G) "PAYMENT" MEANS ANYTHING WITH AN ECONOMIC VALUE, INCLUDING BUT NOT LIMITED TO MONEY, GOODS AND SERVICES.

(H) "BENEFIT" MEANS ONE OR MORE THINGS WITH AN AGGREGATED FAIR MARKET VALUE FOR THE YEAR EQUAL TO OR GREATER THAN FIFTY DOLLARS, THAT WOULD BE A PAYMENT, AS DEFINED IN PARAGRAPH (G) OF THIS SUBDIVISION, EXCEPT THAT IT COMES WITHIN THE EXCEPTION SET OUT IN PARAGRAPH (B) OR (D) OF SUBDIVISION THREE OF THIS SECTION.

(I) "FAIR MARKET VALUE" MEANS THE VALUE IN ARMS LENGTH TRANSACTIONS, CONSISTENT WITH THE GENERAL MARKET VALUE.

(J) "FINANCIAL RELATIONSHIP" MEANS AN OWNERSHIP INTEREST, INVESTMENT INTEREST OR COMPENSATION ARRANGEMENT. AN OWNERSHIP INTEREST OR INVESTMENT INTEREST MAY BE THROUGH EQUITY, DEBT OR OTHER MEANS; BUT SHALL NOT INCLUDE OWNERSHIP OF INVESTMENT SECURITIES, INCLUDING SHARES OR BONDS, DEBENTURES, NOTES OR OTHER DEBT INSTRUMENTS, WHICH WERE PURCHASED ON TERMS GENERALLY AVAILABLE TO THE PUBLIC AND WHICH ARE IN A CORPORATION THAT IS LISTED FOR TRADING ON THE NEW YORK STOCK EXCHANGE OR ON THE AMERICAN STOCK EXCHANGE, OR IS A NATIONAL MARKET SYSTEM SECURITY TRADED UNDER AN AUTOMATED INTERDEALER QUOTATION SYSTEM OPERATED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, AND HAD, AT THE END OF THE CORPORATION'S MOST RECENT FISCAL YEAR, TOTAL ASSETS EXCEEDING ONE HUNDRED MILLION DOLLARS.

(K) "DISCOUNT" MEANS A REDUCTION IN THE AMOUNT A HEALTH CARE PROVIDER, ACTING AS A BUYER OR PAYER, IS CHARGED FOR AN ITEM OR SERVICE, WHERE THE

REDUCTION IS OFFERED BY OR ON BEHALF OF A MANUFACTURER, AND INCLUDES ALL SUCH REDUCTIONS WHENEVER THEY ARE GIVEN, INCLUDING BEFORE OR AFTER THE TIME OF SALE, PROVIDED THAT SUCH REDUCTIONS GIVEN TO A HEALTH CARE PROVIDER HAVE A FAIR MARKET VALUE AGGREGATED FOR THE CALENDAR YEAR EQUAL TO OR GREATER THAN FIFTY DOLLARS. FOR THE PURPOSE OF THIS PARAGRAPH, "REDUCTION" MEANS A DECREASE FROM THE AMOUNT THAT WOULD BE CHARGED BASED ON AN ARMS-LENGTH TRANSACTION OR THAT IS REPRESENTED TO THE PRESCRIBER AS CONSTITUTING SUCH A DECREASE.

2. PROHIBITED ACTS. (A) A MANUFACTURER SHALL NOT, DIRECTLY OR INDIRECTLY, GIVE OR OFFER TO GIVE ONE OR MORE PAYMENTS WITH AN AGGREGATED FAIR MARKET VALUE IN EXCESS OF FIFTY DOLLARS DURING A CALENDAR YEAR, TO ANY HEALTH CARE PROVIDER OR DOCTOR-IN-TRAINING.

(B) A HEALTH CARE PROVIDER OR A DOCTOR-IN-TRAINING SHALL NOT, DIRECTLY OR INDIRECTLY, REQUEST OR RECEIVE FROM ANY MANUFACTURER ONE OR MORE PAYMENTS WITH AN AGGREGATED FAIR MARKET VALUE IN EXCESS OF FIFTY DOLLARS DURING A CALENDAR YEAR.

3. EXCEPTIONS. THE FOLLOWING PAYMENTS SHALL NOT BE PROHIBITED UNDER SUBDIVISION TWO OF THIS SECTION AND SHALL BE DISCLOSED, AS APPLICABLE, PURSUANT TO SUBDIVISION FOUR OF THIS SECTION:

(A) SAMPLES OF PRESCRIPTION DRUGS THAT THE MANUFACTURER'S EMPLOYEE PROVIDES DIRECTLY TO A PRESCRIBER WHO PROVIDES OR ADMINISTERS SUCH SAMPLE TO A PATIENT WITHOUT CHARGE;

(B) ANY PAYMENT TO SUPPORT A SPECIFIED AND BONA FIDE RESEARCH, CLINICAL OR EDUCATIONAL ACTIVITY IN CONNECTION WITH WHICH THE RECIPIENT (I) PRIOR TO RECEIPT OF ANY SUCH PAYMENT, HAS SUBMITTED TO THE MANUFACTURER A PROPOSAL THAT DESCRIBES THE PURPOSE AND METHODS TO BE USED IN CARRYING OUT THE ACTIVITY, THE OUTCOMES OF THE ACTIVITY THAT WILL BE MEASURED AND THE METHODS TO BE USED TO MEASURE SUCH OUTCOMES, A PROCEDURE FOR ACCOUNTING FOR SUCH PAYMENT AND A DEADLINE FOR SUBMITTING TO THE MANUFACTURER A FINAL REPORT CONCERNING THE ACTIVITY; (II) HAS SUBMITTED TO THE MANUFACTURER THE FINAL REPORT, WITH ALL REQUIRED INFORMATION AS DESCRIBED IN ITS PROPOSAL AS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, WITHIN THE DEADLINE SET OUT IN SUCH PROPOSAL OR AS EXTENDED IN WRITING BY THE MANUFACTURER; AND (III) MAKES SUCH FINAL REPORT AVAILABLE TO THE DEPARTMENT AND HEALTH CARE PROVIDERS UPON REQUEST;

(C) A REDUCTION IN THE COST TO THE HEALTH CARE PROVIDER OF ONE OR MORE OF THE MANUFACTURER'S DRUGS OR DEVICES;

(D) REIMBURSEMENT FOR TRAVEL, LODGING AND PERSONAL EXPENSES OR REMUNERATION PROVIDED TO A PRESCRIBER OR SUCH REIMBURSEMENT PROVIDED TO A DOCTOR-IN-TRAINING, THE AMOUNT OF WHICH REMUNERATION OR REIMBURSEMENT IS NOT DEPENDENT, DIRECTLY OR INDIRECTLY, ON THE AMOUNT OR VOLUME OF THE MANUFACTURER'S DRUGS OR DEVICES ANY PERSON OR ENTITY PRESCRIBES, IF:

(I) WITH RESPECT TO PRESCRIBERS, THE REMUNERATION OR REIMBURSEMENT IS PROVIDED IN CONNECTION WITH BONA FIDE TEACHING, SCIENTIFIC RESEARCH, WRITING OR CONSULTING SERVICES THE PRESCRIBER ACTUALLY PROVIDES, THE NATURE AND PROVISION OF WHICH CAN BE VERIFIED BY DOCUMENTS THE MANUFACTURER MAINTAINS FOR NOT LESS THAN THREE YEARS, PROVIDED THAT (A) THE AMOUNT OF BOTH THE REMUNERATION AND REIMBURSEMENT IS CONSISTENT WITH THE FAIR MARKET VALUE OF THE SERVICES THE PRESCRIBER PROVIDES TO OR ON BEHALF OF THE MANUFACTURER, (B) WITH RESPECT TO TEACHING ACTIVITIES, THE PRESCRIBER IS PART OF THE FACULTY FOR AN EDUCATIONAL PROGRAM AND PROVIDES ATTENDEES WITH SIGNIFICANT SCIENTIFIC OR CLINICAL INFORMATION, AND (C) WITH RESPECT TO WRITING, THE PRESCRIBER IS IDENTIFIED AS AN AUTHOR ONLY WHEN HE OR SHE HAS HAD UNRESTRICTED ACCESS TO ALL DATA PERTAINING TO THE SUBJECT OF THE MANUSCRIPT, HAS GIVEN FINAL APPROVAL OF THE MANUSCRIPT, HAS PARTICIPATED SUFFICIENTLY IN THE WORK TO TAKE PUBLIC

1 RESPONSIBILITY FOR AT LEAST PART OF THE CONTENT, AND HAS MADE SUBSTAN-  
2 TIAL CONTRIBUTIONS TO THE INTELLECTUAL CONTENT OF THE WRITTEN WORK IN  
3 EITHER CONCEPTION AND DESIGN OR ACQUISITION OF DATA AND IN EITHER DRAFT-  
4 ING OR CRITICAL REVISION OF THE MANUSCRIPT FOR IMPORTANT INTELLECTUAL  
5 CONTENT; AND

6 (II) WITH RESPECT TO DOCTORS-IN-TRAINING, THE REIMBURSEMENT IS  
7 PROVIDED IN CONNECTION WITH ATTENDANCE AT A BONA FIDE MEDICAL CONFER-  
8 ENCE, THE PRINCIPAL PURPOSE OF WHICH IS TO IMPART SCIENTIFIC OR CLINICAL  
9 INFORMATION, PROVIDED THAT (A) THE AMOUNT OF ANY REIMBURSEMENT IS  
10 CONSISTENT WITH THE FAIR MARKET VALUE OF THE TRAVEL, LODGING AND  
11 PERSONAL EXPENSES BEING REIMBURSED, AND (B) THE MANUFACTURER TRANSFERS  
12 ALL SUCH FUNDS TO THE DOCTOR'S-IN-TRAINING MEDICAL SCHOOL OR PROFES-  
13 SIONAL EMPLOYER, THE MEDICAL SCHOOL OR PROFESSIONAL EMPLOYER SELECTS THE  
14 DOCTORS-IN-TRAINING WHOSE ATTENDANCE THE MANUFACTURER WILL FUND AND THE  
15 MEDICAL CONFERENCES THEY WILL ATTEND, AND THE SCHOOL, EMPLOYER AND  
16 MANUFACTURER DO NOT, DIRECTLY OR INDIRECTLY, INFORM THE DOCTOR-IN-TRAIN-  
17 ING OF THE SOURCE OF SUCH FUNDS; AND

18 (E) ANYTHING OF ECONOMIC VALUE GIVEN BY A PERSON WITH A FINANCIAL  
19 RELATIONSHIP WITH A MANUFACTURER WHO IS RELATED BY BLOOD, MARRIAGE OR  
20 ADOPTION WITHIN THREE DEGREES OF CONSANGUINITY TO THE RECIPIENT PRESCRI-  
21 BER.

22 4. DISCLOSURE. (A) ANNUAL DISCLOSURE. ANNUALLY, AT A TIME AND IN A  
23 MANNER TO BE DETERMINED BY THE DEPARTMENT, EACH HEALTH CARE PROVIDER OR  
24 DOCTOR-IN-TRAINING AND EACH MANUFACTURER DOING BUSINESS WITH ANY SUCH  
25 HEALTH CARE PROVIDER OR DOCTOR-IN-TRAINING SHALL PROVIDE TO THE DEPART-  
26 MENT A REPORT THAT CONTAINS THE INFORMATION REQUIRED BY PARAGRAPHS (B),  
27 (C), AND (D) OF THIS SUBDIVISION WHERE (I) SUCH HEALTH CARE PROVIDER OR  
28 DOCTOR-IN-TRAINING OFFERED, GAVE OR RECEIVED A BENEFIT; (II) SUCH  
29 MANUFACTURER GAVE A DISCOUNT TO A HEALTH CARE PROVIDER; OR (III) A  
30 FINANCIAL RELATIONSHIP EXISTED BETWEEN SUCH A MANUFACTURER AND SUCH A  
31 PROVIDER OR DOCTOR-IN-TRAINING. ACCESS TO SUCH REPORTS SHALL NOT BE  
32 DENIED, THE REPORTS SHALL NOT BE WITHHELD, AND IDENTIFYING INFORMATION  
33 SHALL NOT BE DELETED FROM SUCH REPORTS PURSUANT TO SECTION EIGHTY-SEVEN  
34 OR EIGHTY-NINE OF THE PUBLIC OFFICERS LAW.

35 (B) DISCLOSURE OF BENEFITS. EACH REPORT REQUIRED BY PARAGRAPH (A) OF  
36 THIS SUBDIVISION PERTAINING TO A BENEFIT TRANSFERRED DURING THE REPORT-  
37 ING PERIOD SHALL DESCRIBE THE NATURE AND FAIR MARKET VALUE OF THE BENE-  
38 FIT THAT WAS OFFERED OR TRANSFERRED; THE NATURE OF ANY GOOD OR SERVICE  
39 THAT WAS PROVIDED TO THE MANUFACTURER OR ANY OTHER PERSON OR ENTITY IN  
40 CONNECTION WITH THE PROVISION OF THE BENEFIT; AND SUCH OTHER INFORMATION  
41 AS SHALL BE REQUIRED BY THE DEPARTMENT BY REGULATION.

42 (C) DISCLOSURE OF DISCOUNTS. THE REPORTS REQUIRED BY PARAGRAPH (A) OF  
43 THIS SUBDIVISION SHALL NOT REQUIRE A MANUFACTURER TO DISCLOSE DISCOUNT  
44 INFORMATION SEPARATELY FOR EACH TRANSACTION. THE DEPARTMENT SHALL BY  
45 REGULATION SPECIFY THE MANNER IN WHICH THE VALUE OF THE DISCOUNT SHALL  
46 BE REPORTED, INCLUDING A THRESHOLD FOR THE VALUE OF DISCOUNTS THAT MUST  
47 BE REPORTED. THE MANUFACTURER SHALL REPORT ALL DISCOUNTS THAT OCCURRED  
48 DURING THE REPORTING PERIOD, INCLUDING THOSE DISCOUNTS THE VALUE OF  
49 WHICH WAS REALIZED BY THE PURCHASER DURING THE REPORTING PERIOD BUT  
50 PERTAIN TO SALES THAT OCCURRED AT A DIFFERENT TIME.

51 (D) DISCLOSURE OF FINANCIAL RELATIONSHIPS. EACH REPORT A MANUFACTURER,  
52 HEALTH CARE PROVIDER OR DOCTOR-IN-TRAINING IS REQUIRED TO MAKE BY PARA-  
53 GRAPH (A) OF THIS SUBDIVISION PERTAINING TO FINANCIAL RELATIONSHIPS  
54 SHALL CONTAIN SUCH INFORMATION AS IS REQUIRED BY THE DEPARTMENT BY REGU-  
55 LATION, WHICH SHALL SPECIFY THE MANNER IN WHICH THE VALUE OF FINANCIAL

1 RELATIONSHIPS SHALL BE REPORTED, INCLUDING THE THRESHOLD VALUE OF FINAN-  
2 CIAL RELATIONSHIPS THAT MUST BE REPORTED.

3 5. VIOLATIONS. THE COMMISSIONER MAY ASSESS A CIVIL PENALTY FOR  
4 VIOLATIONS OF THIS SECTION IN AN AMOUNT THAT IS, FOR A MANUFACTURER'S  
5 VIOLATION OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION OR SUBDI-  
6 VISION FOUR OF THIS SECTION, NOT LESS THAN FIVE THOUSAND DOLLARS AND NOT  
7 MORE THAN FIFTY THOUSAND DOLLARS PER VIOLATION, AND FOR A HEALTH CARE  
8 PROVIDER'S VIOLATION OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION  
9 OR SUBDIVISION FOUR OF THIS SECTION, NOT LESS THAN FIVE THOUSAND DOLLARS  
10 AND NOT MORE THAN TEN THOUSAND DOLLARS PER VIOLATION.

11 S 51. Section 6509 of the education law is amended by adding a new  
12 subdivision 15 to read as follows:

13 (15) A VIOLATION OF SECTION TWO HUNDRED SEVENTY-NINE OF THE PUBLIC  
14 HEALTH LAW.

15 S 52. Section 6530 of the education law is amended by adding a new  
16 subdivision 50 to read as follows:

17 50. A VIOLATION OF SECTION TWO HUNDRED SEVENTY-NINE OF THE PUBLIC  
18 HEALTH LAW.

19 S 53. Article 29-D of the public health law is amended by adding a new  
20 title 4 to read as follows:

#### 21 TITLE 4

#### 22 CONTINUING PROFESSIONAL EDUCATION

23 SECTION 2999-G. DEFINITIONS.

24 2999-H. REQUIREMENTS FOR CONDUCTING A CONTINUING PROFESSIONAL  
25 EDUCATION PROGRAM.

26 2999-I. VIOLATIONS.

27 S 2999-G. DEFINITIONS. FOR THE PURPOSE OF THIS TITLE:

28 1. "CONTINUING PROFESSIONAL EDUCATION PROGRAM" MEANS COURSE WORK OR  
29 TRAINING PROVIDED TO PHYSICIANS, DENTISTS, PHYSICIAN ASSISTANTS,  
30 SPECIALIST ASSISTANTS, NURSE PRACTITIONERS, MIDWIVES, OPTOMETRISTS OR  
31 OTHER LICENSED HEALTH CARE PROVIDERS AUTHORIZED BY LAW TO PRESCRIBE  
32 DRUGS OR DEVICES, WHICH PERTAINS TO THE PRACTICE OF THEIR PROFESSION AND  
33 FOR WHICH CONTINUING MEDICAL EDUCATION OR CONTINUING PROFESSIONAL EDUCA-  
34 TION CREDITS MAY BE AWARDED.

35 2. "PROVIDER" MEANS THE PERSON OR ENTITY THAT REPRESENTS TO MEMBERS OF  
36 THE RELEVANT PROFESSION THAT IT IS THE ORGANIZER OF A CONTINUING PROFES-  
37 SIONAL EDUCATION PROGRAM. A CONTINUING PROFESSIONAL EDUCATION PROGRAM  
38 CAN HAVE MORE THAN ONE PROVIDER, BUT EVERY SUCH PROGRAM MUST HAVE AT  
39 LEAST ONE PROVIDER. MANUFACTURERS AND DISTRIBUTORS ARE NOT PROVIDERS.

40 3. "MANUFACTURER" MEANS (I) A PERSON OR ENTITY THAT FABRICATES, MAKES,  
41 COMPOUNDS, MIXES, PREPARES, PRODUCES, BOTTLES OR PACKS DRUGS OR DEVICES  
42 FOR THE PURPOSE OF DISTRIBUTING OR SELLING TO PHARMACIES, HEALTH CARE  
43 PROVIDERS OR OTHER CHANNELS OF DISTRIBUTION, OR (II) A PERSON OR ENTITY  
44 THAT, PURSUANT TO AN AGREEMENT WITH A PERSON OR ENTITY DESCRIBED IN  
45 SUBPARAGRAPH (I) OF THIS PARAGRAPH, MARKETS A DRUG OR DEVICE UNDER A  
46 DIFFERENT NAME OR LABELER CODE.

47 4. "DISTRIBUTOR" MEANS A PERSON OR ENTITY THAT DELIVERS, OTHER THAN BY  
48 DISPENSING, A DRUG PRODUCT TO ANY PERSON.

49 5. "DRUG" MEANS: (I) ARTICLES RECOGNIZED IN THE OFFICIAL UNITED  
50 STATES PHARMACOPOEIA, OFFICIAL HOMEOPATHIC PHARMACOPOEIA OF THE UNITED  
51 STATES, OR OFFICIAL NATIONAL FORMULARY;

52 (II) ARTICLES INTENDED FOR USE IN THE DIAGNOSIS, CURE, MITIGATION,  
53 TREATMENT OR PREVENTION OF DISEASE IN HUMANS;

54 (III) ARTICLES (OTHER THAN FOOD) INTENDED TO AFFECT THE STRUCTURE OR  
55 ANY FUNCTION OF THE BODY OF HUMANS;

(IV) ARTICLES INTENDED FOR USE AS A COMPONENT OF ANY ARTICLE SPECIFIED IN SUBPARAGRAPH (I), (II) OR (III) OF THIS PARAGRAPH BUT DOES NOT INCLUDE DEVICES OR THEIR COMPONENTS, PARTS OR ACCESSORIES;

6. "DEVICE" MEANS ANY INSTRUMENT, APPARATUS, OR CONTRIVANCE, INCLUDING COMPONENTS, PARTS OR ACCESSORIES, INTENDED:

(I) FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN HUMANS; OR

(II) TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE BODY OF HUMANS.

7. "PRESENTER" IS A NATURAL PERSON WHO CONDUCTS, TEACHES AND PARTICIPATES, OTHER THAN SOLELY AS AN ATTENDEE, IN ANY ASPECT OF A CONTINUING PROFESSIONAL EDUCATION PROGRAM, REGARDLESS OF WHETHER SUCH PROGRAM IS PROVIDED IN PERSON OR BY ELECTRONIC OR OTHER MEANS.

8. "FINANCIAL RELATIONSHIP" MEANS AN OWNERSHIP INTEREST, INVESTMENT INTEREST OR COMPENSATION ARRANGEMENT. AN OWNERSHIP INTEREST OR INVESTMENT INTEREST MAY BE THROUGH EQUITY, DEBT OR OTHER MEANS; BUT SHALL NOT INCLUDE OWNERSHIP OF INVESTMENT SECURITIES, INCLUDING SHARES OR BONDS, DEBENTURES, NOTES OR OTHER DEBT INSTRUMENTS, WHICH WERE PURCHASED ON TERMS GENERALLY AVAILABLE TO THE PUBLIC AND WHICH ARE IN A CORPORATION THAT IS LISTED FOR TRADING ON THE NEW YORK STOCK EXCHANGE OR ON THE AMERICAN STOCK EXCHANGE, OR IS A NATIONAL MARKET SYSTEM SECURITY TRADED UNDER AN AUTOMATED INTERDEALER QUOTATION SYSTEM OPERATED BY THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, AND HAD, AT THE END OF THE CORPORATION'S MOST RECENT FISCAL YEAR, TOTAL ASSETS EXCEEDING ONE HUNDRED MILLION DOLLARS.

9. "CONTINUING PROFESSIONAL EDUCATION MATERIAL" MEANS ANY INFORMATION CONCERNING ANY ASPECT OF THE PRACTICE OF A PROFESSION REFERENCED IN SUBDIVISION ONE OF THIS SECTION WHICH IS COMMUNICATED BY ORAL, WRITTEN, GRAPHIC, AUDIO, VISUAL, ELECTRONIC OR OTHER MEANS DURING A CONTINUING PROFESSIONAL EDUCATION PROGRAM AND IS NOT BEING DISSEMINATED BY OR ON BEHALF OF A MANUFACTURER OR DISTRIBUTOR CONCERNING ONE OR MORE OF ITS PRODUCTS.

S 2999-H. REQUIREMENTS FOR CONDUCTING A CONTINUING PROFESSIONAL EDUCATION PROGRAM. 1. IN CONNECTION WITH ANY CONTINUING PROFESSIONAL EDUCATION PROGRAM CONDUCTED IN THE STATE, A PRESENTER:

(A) SHALL NOT KNOWINGLY PRESENT ANY CONTINUING PROFESSIONAL EDUCATION MATERIALS THAT ARE FALSE OR MISLEADING;

(B) SHALL NOT REPRESENT, EXPLICITLY OR BY NOT DISCLOSING ANOTHER AUTHOR, THAT HE OR SHE WAS THE AUTHOR OF ANY CONTINUING PROFESSIONAL EDUCATION MATERIALS UNLESS THE PRESENTER HAS GIVEN FINAL APPROVAL OF SUCH MATERIALS, HAS PARTICIPATED SUFFICIENTLY IN THE DEVELOPMENT OF SUCH MATERIALS TO TAKE PUBLIC RESPONSIBILITY FOR THE CONTENT, AND HAS MADE SUBSTANTIAL CONTRIBUTIONS TO THE INTELLECTUAL CONTENT OF SUCH MATERIALS EITHER IN DRAFTING OR IN CRITICAL REVISION OF SUCH MATERIALS FOR IMPORTANT INTELLECTUAL CONTENT;

(C) SHALL DISCLOSE TO THE PROVIDER ALL FINANCIAL RELATIONSHIPS HE OR SHE HAS WITH ANY MANUFACTURER OR DISTRIBUTOR, INCLUDING THE NAME OF SUCH ENTITIES WITH WHICH HE OR SHE HAS A FINANCIAL RELATIONSHIP, THE NATURE OF THE RELATIONSHIP, AND THE FAIR MARKET VALUE OF ANYTHING OF ECONOMIC VALUE THE PRESENTER RECEIVED DURING THE PRECEDING TWELVE MONTHS IN CONNECTION WITH OR AS A RESULT OF SUCH RELATIONSHIP; AND

(D) SHALL DISCLOSE TO THE PROVIDER ANY INFORMATION OR WRITTEN, GRAPHIC, AUDIO, VISUAL OR ELECTRONIC MATERIALS OF ANY KIND THAT THE PRESENTER INTENDS TO COMMUNICATE AT THE CONTINUING PROFESSIONAL EDUCATION PROGRAM WHICH ARE EXEMPTED FROM THE DEFINITION OF CONTINUING PROFESSIONAL EDUCATION MATERIALS BECAUSE THEY ARE BEING DISSEMINATED BY OR ON BEHALF OF A

1 MANUFACTURER OR DISTRIBUTOR, WHICH INFORMATION OR MATERIALS THE PRESEN-  
2 TER SHALL DESCRIBE WITH SPECIFICITY.

3 2. IN CONNECTION WITH ANY CONTINUING PROFESSIONAL EDUCATION PROGRAM  
4 CONDUCTED IN THE STATE, A PROVIDER:

5 (A) SHALL INFORM EVERY PRESENTER OF HIS OR HER OBLIGATIONS UNDER  
6 SUBDIVISION ONE OF THIS SECTION;

7 (B) SHALL ACT PRUDENTLY TO OBTAIN FROM EACH PRESENTER THE INFORMATION  
8 HE OR SHE IS REQUIRED TO DISCLOSE BY PARAGRAPHS (C) AND (D) OF SUBDIVI-  
9 SION ONE OF THIS SECTION; AND

10 (C) SHALL DISCLOSE TO ALL PERSONS ATTENDING A CONTINUING PROFESSIONAL  
11 EDUCATION PROGRAM:

12 (I) THE INFORMATION REQUIRED BY PARAGRAPHS (C) AND (D) OF SUBDIVISION  
13 ONE OF THIS SECTION THAT EACH PRESENTER AT SUCH PROGRAM HAS DISCLOSED TO  
14 THE PROVIDER; AND

15 (II) THE NATURE OF ANY SUPPORT FOR THE CONTINUING PROFESSIONAL EDUCA-  
16 TION PROGRAM, WHETHER MONETARY OR IN KIND, PROVIDED BY A MANUFACTURER OR  
17 DISTRIBUTOR, AND THE FAIR MARKET VALUE OF ALL SUCH SUPPORT.

18 S 2999-I. VIOLATIONS. THE COMMISSIONER MAY ASSESS A CIVIL PENALTY FOR  
19 VIOLATIONS OF THIS SECTION IN AN AMOUNT THAT IS, FOR A VIOLATION OF  
20 SUBDIVISION ONE OF SECTION TWENTY-NINE HUNDRED NINETY-NINE-H OF THIS  
21 TITLE, NOT MORE THAN TWENTY-FIVE HUNDRED DOLLARS PER VIOLATION AND, FOR  
22 A VIOLATION OF SUBDIVISION TWO OF SECTION TWENTY-NINE HUNDRED  
23 NINETY-NINE-H OF THIS TITLE, NOT MORE THAN TEN THOUSAND DOLLARS PER  
24 VIOLATION.

25 S 54. Section 6509 of the education law is amended by adding a new  
26 subdivision 16 to read as follows:

27 (16) A VIOLATION OF SUBDIVISION ONE OF SECTION TWENTY-NINE HUNDRED  
28 NINETY-NINE-H OF THE PUBLIC HEALTH LAW.

29 S 55. Section 6530 of the education law is amended by adding a new  
30 subdivision 51 to read as follows:

31 51. A VIOLATION OF SUBDIVISION ONE OF SECTION TWENTY-NINE HUNDRED  
32 NINETY-NINE-H OF THE PUBLIC HEALTH LAW.

33 S 56. The public health law is amended by adding a new article 44-A to  
34 read as follows:

#### 35 ARTICLE 44-A

#### 36 PHARMACY BENEFIT MANAGERS

37 SECTION 4450. DEFINITIONS.

38 4451. MATTERS UNAFFECTED BY THIS ARTICLE.

39 4452. THE PHARMACY BENEFIT MANAGER'S GENERAL OBLIGATIONS.

40 4453. THE PHARMACY BENEFIT MANAGER'S DISCLOSURE OF INFORMATION  
41 TO THE HEALTH PLAN.

42 4454. THE PHARMACY BENEFIT MANAGER'S COMMUNICATION WITH PARTIC-  
43 IPANTS AND PRESCRIBERS IN CERTAIN SITUATIONS.

44 4455. DISTRIBUTION OF PRESCRIPTION DATA.

45 4456. ENFORCEMENT.

46 S 4450. DEFINITIONS. FOR THE PURPOSE OF THIS ARTICLE:

47 1. "HEALTH PLAN" MEANS A NONPROFIT HOSPITAL OR MEDICAL SERVICE ORGAN-  
48 IZATION, INSURER, HEALTH COVERAGE PLAN OR HEALTH MAINTENANCE ORGANIZA-  
49 TION LICENSED PURSUANT TO THE INSURANCE LAW; A HEALTH PROGRAM ADMINIS-  
50 TERED BY THE DEPARTMENT OF HEALTH, THE STATE OR A POLITICAL SUBDIVISION  
51 IN THE CAPACITY OF PROVIDER OF HEALTH COVERAGE; OR AN EMPLOYER, LABOR  
52 UNION OR OTHER GROUP OF PERSONS ORGANIZED IN THE STATE THAT PROVIDES  
53 HEALTH COVERAGE TO PARTICIPANTS WHO ARE EMPLOYED OR RESIDE IN THE STATE.  
54 "HEALTH PLAN" DOES NOT INCLUDE A HEALTH PLAN THAT PROVIDES COVERAGE ONLY  
55 FOR ACCIDENTAL INJURY, SPECIFIED DISEASE, HOSPITAL INDEMNITY, MEDICARE



1 SUPPLEMENT, DISABILITY INCOME, LONG-TERM CARE OR OTHER LIMITED BENEFIT  
2 HEALTH INSURANCE POLICIES AND CONTRACTS.

3 2. "PARTICIPANT" MEANS A MEMBER, PARTICIPANT, ENROLLEE, CONTRACT HOLD-  
4 ER, POLICY HOLDER OR BENEFICIARY OF A HEALTH PLAN WHO RESIDES OR IS  
5 EMPLOYED IN THE STATE TO WHOM THE HEALTH PLAN PROVIDES HEALTH COVERAGE.  
6 "PARTICIPANT" INCLUDES A DEPENDENT OR OTHER PERSON PROVIDED HEALTH  
7 COVERAGE THROUGH A POLICY, CONTRACT OR PLAN FOR A PARTICIPANT.

8 3. "PRESCRIPTION DRUG" OR "DRUG" MEANS: (A) ARTICLES RECOGNIZED IN THE  
9 OFFICIAL UNITED STATES PHARMACOPOEIA, OFFICIAL HOMEOPATHIC PHARMACOPOEIA  
10 OF THE UNITED STATES, OR OFFICIAL NATIONAL FORMULARY;

11 (B) ARTICLES INTENDED FOR USE IN THE DIAGNOSIS, CURE, MITIGATION,  
12 TREATMENT OR PREVENTION OF DISEASE IN HUMANS;

13 (C) ARTICLES (OTHER THAN FOOD) INTENDED TO AFFECT THE STRUCTURE OR ANY  
14 FUNCTION OF THE BODY OF HUMANS;

15 (D) ARTICLES INTENDED FOR USE AS A COMPONENT OF ANY ARTICLE SPECIFIED  
16 IN PARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION BUT DOES NOT INCLUDE  
17 DEVICES OR THEIR COMPONENTS, PARTS OR ACCESSORIES;  
18 FOR WHICH A PRESCRIPTION IS REQUIRED UNDER THE FEDERAL FOOD, DRUG AND  
19 COSMETIC ACT.

20 4. "PRESCRIBER" MEANS A PHYSICIAN, DENTIST, PHYSICIAN ASSISTANT,  
21 SPECIALIST'S ASSISTANT, NURSE PRACTITIONER, MIDWIFE, OPTOMETRIST AND  
22 OTHER LICENSED HEALTH CARE PROVIDER AUTHORIZED UNDER TITLE EIGHT OF THE  
23 EDUCATION LAW TO PRESCRIBE DRUGS OR DEVICES, WHO IS PRACTICING IN THE  
24 STATE.

25 5. "PATIENT" IS A NATURAL PERSON FOR WHOM A PRESCRIBER WRITES A  
26 PRESCRIPTION FOR A PRESCRIPTION DRUG OR TO WHOM A PHARMACY DISPENSES  
27 SUCH A PRODUCT.

28 6. "PHARMACY BENEFIT MANAGEMENT SERVICES" MEANS THE NEGOTIATION OF THE  
29 AMOUNT TO BE PAID FOR PRESCRIPTION DRUGS BY THE HEALTH PLAN OR PARTIC-  
30 IPANTS IN THE STATE, THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION  
31 DRUG BENEFITS PROVIDED BY A HEALTH PLAN FOR THE BENEFIT OF PARTICIPANTS,  
32 OR ANY OF THE SERVICES LISTED IN PARAGRAPHS (A) THROUGH (G) OF THIS  
33 SUBDIVISION THAT ARE PROVIDED WITH REGARD TO THE ADMINISTRATION OF  
34 PARTICIPANTS' PHARMACY BENEFITS:

35 (A) MAIL SERVICE PHARMACY;

36 (B) SPECIALTY PHARMACY;

37 (C) CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT AND PAYMENT OF CLAIMS  
38 TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO PARTICIPANTS;

39 (D) CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;

40 (E) REBATE CONTRACTING AND ADMINISTRATION;

41 (F) PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION AND GENERIC SUBSTI-  
42 TUTION PROGRAMS; AND

43 (G) DISEASE MANAGEMENT PROGRAMS.

44 7. "PHARMACY BENEFIT MANAGER" IS A PERSON OR ENTITY THAT PROVIDES  
45 PHARMACY BENEFIT MANAGEMENT SERVICES TO A HEALTH PLAN.

46 8. "AFFILIATE" MEANS A CORPORATION OR OTHER BUSINESS ENTITY A MAJORITY  
47 OF WHOSE SHARES IS OWNED OR CONTROLLED BY SHAREHOLDERS, DIRECTORS OR  
48 OFFICERS OF ANOTHER CORPORATION OR OTHER BUSINESS ENTITY, WHO OWN OR  
49 CONTROL A MAJORITY OF THE SHARES OF THE OTHER CORPORATION OR OTHER BUSI-  
50 NESS ENTITY.

51 9. "COVERED" WHEN USED IN CONNECTION WITH A DRUG, DISPENSED  
52 PRESCRIPTION, GOOD OR SERVICE, REFERS TO A DRUG, DISPENSED PRESCRIPTION,  
53 GOOD OR SERVICE IN CONNECTION WITH WHICH THE PHARMACY BENEFIT MANAGER  
54 PROVIDES OR OFFERS TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES TO A  
55 HEALTH PLAN.

1 10. "PAYMENT" MEANS ANYTHING OF VALUE A PHARMACY BENEFIT MANAGER  
2 RECEIVES FROM ANY ENTITY, INCLUDING AN AFFILIATE BUT EXCLUDING THE  
3 HEALTH PLAN THAT CONTRACTS WITH IT FOR PHARMACY BENEFIT MANAGEMENT  
4 SERVICES, IN CONNECTION WITH A COVERED DRUG, COVERED DISPENSED  
5 PRESCRIPTION, COVERED GOOD OR COVERED SERVICE, OR ANY OTHER ASPECT OF  
6 THE PHARMACY BENEFIT MANAGER'S BUSINESS FAIRLY ATTRIBUTABLE TO THE PHAR-  
7 MACY BENEFIT MANAGEMENT SERVICES IT PROVIDES TO THE HEALTH PLAN.

8 11. "NET PRICE" OR "NET COST" MEANS THE PRICE PAID AFTER DEDUCTING ALL  
9 DISCOUNTS, REBATES, CHARGEBACKS AND ANY OTHER PRICE CONCESSION OR  
10 PAYMENT CONTINGENT ON A PURCHASE, BUT EXCLUDES ANY AMOUNT PAID TO A  
11 PHARMACY AS A DISPENSING FEE.

12 12. "SWITCH", AS IN "DRUG SWITCH" OR "SWITCH A PRESCRIPTION", MEANS AN  
13 ATTEMPT BY A PHARMACY BENEFIT MANAGER OR BY A PHARMACY OR OTHER ENTITY  
14 AT THE REQUEST OR ON BEHALF OF THE PHARMACY BENEFIT MANAGER TO CHANGE  
15 THE DRUG PRESCRIBED FOR A PARTICIPANT WHEN (A) SUCH ATTEMPT IS PART OF A  
16 CONCERTED EFFORT BY THE PHARMACY BENEFIT MANAGER TO EFFECT SUCH A CHANGE  
17 FOR MULTIPLE PARTICIPANTS BASED EITHER ON CLINICAL CONSIDERATIONS THAT  
18 ARE NOT SPECIFIC TO SUCH INDIVIDUAL PARTICIPANTS OR ON THE ECONOMIC  
19 VALUE OF THE SWITCH TO THE PHARMACY BENEFIT MANAGER AND (B) THE ATTEMPT  
20 WOULD NOT SUBSTITUTE A LOWER OR EQUALLY PRICED THERAPEUTICALLY EQUIV-  
21 ALENT DRUG. "LOWER OR EQUALLY PRICED" MEANS THE PARTICIPANT'S CO-PAYMENT  
22 OR CO-INSURANCE AMOUNT.

23 13. "THERAPEUTICALLY EQUIVALENT DRUGS" MEAN DRUGS IDENTIFIED AS BEING  
24 THERAPEUTICALLY EQUIVALENT TO EACH OTHER ON THE LIST REQUIRED BY PARA-  
25 GRAPH (O) OF SUBDIVISION ONE OF SECTION TWO HUNDRED SIX OF THIS CHAPTER.

26 14. A "BRAND NAME DRUG" MEANS A DRUG MARKETED UNDER A PROPRIETARY,  
27 TRADEMARK-PROTECTED NAME.

28 15. A "GENERIC DRUG" MEANS THE SAME AS A BRAND NAME DRUG IN ACTIVE  
29 INGREDIENTS, DOSAGE, SAFETY, STRENGTH, ROUTE OF ADMINISTRATION, QUALITY,  
30 PERFORMANCE, AND INTENDED USE, BUT WHICH IS NOT MARKETED UNDER A PROPRI-  
31 ETARY, TRADEMARK-PROTECTED NAME.

32 16. "PHARMACY CATEGORIES" MEAN CHAIN RETAIL PHARMACIES (FOUR OR MORE  
33 STORES), INDEPENDENT RETAIL PHARMACIES (THREE OR FEWER STORES), PHARMA-  
34 CIES IN FOOD STORES, PHARMACIES IN MASS MERCHANDISE STORES, MAIL-SERVICE  
35 PHARMACIES, SPECIALTY PHARMACIES (RETAIL AND MAIL-SERVICE COMBINED), AND  
36 OTHER PHARMACIES.

37 17. "DRUG CATEGORIES" MEANS SINGLE-SOURCE BRAND NAME DRUG,  
38 MULTI-SOURCE BRAND NAME DRUG AND GENERIC DRUG.

39 S 4451. MATTERS UNAFFECTED BY THIS ARTICLE. 1. NOTHING IN THIS ARTICLE  
40 SHALL ALTER THE RELATIONSHIP BETWEEN A HEALTH PLAN AND ITS PARTICIPANTS  
41 OR BETWEEN A HEALTH PLAN AND ANY ENTITY THAT, WITH RESPECT TO A SPECIFIC  
42 ACTIVITY, QUALIFIES AS A FIDUCIARY OF THE HEALTH PLAN UNDER THE FEDERAL  
43 EMPLOYEE RETIREMENT INCOME SECURITY ACT.

44 2. THIS ARTICLE DOES NOT CREATE ANY OBLIGATION FOR A HEALTH PLAN TO  
45 DISCLOSE ANY INFORMATION TO ANY OF ITS PARTICIPANTS.

46 3. NOTHING IN THIS ARTICLE AFFECTS ANY CIVIL OR CRIMINAL PROCEEDINGS  
47 THAT MAY BE BROUGHT IN CONNECTION WITH MATTERS WITHIN THE SCOPE OF THIS  
48 ARTICLE.

49 S 4452. THE PHARMACY BENEFIT MANAGER'S GENERAL OBLIGATIONS. A PHARMACY  
50 BENEFIT MANAGER:

51 1. SHALL PERFORM ITS DUTIES IN CONNECTION WITH PHARMACY BENEFIT  
52 MANAGEMENT SERVICES IT PROVIDES TO A HEALTH PLAN OR PARTICIPANTS IN THE  
53 STATE WITH CARE, SKILL, PRUDENCE AND DILIGENCE;

54 2. SHALL NOT INITIATE A DRUG SWITCH FOR THE PARTICIPANTS OF A HEALTH  
55 PLAN FOR WHICH IT PROVIDES PHARMACY BENEFIT MANAGEMENT SERVICES EXCEPT  
56 PURSUANT TO THE HEALTH PLAN'S WRITTEN APPROVAL OR AGREEMENT TO SWITCH-

1 ING THE SPECIFIC DRUGS. THE HEALTH PLAN'S AGREEMENT OR APPROVAL OF A  
2 DRUG SWITCH SHALL NOT RELIEVE THE PHARMACY BENEFIT MANAGER OF ANY  
3 RESPONSIBILITIES PERTAINING TO SUCH DRUG SWITCH UNDER THIS ARTICLE; AND

4 3. SHALL NOT PAY AN AFFILIATED ENTITY MORE FOR ANY COVERED DRUG,  
5 COVERED DISPENSED PRESCRIPTION, COVERED GOOD OR COVERED SERVICE THAN IT  
6 PAYS SIMILARLY SITUATED ENTITIES FOR THE SAME DRUG, DISPENSED  
7 PRESCRIPTION, GOOD OR SERVICE ON BEHALF OF THE SAME HEALTH PLAN. A SIMI-  
8 LARLY SITUATED PHARMACY IS A PHARMACY IN THE SAME PHARMACY CATEGORY.

9 S 4453. THE PHARMACY BENEFIT MANAGER'S DISCLOSURE OF INFORMATION TO  
10 THE HEALTH PLAN. 1. CONFIDENTIALITY. THE PHARMACY BENEFIT MANAGER MAY  
11 DESIGNATE INFORMATION IT DISCLOSES TO A HEALTH PLAN AS CONFIDENTIAL, AND  
12 THE HEALTH PLAN SHALL NOT RE-DISCLOSE SUCH INFORMATION TO OTHER ENTITIES  
13 EXCEPT TO AGENTS OR INDEPENDENT CONTRACTORS WITH WHOM THE HEALTH PLAN  
14 CONTRACTS TO ADMINISTER THE PHARMACY BENEFIT OR AUDIT SUCH ADMINIS-  
15 TRATION, PROVIDED SUCH AGENT OR INDEPENDENT CONTRACTOR PREVIOUSLY CERTI-  
16 FIES THAT IT WILL NOT DISCLOSE SUCH CONFIDENTIAL INFORMATION TO ANY  
17 OTHER PERSON OR ENTITY. WITH RESPECT TO DOCUMENTS DISCLOSED TO A HEALTH  
18 PLAN THAT ARE SUBJECT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW, THE  
19 PHARMACY BENEFIT MANAGER SHALL NOT DESIGNATE AS "CONFIDENTIAL" ANY DOCU-  
20 MENT TO WHICH THE PUBLIC WOULD HAVE ACCESS UNDER SAID LAW, AND THE  
21 PROVISIONS OF ARTICLE SIX OF THE PUBLIC OFFICERS LAW SHALL APPLY TO THE  
22 DOCUMENTS DISCLOSED TO SUCH A HEALTH PLAN. THE APPLICABILITY OF ARTICLE  
23 SIX OF THE PUBLIC OFFICERS LAW TO A HEALTH PLAN'S RECORDS DOES NOT  
24 AFFECT THE PHARMACY BENEFIT MANAGER'S OBLIGATION UNDER THIS ARTICLE TO  
25 DISCLOSE DOCUMENTS TO THE HEALTH PLAN.

26 2. DISCLOSURE IN CONNECTION WITH CONTRACT NEGOTIATIONS. PRIOR TO  
27 ENTERING INTO ITS INITIAL CONTRACT AND EACH SUBSEQUENT CONTRACT OR  
28 CONTRACT AMENDMENT WITH A HEALTH PLAN, THE PHARMACY BENEFIT MANAGER  
29 SHALL PROVIDE TO THE HEALTH PLAN IN WRITING EACH CATEGORY OF INFORMATION  
30 DESCRIBED IN PARAGRAPHS (A) THROUGH (C) OF THIS SUBDIVISION:

31 (A) A DESCRIPTION OF ALL PHARMACY BENEFIT MANAGEMENT SERVICES AND  
32 COVERED GOODS IT OFFERS TO PROVIDE THE HEALTH PLAN AND THE NET COST FOR  
33 EACH SUCH SERVICE OR GOOD;

34 (B) THE METHODOLOGY, WITH CLEARLY DEFINED TERMINOLOGY, THE PHARMACY  
35 BENEFIT MANAGER PROPOSES TO USE TO DISTINGUISH AMONG DRUGS, SUCH AS A  
36 METHODOLOGY BASED ON DRUG CATEGORY, FOR THE PURPOSE OF DETERMINING THE  
37 COST OF A DISPENSED PRESCRIPTION TO THE HEALTH PLAN OR THE PARTICIPANT'S  
38 CO-PAYMENT OR CO-INSURANCE AMOUNT FOR A DISPENSED PRESCRIPTION; AND

39 (C) A COMPLETE DESCRIPTION OF THE DESIGN AND OPERATION OF ANY FORMU-  
40 LARY THE PHARMACY BENEFIT MANAGER RECOMMENDS THAT THE HEALTH PLAN ADOPT.

41 3. INITIAL AND PERIODIC DISCLOSURE. (A) PRIOR TO ENTERING INTO ITS  
42 INITIAL CONTRACT WITH A HEALTH PLAN AND ANNUALLY THEREAFTER UNTIL THE  
43 PHARMACY BENEFIT MANAGER DISCONTINUES PROVIDING PHARMACY BENEFIT  
44 MANAGEMENT SERVICES TO THE HEALTH PLAN, THE PHARMACY BENEFIT MANAGER  
45 SHALL FULLY DISCLOSE TO THE HEALTH PLAN (I) THE CONTENT OF ALL CONTRACTS  
46 AND OTHER AGREEMENTS IT DIRECTLY OR INDIRECTLY HAS WITH, AND ALL  
47 PAYMENTS IT RECEIVES FROM, A DRUG MANUFACTURER, LABELER OR OTHER THIRD-  
48 PARTY IN CONNECTION WITH ANY PHARMACY BENEFIT MANAGEMENT SERVICE IT  
49 PROVIDES TO THE HEALTH PLAN, INCLUDING BUT NOT LIMITED TO COVERED DRUGS,  
50 COVERED DISPENSED PRESCRIPTIONS, COVERED GOODS, COVERED SERVICES,  
51 PROMOTING OR MARKETING ANY DRUG OR DRUG SWITCHES AND (II) THE PERCENTAGE  
52 OF ALL SUCH PAYMENTS RETAINED BY THE PHARMACY BENEFIT MANAGER OR  
53 DISTRIBUTED TO THE HEALTH PLAN.

54 (B) IN DISCLOSING PRIOR TO THE INITIAL CONTRACT THE VALUE OF A CATEGO-  
55 RY OF PAYMENT DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS  
56 SUBDIVISION OR THE PERCENTAGE OF SUCH PAYMENT RETAINED BY THE PHARMACY

1 BENEFIT MANAGER OR DISTRIBUTED TO THE HEALTH PLAN AS DESCRIBED IN  
2 SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVISION, THE PHARMACY  
3 BENEFIT MANAGER SHALL ESTIMATE THE VALUE BASED ON CONTRACTS THE  
4 EXECUTION OF WHICH IS CONTINGENT ON THE PHARMACY BENEFIT MANAGER  
5 CONTRACTING WITH THE HEALTH PLAN TO WHICH THE INFORMATION IS BEING  
6 DISCLOSED AND ON THE PHARMACY BENEFIT MANAGER'S EXISTING CONTRACTS WITH  
7 OTHER HEALTH PLANS, AND, WHERE RELEVANT, ON THE NEGOTIATING HEALTH  
8 PLAN'S PAST OR EXPECTED DRUG UTILIZATION. FOR SUBSEQUENT REPORTING PERI-  
9 ODS, THE PHARMACY BENEFIT MANAGER SHALL DISCLOSE THE ACTUAL VALUE OF  
10 EACH PAYMENT CATEGORY AND THE PERCENTAGE OF EACH SUCH CATEGORY THAT THE  
11 PHARMACY BENEFIT MANAGER RETAINED AND THE PERCENTAGE IT PAID TO OR  
12 PASSED THROUGH TO THE NEGOTIATING HEALTH PLAN.

13 4. DISCLOSURE DURING A CONTRACT PERIOD. (A) THE PHARMACY BENEFIT  
14 MANAGER SHALL PROVIDE TO THE HEALTH PLAN IN WRITING THE INFORMATION  
15 REQUIRED BY SUBPARAGRAPHS (I) THROUGH (VII) OF THIS PARAGRAPH ON A QUAR-  
16 TERLY BASIS DURING THE OPERATION OF THE CONTRACT BETWEEN THE PHARMACY  
17 BENEFIT MANAGER AND THE HEALTH PLAN: (I) THE HEALTH PLAN'S PARTICIPANTS'  
18 ACTUAL UTILIZATION OF DRUGS BY NATIONAL DRUG CODE (NDC) DIRECTORY  
19 NUMBER; (II) EVERY ACTIVITY, POLICY OR PRACTICE OF THE PHARMACY BENEFIT  
20 MANAGER THAT DIRECTLY OR INDIRECTLY PRESENTS ANY ACTUAL OR POTENTIAL  
21 CONFLICT OF INTEREST WITH THE HEALTH PLAN; (III) ANY INCREASE IN THE NET  
22 PRICE TO THE HEALTH PLAN FOR ANY COVERED DRUG AND THE REASON FOR SUCH  
23 INCREASE; (IV) ANY INCREASE IN THE DISPENSING FEE PAID TO ANY PHARMACY  
24 AND THE REASON FOR SUCH INCREASE; (V) ALL CONTRACTS AND OTHER AGREEMENTS  
25 ENTERED INTO DURING THE REPORTED QUARTER BETWEEN THE PHARMACY BENEFIT  
26 MANAGER AND ANY PHARMACY THAT IS WITHIN THE PHARMACY NETWORK IDENTIFIED  
27 BY THE PHARMACY BENEFIT MANAGER AT WHICH THE HEALTH PLAN'S PARTICIPANTS  
28 MAY FILL COVERED PRESCRIPTIONS, INCLUDING PHARMACIES AFFILIATED WITH THE  
29 PHARMACY BENEFIT MANAGER; (VI) ALL CONTRACTS AND OTHER AGREEMENTS THAT  
30 PERTAIN TO ANY COVERED DRUG OR COVERED DISPENSED PRESCRIPTION ENTERED  
31 INTO DURING THE REPORTED QUARTER BETWEEN THE PHARMACY BENEFIT MANAGER  
32 AND ANY MANUFACTURER, LABELER, REPACKAGER OR DISTRIBUTOR OF A DRUG OR  
33 ANY OTHER THIRD-PARTY, INCLUDING ANY ENTITY ACTING ON BEHALF OF SUCH  
34 MANUFACTURER, LABELER, REPACKAGER, DISTRIBUTOR OR THIRD-PARTY; (VII)  
35 DOCUMENTS SUFFICIENT FOR THE HEALTH PLAN TO DETERMINE WHETHER ANY  
36 COVERED DISPENSED PRESCRIPTION FILLED WITH A REPACKAGED DRUG, INCLUDING  
37 A DRUG REPACKAGED BY AN AFFILIATE OF THE PHARMACY BENEFIT MANAGER, HAD  
38 EITHER A HIGHER NET COST TO THE HEALTH PLAN OR A HIGHER CO-PAYMENT OR  
39 CO-INSURANCE AMOUNT TO THE PARTICIPANT THAN ANY THERAPEUTICALLY EQUIV-  
40 ALENT DRUG AVAILABLE ON THE DATE THE PRESCRIPTION WAS FILLED. UPON THE  
41 HEALTH PLAN'S REQUEST, THE PHARMACY BENEFIT MANAGER SHALL PROVIDE  
42 DOCUMENTATION SUPPORTING THE REASON FOR ANY INCREASE IN NET PRICE OR THE  
43 REASON FOR ANY INCREASE IN DISPENSING FEE.

44 (B) DURING THE TIME A PHARMACY BENEFIT MANAGER PROVIDES PHARMACY BENE-  
45 FIT MANAGEMENT SERVICES TO A HEALTH PLAN, UPON THE HEALTH PLAN'S DEMAND,  
46 THE PHARMACY BENEFIT MANAGER SHALL PROMPTLY:

47 (I) PROVIDE THE HEALTH PLAN WITH ACCESS TO ALL FINANCIAL, UTILIZATION,  
48 PRICING AND CLAIMS INFORMATION AND DOCUMENTS PERTAINING TO ANY ASPECT OF  
49 THE PHARMACY BENEFIT MANAGER'S BUSINESS THAT IS FAIRLY ATTRIBUTABLE TO  
50 THE PHARMACY BENEFIT MANAGEMENT SERVICES IT PROVIDES TO THE HEALTH PLAN,  
51 INCLUDING ELECTRONIC CLAIMS DATA FOR EACH SEPARATE CLAIM; AND

52 (II) ALLOW THE HEALTH PLAN TO CONDUCT ANNUAL AUDITS OF THOSE ASPECTS  
53 OF THE PHARMACY BENEFIT MANAGER'S BUSINESS THAT ARE FAIRLY ATTRIBUTABLE  
54 TO THE PHARMACY BENEFIT MANAGEMENT SERVICES IT PROVIDES TO THE HEALTH  
55 PLAN. THE PHARMACY BENEFIT MANAGER SHALL ALLOW THE HEALTH PLAN TO  
56 CONDUCT SUCH AUDITS ITSELF OR BY A CERTIFIED PUBLIC ACCOUNTING FIRM OF

1 THE HEALTH PLAN'S CHOOSING THAT WILL CONDUCT THE AUDIT IN CONFORMANCE  
2 WITH ACCEPTED AUDITING PROCEDURES AND STANDARDS.

3 5. THE DEPARTMENT MAY PROMULGATE REGULATIONS THAT SET OUT THE NATURE,  
4 CONTENT AND FORMAT OF THE DISCLOSURES REQUIRED BY THIS SECTION.

5 S 4454. THE PHARMACY BENEFIT MANAGER'S COMMUNICATION WITH PARTICIPANTS  
6 AND PRESCRIBERS IN CERTAIN SITUATIONS. 1. NOTIFYING THE PATIENT OF A  
7 PROPOSED DRUG SWITCH. BEFORE A PHARMACY BENEFIT MANAGER, OR A PHARMACY  
8 OR OTHER ENTITY AT THE REQUEST OR ON BEHALF OF A PHARMACY BENEFIT MANAG-  
9 ER, REQUESTS A PRESCRIBER TO SWITCH A PRESCRIPTION FOR A PARTICIPANT OF  
10 A HEALTH PLAN, THE PHARMACY BENEFIT MANAGER, PHARMACY OR OTHER ENTITY  
11 SHALL NOTIFY IN WRITING THE PATIENT AND, IF RELEVANT, THE PATIENT'S  
12 GUARDIAN OF THIS INTENTION. SUCH NOTICE SHALL BE SENT TO THE PATIENT  
13 AND, IF RELEVANT, THE PATIENT'S GUARDIAN IN A MANNER REASONABLY CALCU-  
14 LATED TO REACH THE PATIENT AND, IF RELEVANT, THE PATIENT'S GUARDIAN NOT  
15 LESS THAN TWO BUSINESS DAYS BEFORE THE PRESCRIBER IS CONTACTED CONCERN-  
16 ING THE PROPOSED DRUG SWITCH. SUCH NOTICE SHALL NOT CONTAIN ANY FALSE OR  
17 MISLEADING INFORMATION ABOUT THE ORIGINALLY PRESCRIBED OR THE PROPOSED  
18 SUBSTITUTION DRUGS, INCLUDING THEIR RELATIVE COST TO THE PARTICIPANT.

19 2. INFORMATION TO BE PROVIDED TO A PRESCRIBER WHEN A DRUG SWITCH IS  
20 REQUESTED. WHEN A PHARMACY BENEFIT MANAGER, OR A PHARMACY OR OTHER ENTI-  
21 TY AT THE REQUEST OR ON BEHALF OF A PHARMACY BENEFIT MANAGER, REQUESTS A  
22 PRESCRIBER TO SWITCH A PRESCRIPTION THE PRESCRIBER HAS WRITTEN FOR A  
23 PARTICIPANT, IT SHALL PROVIDE THE PRESCRIBER WITH ALL OF THE FINANCIAL  
24 AND CLINICAL INFORMATION THE PRESCRIBER NEEDS TO DETERMINE WHETHER THE  
25 DRUG SWITCH IS IN THE PATIENT'S BEST INTERESTS.

26 3. CONTINUING OBLIGATIONS. (A) NOTHING CONTAINED IN THIS ARTICLE  
27 RELIEVES A PRESCRIBER OF ANY OBLIGATION THE PRESCRIBER MAY OTHERWISE  
28 HAVE TO DISCUSS WITH THE PATIENT THE RISKS AND BENEFITS OF A PRESCRIBED  
29 DRUG OR TO OBTAIN THE PATIENT'S CONSENT TO TREATMENT WITH A SPECIFIC  
30 DRUG, OR RELIEVES A PHARMACIST OF ANY OBLIGATION THE PHARMACIST MAY  
31 OTHERWISE HAVE TO ALERT THE PATIENT OR PRESCRIBER TO ANY SAFETY OR EFFI-  
32 CACY CONCERNS RAISED BY DISPENSING A PARTICULAR DRUG TO THE INDIVIDUAL  
33 PATIENT.

34 (B) A PHARMACY BENEFIT MANAGER SHALL NOT TAKE ANY ACTION THAT WOULD  
35 RENDER IT LESS LIKELY THAT A PHARMACY WILL SUBSTITUTE A GENERIC DRUG  
36 WHEN REQUIRED TO DO SO BY SECTION SIXTY-EIGHT HUNDRED SIXTEEN-A OF THE  
37 EDUCATION LAW.

38 4. RECORD RETENTION. A PHARMACY BENEFIT MANAGER, OR A PHARMACY OR  
39 OTHER ENTITY ACTING AT THE PHARMACY BENEFIT MANAGER'S REQUEST OR ON ITS  
40 BEHALF, WHICH NOTIFIES A PATIENT AND, IF RELEVANT, THE PATIENT'S GUARDI-  
41 AN OF ITS INTENTION TO CONTACT A PRESCRIBER TO SWITCH A DRUG OR REQUESTS  
42 THE PRESCRIBER TO SWITCH A PRESCRIPTION, SHALL MAINTAIN FOR THREE YEARS  
43 WRITTEN OR ELECTRONIC DOCUMENTATION OF SUCH CONTACT. UPON REQUEST, THE  
44 PHARMACY BENEFIT MANAGER SHALL MAKE SUCH DOCUMENTATION PROMPTLY AVAIL-  
45 ABLE TO THE HEALTH PLAN OR THE DEPARTMENT.

46 5. DISEASE OR TREATMENT INFORMATION. PHARMACY BENEFIT MANAGERS SHALL  
47 ENSURE THAT EVERY WRITTEN OR ELECTRONIC DOCUMENT CONTAINING INFORMATION  
48 ABOUT A DISEASE, CONDITION OR TREATMENT FOR A DISEASE OR CONDITION THAT  
49 IT PROVIDES DIRECTLY OR INDIRECTLY TO ANY PARTICIPANT IS NOT FALSE OR  
50 MISLEADING AND DISCLOSES ANY SUPPORT OR INVOLVEMENT OF A DRUG OR DEVICE  
51 MANUFACTURER OR LABELER IN THE DEVELOPMENT, WRITING, OR DISTRIBUTION OF  
52 SUCH MATERIALS.

53 S 4455. DISTRIBUTION OF PRESCRIPTION DATA. 1. A PHARMACY BENEFIT  
54 MANAGER SHALL OBTAIN A HEALTH PLAN'S WRITTEN AGREEMENT BEFORE IT  
55 DISCLOSES ANY INFORMATION CONCERNING DISPENSED PRESCRIPTIONS COVERED BY  
56 THE HEALTH PLAN OR THE HEALTH PLAN'S DRUG-UTILIZATION OR CLAIMS DATA FOR

1 COVERED DRUGS OR COVERED DISPENSED PRESCRIPTIONS TO AN ENTITY OTHER THAN  
2 THE HEALTH PLAN, AN ENTITY THAT QUALIFIES IN CONNECTION WITH THE DISCLO-  
3 SURE OF SUCH INFORMATION AS THE HEALTH PLAN'S FIDUCIARY UNDER THE FEDER-  
4 AL EMPLOYEE RETIREMENT INCOME SECURITY ACT, THE HEALTH PLAN'S SPONSOR, A  
5 PARTICIPANT WITH RESPECT TO HIS OR HER INFORMATION, A PRESCRIBER WITH  
6 THE PATIENT'S CONSENT, OR A GOVERNMENT AGENCY AUTHORIZED TO RECEIVE SUCH  
7 INFORMATION. SUCH WRITTEN AGREEMENT IS REQUIRED REGARDLESS OF WHETHER  
8 THE INFORMATION IS AGGREGATED OR IS IDENTIFIABLE BY INDIVIDUAL OR CATE-  
9 GORY OF PARTICIPANT OR PRESCRIBER. WHEN THE HEALTH PLAN'S AGREEMENT TO  
10 THE DISCLOSURE OF SUCH INFORMATION IS REQUIRED BY THIS SECTION, THE  
11 PHARMACY BENEFIT MANAGER'S REQUEST FOR SUCH APPROVAL SHALL INCLUDE ALL  
12 THE INFORMATION REQUIRED BY PARAGRAPHS (A) THROUGH (D) OF THIS SUBDIVI-  
13 SION:

14 (A) THE IDENTITY OF THE ENTITY TO WHICH THE INFORMATION WILL BE  
15 PROVIDED;

16 (B) THE SPECIFIC, ITEMIZED CATEGORIES OF INFORMATION THAT WILL BE  
17 PROVIDED;

18 (C) THE SPECIFIC PRACTICES ACTUALLY IN OPERATION TO PROTECT THE PRIVA-  
19 CY OF THE HEALTH PLAN'S PARTICIPANTS; AND

20 (D) THE AMOUNT OF ANY PAYMENTS PAID OR PROVIDED TO THE PHARMACY BENE-  
21 FIT MANAGER BY OR ON BEHALF OF THE ENTITY THAT SEEKS SUCH INFORMATION  
22 AND THE PURPOSE OF SUCH PAYMENTS THAT HAVE BEEN OR WILL BE PAID OR  
23 PROVIDED TO THE PHARMACY BENEFIT MANAGER.

24 2. A PHARMACY BENEFIT MANAGER VIOLATES THIS ARTICLE WHEN IT DISCLOSES  
25 INFORMATION FOR WHICH THIS SECTION REQUIRES THE HEALTH PLAN'S PRIOR  
26 WRITTEN AGREEMENT WITHOUT FIRST OBTAINING SUCH WRITTEN PERMISSION.

27 3. THE PHARMACY BENEFIT MANAGER AND THE HEALTH PLAN SHALL RETAIN FOR  
28 FIVE YEARS THE DOCUMENTATION OF THE PHARMACY BENEFIT MANAGER'S REQUEST  
29 AND THE HEALTH PLAN'S AGREEMENT THAT THE INFORMATION DESCRIBED IN SUBDI-  
30 VISION ONE OF THIS SECTION MAY BE PROVIDED.

31 S 4456. ENFORCEMENT. 1. ANY HEALTH PLAN THAT HAS BEEN INJURED BY  
32 REASON OF A PHARMACY BENEFIT MANAGER'S VIOLATION OF ANY PROVISION OF  
33 THIS ARTICLE MAY BRING AN ACTION IN THE NAME OF THE HEALTH PLAN FOR  
34 EQUITABLE RELIEF AND TO RECOVER THE HEALTH PLAN'S ACTUAL DAMAGES AND A  
35 CIVIL PENALTY TO BE PAID TO THE HEALTH PLAN NOT TO EXCEED THREE TIMES  
36 SUCH ACTUAL DAMAGES.

37 2. ANY PHARMACY BENEFIT MANAGER THAT IS INJURED BY THE DISCLOSURE BY A  
38 HEALTH PLAN, A HEALTH PLAN'S AGENT OR INDEPENDENT CONTRACTOR OR A HEALTH  
39 PLAN'S CERTIFIED PUBLIC ACCOUNTING FIRM, OF INFORMATION THE PHARMACY  
40 BENEFIT MANAGER DESIGNATED AS CONFIDENTIAL PURSUANT TO SUBDIVISION ONE  
41 OF SECTION FORTY-FOUR HUNDRED FIFTY-THREE OF THIS ARTICLE AND THAT IS  
42 NOT SUBJECT TO DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW,  
43 SHALL HAVE A CAUSE OF ACTION IN THE NAME OF THE PHARMACY BENEFIT MANAGER  
44 FOR EQUITABLE RELIEF AND TO RECOVER THE PHARMACY BENEFIT MANAGER'S ACTU-  
45 AL DAMAGES AND A CIVIL PENALTY NOT TO EXCEED THREE TIMES SUCH ACTUAL  
46 DAMAGES.

47 3. UPON DEMAND, A PHARMACY BENEFIT MANAGER SHALL PROVIDE THE DEPART-  
48 MENT WITH ACCESS, AT TIMES AND LOCATIONS THAT ARE CONVENIENT TO THE  
49 DEPARTMENT, TO THE RECORDS, BOOKS AND OTHER DOCUMENTS OF THE PHARMACY  
50 BENEFIT MANAGER AND ITS AFFILIATES WHICH PERTAIN TO THE PHARMACY BENEFIT  
51 MANAGER'S COMPLIANCE WITH THIS ARTICLE. THE OFFICERS, AGENTS AND EMPLOY-  
52 EES OF THE PHARMACY BENEFIT MANAGER AND ITS AFFILIATES SHALL FACILITATE  
53 AND AID IN THE DEPARTMENT'S EXAMINATION OF SUCH RECORDS, BOOKS AND OTHER  
54 DOCUMENTS.

1 4. THE COMMISSIONER MAY ASSESS A CIVIL PENALTY FOR VIOLATIONS OF THIS  
2 ARTICLE IN AN AMOUNT OF NOT MORE THAN FIFTY THOUSAND DOLLARS PER  
3 VIOLATION.

4 S 57. Intentionally omitted.

5 S 58. Clauses (ii) and (iii) of subparagraph 1 and subparagraphs 3 and  
6 4 of paragraph (a) of subdivision 1 of section 366 of the social  
7 services law, subparagraph 1 as amended by section 60 of part C of chap-  
8 ter 58 of the laws of 2008, subparagraph 3 as amended by chapter 309 of  
9 the laws of 1996, subparagraph 4 as amended by chapter 1080 of the laws  
10 of 1974, are amended to read as follows:

11 (ii) such person [may have resources up to the amount specified in  
12 subparagraph four of paragraph (a) of subdivision two of this section]  
13 SHALL NOT BE SUBJECT TO A RESOURCE TEST;

14 (iii) a person whose income [and resources are] IS within the [limits]  
15 LIMIT set forth in [clauses] CLAUSE (i) [and (ii)] of this subparagraph  
16 shall be deemed to have unmet needs for purposes of the eligibility  
17 requirements of the safety net program as it existed on the first day of  
18 November, nineteen hundred ninety-seven;

19 (3) is a child under the age of twenty-one years receiving care (A)  
20 away from his own home in accordance with title two of article six of  
21 this chapter; (B) during the initial thirty days of placement with the  
22 division for youth pursuant to section 353.3 of the family court act;  
23 (C) in an authorized agency when placed pursuant to section seven  
24 hundred fifty-six or 353.3 of the family court act; or (D) in residence  
25 at a division foster family home or a division contract home, and has  
26 not, according to the criteria promulgated by the department, sufficient  
27 income [and resources], including available support from his parents, to  
28 meet all costs of required medical care and services available under  
29 this title; or

30 (4) is receiving care, in the case of and in connection with the birth  
31 of an out of wedlock child, in accordance with title two of article six  
32 of this chapter, and has not, according to the criteria promulgated by  
33 the department, sufficient income [and resources], including available  
34 support from responsible relatives, to meet all costs of required  
35 medical care and services available under this title; or

36 S 59. Subparagraphs 5, 6 and 8 of paragraph (a) of subdivision 1 of  
37 section 366 of the social services law, subparagraph 5 as amended by  
38 section 55 of part B of chapter 436 of the laws of 1997, subparagraph 6  
39 as amended by chapter 710 of the laws of 1988 and subparagraph 8 as  
40 amended by section 60 of part C of chapter 58 of the laws of 2008, are  
41 amended and a new subparagraph 5-a is added to read as follows:

42 (5) although not receiving public assistance or care for his or her  
43 maintenance under other provisions of this chapter, has [not, according  
44 to the criteria and standards established by this article or by action  
45 of the department, sufficient] income and resources, including available  
46 support from responsible relatives, [to meet all the costs of medical  
47 care and services available under this title,] THAT DOES NOT EXCEED THE  
48 AMOUNTS SET FORTH IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION,  
49 and is (i) [under the age of twenty-one years, or] sixty-five years of  
50 age or older, or certified blind or certified disabled or (ii) [a spouse  
51 of a cash public assistance recipient living with him or her and essen-  
52 tial or necessary to his or her welfare and whose needs are taken into  
53 account in determining the amount of his or her cash payment or (iii)]  
54 for reasons other than income or resources[: (A)], is eligible for  
55 federal supplemental security income benefits and/or additional state  
56 payments[, or (B) would meet the eligibility requirements of the aid to

1 dependent children program as it existed on the sixteenth day of July,  
2 nineteen hundred ninety-six]; or

3 (5-A) ALTHOUGH NOT RECEIVING PUBLIC ASSISTANCE OR CARE FOR HIS OR HER  
4 MAINTENANCE UNDER OTHER PROVISIONS OF THIS CHAPTER, HAS INCOME, INCLUD-  
5 ING AVAILABLE SUPPORT FROM RESPONSIBLE RELATIVES, THAT DOES NOT EXCEED  
6 THE AMOUNTS SET FORTH IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS  
7 SECTION, AND IS (I) UNDER THE AGE OF TWENTY-ONE YEARS, OR (II) A SPOUSE  
8 OF A CASH PUBLIC ASSISTANCE RECIPIENT LIVING WITH HIM OR HER AND ESSEN-  
9 TIAL OR NECESSARY TO HIS OR HER WELFARE AND WHOSE NEEDS ARE TAKEN INTO  
10 ACCOUNT IN DETERMINING THE AMOUNT OF HIS OR HER CASH PAYMENT, OR (III)  
11 FOR REASONS OTHER THAN INCOME OR RESOURCES, WOULD MEET THE ELIGIBILITY  
12 REQUIREMENTS OF THE AID TO DEPENDENT CHILDREN PROGRAM AS IT EXISTED ON  
13 THE SIXTEENTH DAY OF JULY, NINETEEN HUNDRED NINETY-SIX; OR

14 (6) is a resident of a home for adults operated by a social services  
15 district or a residential care center for adults or community residence  
16 operated or certified by the office of mental health, and has not,  
17 according to criteria promulgated by the department consistent with this  
18 title, sufficient income, OR IN THE CASE OF A PERSON SIXTY-FIVE YEARS OF  
19 AGE OR OLDER, CERTIFIED BLIND, OR CERTIFIED DISABLED, SUFFICIENT INCOME  
20 and resources, including available support from responsible relatives,  
21 to meet all the costs of required medical care and services available  
22 under this title; or

23 (8) is a member of a family which contains a dependent child living  
24 with a caretaker relative, which has net available income not in excess  
25 of one hundred thirty percent of the highest amount that ordinarily  
26 would have been paid to a person without any income or resources under  
27 the family assistance program as it existed on the first day of Novem-  
28 ber, nineteen hundred ninety-seven, to be increased annually by the same  
29 percentage as the percentage increase in the federal consumer price  
30 index[, and which has net available resources not in excess of the  
31 amount specified in subparagraph four of paragraph (a) of subdivision  
32 two of this section]; for purposes of this subparagraph, the net avail-  
33 able income [and resources] of a family shall be determined using the  
34 methodology of the family assistance program as it exists on the first  
35 day of November, nineteen hundred ninety-seven, except that no part of  
36 the methodology of the family assistance program will be used which is  
37 more restrictive than the methodology of the aid to dependent children  
38 program as it existed on the sixteenth day of July, nineteen hundred  
39 ninety-six; for purposes of this subparagraph, the term dependent child  
40 means a person under twenty-one years of age who is deprived of parental  
41 support or care by reason of the death, continued absence, or physical  
42 or mental incapacity of a parent, or by reason of the unemployment of  
43 the parent, as defined by the department of health; or

44 S 59-a. Subparagraph 10 of paragraph (a) of subdivision 1 of section  
45 366 of the social services law, as amended by section 1 of part E of  
46 chapter 57 of the laws of 2000, is amended to read as follows:

47 (10) is a child who is under twenty-one years of age, who is not  
48 living with a caretaker relative, who has net available income not in  
49 excess of the income standards of the family assistance program as it  
50 existed on the first day of November, nineteen hundred ninety-seven[,  
51 and who has net available resources not in excess of one thousand  
52 dollars]; for purposes of this subparagraph, the child's net available  
53 income [and resources] shall be determined using the methodology of the  
54 family assistance program as it existed on the first day of November,  
55 nineteen hundred ninety-seven, except that [(i) there shall be disre-  
56 garded an additional amount of resources equal to the difference between



1 the applicable resource standard of the family assistance program as it  
2 exists on the first day of November, nineteen hundred ninety-seven and  
3 one thousand dollars and (ii)] no part of the methodology of the family  
4 assistance program will be used which is more restrictive than the meth-  
5 odology of the aid to dependent children program as it existed on the  
6 sixteenth day of July, nineteen hundred ninety-six; or

7 S 59-b. Paragraph (i) of subdivision 1 of section 369-ee of the social  
8 services law is REPEALED.

9 S 59-c. The opening paragraph of paragraph (b) of subdivision 2 of  
10 section 369-ee of the social services law, as amended by section 45-d of  
11 part C of chapter 58 of the laws of 2008, is amended to read as follows:

12 Subject to the provisions of paragraph (d) of this subdivision, in  
13 order to establish [income] eligibility under this subdivision, WHICH  
14 SHALL BE DETERMINED WITHOUT REGARD TO RESOURCES, an individual shall  
15 provide such documentation as is necessary and sufficient to initially,  
16 and annually thereafter, determine an applicant's eligibility for cover-  
17 age under this title. Such documentation shall include, but not be  
18 limited to the following, if needed to verify eligibility:

19 S 59-d. Paragraph (c) of subdivision 2 of section 369-ee of the social  
20 services law is REPEALED.

21 S 60. Subdivision 1 and paragraph (a) of subdivision 2 of section  
22 366-a of the social services law, subdivision 1 as amended by chapter  
23 532 of the laws of 1972 and paragraph (a) of subdivision 2 as added by  
24 section 51 of part A of chapter 1 of the laws of 2002, are amended to  
25 read as follows:

26 1. Any person requesting medical assistance may make application  
27 therefor in person, through another in his behalf or by mail to the  
28 social services official of the county, city or town, or to the service  
29 officer of the city or town in which the applicant resides or is found.  
30 In addition, in the case of a person who is sixty-five years of age or  
31 older and is a patient in a state hospital for tuberculosis or for the  
32 mentally disabled, applications may be made to the department or to a  
33 social services official designated as the agent of the department.  
34 Notwithstanding any provision of law to the contrary, [in accordance  
35 with department regulations, when an application is made by mail,] a  
36 personal interview [shall be conducted] with the applicant or with the  
37 person who made application [in] ON his OR HER behalf [when the appli-  
38 cant cannot be interviewed due to his physical or mental condition]  
39 SHALL NOT BE REQUIRED AS PART OF A DETERMINATION OF INITIAL OR CONTINU-  
40 ING ELIGIBILITY PURSUANT TO THIS TITLE.

41 (a) Upon receipt of such application, the appropriate social services  
42 official, or the department of health or its agent when the applicant is  
43 a patient in a state hospital for the mentally disabled, shall verify  
44 the eligibility of such applicant. In accordance with the regulations of  
45 the department of health, it shall be the responsibility of the appli-  
46 cant to provide information and documentation necessary for the determi-  
47 nation of initial and ongoing eligibility for medical assistance. If an  
48 applicant or recipient is unable to provide necessary documentation, the  
49 public welfare official shall promptly cause an investigation to be  
50 made. Where an investigation is necessary, sources of information other  
51 than public records will be consulted only with permission of the appli-  
52 cant or recipient. In the event that such permission is not granted by  
53 the applicant or recipient, or necessary documentation cannot be  
54 obtained, the social services official or the department of health or  
55 its agent may suspend or deny medical assistance until such time as it  
56 may be satisfied as to the applicant's or recipient's eligibility there-

1 for. [To the extent practicable, any interview conducted as a result of  
2 an application for medical assistance shall be conducted in the home of  
3 the person interviewed or in the institution in which such person is  
4 receiving medical assistance.]

5 S 61. Paragraph (a) of subdivision 5 of section 369-ee of the social  
6 services law, as added by chapter 1 of the laws of 1999, is amended to  
7 read as follows:

8 (a) [Personal interviews, pursuant to section three hundred  
9 sixty-six-a of this chapter, may be required upon initial application  
10 only and may be conducted in community settings.] A PERSONAL INTERVIEW  
11 WITH THE APPLICANT OR WITH THE PERSON WHO MADE APPLICATION ON HIS OR HER  
12 BEHALF SHALL NOT BE REQUIRED AS PART OF A DETERMINATION OF INITIAL OR  
13 CONTINUING ELIGIBILITY PURSUANT TO THIS TITLE. Recertification of eligi-  
14 bility shall take place on no more than an annual basis [and shall not  
15 require a personal interview]. Nothing herein shall abridge the partic-  
16 ipant's obligation to report changes in residency, financial circum-  
17 stances or household composition.

18 S 62. Section 23-a of part B of chapter 436 of the laws of 1997,  
19 constituting the welfare reform act of 1997, is amended to read as  
20 follows:

21 S 23-a. Notwithstanding any contrary provision thereof, section 266 of  
22 chapter 83 of the laws of 1995 shall apply to applicants for or recipi-  
23 ents of public assistance and care[, including medical assistance];  
24 provided, however, that [with respect to medical assistance, such  
25 section shall apply only to persons who are subject to the photograph  
26 identification requirements established by the commissioner of health  
27 for] SUCH SECTION SHALL NOT APPLY TO the medical assistance program.

28 S 63. Subparagraph 8 of paragraph (a) of subdivision 1 of section 366  
29 of the social services law, as amended by section 60 of part C of chap-  
30 ter 58 of the laws of 2008, is amended to read as follows:

31 (8) is a member of a family which contains a dependent child living  
32 with a caretaker relative, which has: (I) SUBJECT TO THE APPROVAL OF THE  
33 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, GROSS INCOME NOT IN  
34 EXCESS OF ONE HUNDRED PERCENT OF THE FEDERAL INCOME OFFICIAL POVERTY  
35 LINE (AS DEFINED AND ANNUALLY REVISED BY THE FEDERAL OFFICE OF MANAGE-  
36 MENT AND BUDGET) FOR A FAMILY OF THE SAME SIZE AS THE FAMILIES THAT  
37 INCLUDE THE CHILDREN OR (II) IN THE ABSENCE OF SUCH APPROVAL, net avail-  
38 able income not in excess of one hundred thirty percent of the highest  
39 amount that ordinarily would have been paid to a person without any  
40 income or resources under the family assistance program as it existed on  
41 the first day of November, nineteen hundred ninety-seven, to be  
42 increased annually by the same percentage as the percentage increase in  
43 the federal consumer price index, and which has net available resources  
44 not in excess of the amount specified in subparagraph four of paragraph  
45 (a) of subdivision two of this section; for purposes of this subpara-  
46 graph, the net available income and resources of a family shall be  
47 determined using the methodology of the family assistance program as it  
48 exists on the first day of November, nineteen hundred ninety-seven,  
49 except that no part of the methodology of the family assistance program  
50 will be used which is more restrictive than the methodology of the aid  
51 to dependent children program as it existed on the sixteenth day of  
52 July, nineteen hundred ninety-six; for purposes of this subparagraph,  
53 the term dependent child means a person under twenty-one years of age  
54 who is deprived of parental support or care by reason of the death,  
55 continued absence, or physical or mental incapacity of a parent, or by

1 reason of the unemployment of the parent, as defined by the department  
2 of health; or

3 S 64. Paragraph (a) of subdivision 1 of section 366 of the social  
4 services law is amended by adding a new subparagraph 8-a to read as  
5 follows:

6 (8-A) IS AN INDIVIDUAL WHO IS AT LEAST NINETEEN BUT UNDER TWENTY-ONE  
7 YEARS OF AGE AND IS A MEMBER OF A HOUSEHOLD WHICH HAS GROSS INCOME NOT  
8 IN EXCESS OF ONE HUNDRED PERCENT OF THE FEDERAL INCOME OFFICIAL POVERTY  
9 LINE (AS DEFINED AND ANNUALLY REVISED BY THE FEDERAL OFFICE OF MANAGE-  
10 MENT AND BUDGET) FOR A HOUSEHOLD OF THE SAME SIZE; OR

11 S 65. Paragraph (p) of subdivision 4 of section 366 of the social  
12 services law, as added by chapter 651 of the laws of 1990, subparagraph  
13 2 as amended by section 97 of part B of chapter 436 of the laws of 1997,  
14 is amended to read as follows:

15 (p) (1) Children who are at least one year of age but younger than  
16 [six] NINETEEN years of age who are not otherwise eligible for medical  
17 assistance and whose families have: (I) SUBJECT TO THE APPROVAL OF THE  
18 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, GROSS INCOMES NOT IN  
19 EXCESS OF ONE HUNDRED SIXTY PERCENT OF THE FEDERAL INCOME OFFICIAL  
20 POVERTY LINE (AS DEFINED AND ANNUALLY REVISED BY THE FEDERAL OFFICE OF  
21 MANAGEMENT AND BUDGET) FOR A FAMILY OF THE SAME SIZE AS THE FAMILIES  
22 THAT INCLUDE THE CHILDREN OR (II) IN THE ABSENCE OF SUCH APPROVAL, NET  
23 incomes equal to or less than one hundred thirty-three percent of the  
24 federal income official poverty line (as defined and annually revised by  
25 the federal office of management and budget) for a family of the same  
26 size as the families that include the children shall be eligible for  
27 medical assistance and shall remain eligible therefor as provided in  
28 subparagraph three of this paragraph.

29 (2) For purposes of determining eligibility for medical assistance  
30 under this paragraph, family income shall be determined by use of the  
31 same methodology used to determine eligibility for the aid to dependent  
32 children program as it existed on the sixteenth day of July, nineteen  
33 hundred ninety-six provided, however, that costs incurred for medical or  
34 remedial care shall not be considered and resources available to such  
35 families shall not be considered nor required to be applied toward the  
36 payment or part payment of the cost of medical care, services and  
37 supplies available under this paragraph.

38 (3) An eligible child who is receiving medically necessary in-patient  
39 services for which medical assistance is provided on the date the child  
40 attains [six] NINETEEN years of age, and who, but for attaining such  
41 age, would remain eligible for medical assistance under this paragraph,  
42 shall continue to remain eligible until the end of the stay for which  
43 in-patient services are being furnished.

44 S 65-a. Subparagraph 1 of paragraph (m) of subdivision 4 of section  
45 366 of the social services law, as added by Chapter 584 of the laws of  
46 1989, is amended to read as follows:

47 (1) Pregnant women and infants younger than one year of age who are  
48 not otherwise eligible for medical assistance and whose families have  
49 NET incomes equal to or less than one hundred percent of the [compara-  
50 ble] federal [income official] poverty line (as defined and annually  
51 revised by the [federal office of management and budget] UNITED STATES  
52 DEPARTMENT OF HEALTH AND HUMAN SERVICES) for families of the same size  
53 SHALL BE ELIGIBLE FOR MEDICAL ASSISTANCE AS PROVIDED IN SUBPARAGRAPH  
54 THREE OF THIS PARAGRAPH. SUBJECT TO THE APPROVAL OF THE FEDERAL CENTERS  
55 FOR MEDICARE AND MEDICAID SERVICES, FINANCIAL ELIGIBILITY PURSUANT TO

1 THIS PARAGRAPH MAY BE DETERMINED USING AN EQUIVALENT METHODOLOGY BASED  
2 ON THE FAMILY'S GROSS INCOME.

3 S 65-b. Subparagraph 1 of paragraph (n) of subdivision 4 of section  
4 366 of the social services law, as amended by section 2 of part D of  
5 chapter 57 of the laws of 2000, is amended to read as follows:

6 (1) Infants younger than one year who are not otherwise eligible for  
7 medical assistance and whose families have: (I) SUBJECT TO THE APPROVAL  
8 OF THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, GROSS INCOMES  
9 NOT IN EXCESS OF TWO HUNDRED THIRTY PERCENT OF THE FEDERAL POVERTY LINE  
10 (AS DEFINED AND ANNUALLY REVISED BY THE UNITED STATES DEPARTMENT OF  
11 HEALTH AND HUMAN SERVICES) FOR A FAMILY OF THE SAME SIZE AS THE FAMILIES  
12 THAT INCLUDE THE CHILDREN OR (II) IN THE ABSENCE OF SUCH APPROVAL, NET  
13 incomes equal to or less than two hundred percent of the federal [income  
14 official] poverty line (as defined and annually revised by the United  
15 States department of health and human services) for a family of the same  
16 size as the families that include the infants, shall be eligible for  
17 medical assistance as provided in subparagraph three of this paragraph.  
18 For purposes of this paragraph, family income shall be determined by use  
19 of the same methodology used to determine eligibility for the aid to  
20 dependent children program as it existed on the sixteenth day of July,  
21 nineteen hundred ninety-six.

22 S 65-c. Subparagraph 1 of paragraph (o) of subdivision 4 of section  
23 366 of the social services law, as amended by section 3 of part D of  
24 chapter 57 of the laws of 2000, is amended to read as follows:

25 (1) Pregnant women who are not otherwise eligible for medical assist-  
26 ance [are eligible for services provided under the prenatal care assist-  
27 ance program established pursuant to title two of article twenty-five of  
28 the public health law if the income of the family that includes the  
29 pregnant woman does not exceed] AND WHOSE FAMILIES HAVE: (I) SUBJECT TO  
30 THE APPROVAL OF THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES,  
31 GROSS INCOMES NOT IN EXCESS OF TWO HUNDRED THIRTY PERCENT OF THE FEDERAL  
32 POVERTY LINE (AS DEFINED AND ANNUALLY REVISED BY THE UNITED STATES  
33 DEPARTMENT OF HEALTH AND HUMAN SERVICES) FOR A FAMILY OF THE SAME SIZE  
34 AS THE FAMILIES THAT INCLUDE THE CHILDREN OR (II) IN THE ABSENCE OF SUCH  
35 APPROVAL, NET INCOMES EQUAL TO OR LESS THAN two hundred percent of the  
36 [comparable] federal [income official] poverty line (as defined and  
37 annually revised by the United States department of health and human  
38 services) for families of the same size, SHALL BE ELIGIBLE FOR COVERAGE  
39 OF PRENATAL CARE SERVICES AS PROVIDED IN SUBPARAGRAPH THREE OF THIS  
40 PARAGRAPH.

41 S 65-d. Paragraph (a) of subdivision 2 of section 2529 of the public  
42 health law is amended to read as follows:

43 2. (a) Any inconsistent provision of law notwithstanding, a pregnant  
44 woman shall be presumed to be an eligible service recipient beginning on  
45 the date that a qualified provider determines, on the basis of prelimi-  
46 nary information, that the pregnant woman's NET household income does  
47 not exceed the applicable income level of eligibility. SUBJECT TO THE  
48 APPROVAL OF THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES,  
49 FINANCIAL ELIGIBILITY PURSUANT TO THIS SUBDIVISION MAY BE DETERMINED  
50 USING AN EQUIVALENT METHODOLOGY BASED ON THE FAMILY'S GROSS INCOME.

51 S 66. Paragraph (q) of subdivision 4 of section 366 of the social  
52 services law is REPEALED.

53 S 67. Subparagraph (v) of paragraph (a) of subdivision 2 of section  
54 369-ee of the social services law, as amended by chapter 419 of the laws  
55 of 2000, is amended to read as follows:

(v) (A) in the case of a parent or stepparent of a child under the age of twenty-one who lives with such child, has gross family income equal to or less than the applicable percent of the federal income official poverty line (as defined and updated by the United States Department of Health and Human Services) for a family of the same size; for purposes of this clause, the applicable percent effective as of:

(I) January first, two thousand one, is one hundred twenty percent; and

(II) October first, two thousand one, is one hundred thirty-three percent; and

(III) October first, two thousand two, is one hundred fifty percent; [or] AND

(IV) APRIL FIRST, TWO THOUSAND TEN, IS ONE HUNDRED SIXTY PERCENT; OR

(B) in the case of an individual WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND who is not a parent or stepparent living with his or her child under the age of twenty-one, has gross family income equal to or less than one hundred percent of the federal income official poverty line (as defined and updated by the United States Department of Health and Human Services) for a family of the same size[.]; OR

(C) IN THE CASE OF AN INDIVIDUAL WHO IS AT LEAST NINETEEN BUT UNDER TWENTY-ONE YEARS OF AGE AND WHO IS NOT A PARENT OR STEPPARENT LIVING WITH HIS OR HER CHILD UNDER THE AGE OF TWENTY-ONE, HAS GROSS FAMILY INCOME EQUAL TO OR LESS THAN ONE HUNDRED SIXTY PERCENT OF THE FEDERAL INCOME OFFICIAL POVERTY LINE (AS DEFINED AND UPDATED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES) FOR A FAMILY OF THE SAME SIZE; OR

(D) IS NOT DESCRIBED IN CLAUSE (A), (B) OR (C) OF THIS SUBPARAGRAPH AND HAS GROSS FAMILY INCOME EQUAL TO OR LESS THAN TWO HUNDRED PERCENT OF THE FEDERAL INCOME OFFICIAL POVERTY LINE (AS DEFINED AND UPDATED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES) FOR A FAMILY OF THE SAME SIZE; PROVIDED, HOWEVER, THAT ELIGIBILITY UNDER THIS CLAUSE IS SUBJECT TO SOURCES OF FEDERAL AND NON-FEDERAL FUNDING FOR SUCH PURPOSE DESCRIBED IN SECTION SIXTY-SEVEN-A OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS CLAUSE OR AS MAY BE AVAILABLE UNDER THE WAIVER AGREEMENT ENTERED INTO WITH THE FEDERAL GOVERNMENT UNDER SECTION ELEVEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT, AS JOINTLY DETERMINED BY THE COMMISSIONER AND THE DIRECTOR OF THE DIVISION OF THE BUDGET. IN NO CASE SHALL STATE FUNDS BE UTILIZED TO SUPPORT THE NON-FEDERAL SHARE OF EXPENDITURES PURSUANT TO THIS SUBPARAGRAPH, PROVIDED HOWEVER THAT THE COMMISSIONER MAY DEMONSTRATE TO THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES THE EXISTENCE OF NON-FEDERALLY PARTICIPATING STATE EXPENDITURES AS NECESSARY TO SECURE FEDERAL FUNDING UNDER AN ELEVEN HUNDRED FIFTEEN WAIVER FOR THE PURPOSES HEREIN. ELIGIBILITY UNDER THIS CLAUSE MAY BE PROVIDED TO RESIDENTS OF ALL COUNTIES OR, AT THE JOINT DISCRETION OF THE COMMISSIONER AND THE DIRECTOR OF THE DIVISION OF THE BUDGET, A SUBSET OF COUNTIES OF THE STATE.

S 67-a. Notwithstanding any contrary provision of law, the commissioner of health is authorized to enter into an agreement with the United States department of health and human services establishing a waiver agreement pursuant to section 1115 of the federal social security act which may include the redirection of such Medicaid payments described below, or a portion thereof, and the utilization of such funds to expand coverage under the family health plus program to families with gross income equal to or less than 200 percent of the federal poverty level, as provided in clause (D) of subparagraph (v) of paragraph (a) of

subdivision two of section 369-ee of the social services law. Such waiver may include the following:

1. Notwithstanding any inconsistent provisions of sections 211, 212, 213 and 214 of chapter 474 of the laws of 1996, as amended, sections 13, 14, 18 and 21 of part B of chapter 1 of the laws of 2002, as amended, and sections 12, 14, 15 and 22 of part A of chapter 1 of the laws of 2002, as amended, or any other contrary provision of law, and subject to the availability of federal financial participation and the receipt of all necessary federal approvals, Medicaid payments authorized pursuant to section 211 and paragraph (a) of subdivision 1 of section 212 of chapter 474 of the laws of 1996, but not including any payments to general hospitals operated by the state of New York or the university of the state of New York, sections 13 and 14 of part B of chapter 1 of the laws of 2002, and sections 12 and 14 of part A of chapter 1 of the laws of 2002, shall be in accord with the provisions of this section.

2. Social services districts which elect to participate in the program for such expanded family health plus coverage may have the non-federal share of the payment amounts described in subdivision one of this section, or a portion thereof, redirected by the commissioner of health to support the non-federal share of payments associated with such expanded family health plus coverage. Such elections shall be irrevocable and applicable to all future periods. Such elections by each social services district shall be subject to the approval of the commissioner of health and with the consent of the public hospitals which are located within each such social services district and which are otherwise eligible to receive such redirected payments.

3. The non-federal share payment obligations of social services districts that elect to participate in such expanded family health plus coverage shall be established at 50 percent of the amount of final reconciled Medicaid payments authorized pursuant to section 211 and paragraph (a) of subdivision 1 of section 212 of chapter 474 of the laws of 1996, as amended, for the social services district for the year two years prior to the social services district's election to participate and shall not be subject to further adjustment. Further non-federal share payment obligations of social services districts that elect to participate in such expanded family health plus coverage shall be established as follows: (a) 50 percent of the amount actually expended in state fiscal year 2008-2009 for Medicaid payments authorized pursuant to section 12 of part A of chapter 1 of the laws of 2002 and pursuant to section 13 of part B of chapter 1 of the laws of 2002, and, (b) 50 percent of the amount actually expended in state fiscal year 2004-2005 for Medicaid payments authorized pursuant to section 14 of part A of chapter 1 of the laws of 2002, and pursuant to section 14 of part B of chapter 1 of the laws of 2002.

4. For electing social services districts, the portion of each such payment obligation to be utilized for such expanded family health plus coverage shall be determined by the commissioner of health.

5. Payments to public general hospitals, other than those operated by the state of New York or the state university of New York, pursuant to section 211 and paragraph (a) of subdivision 1 of section 212 of chapter 474 of the laws of 1996, sections 13 and 14 of part B of chapter 1 of the laws of 2002 and sections 12 and 14 of part A of chapter 1 of the laws of 2002, located in electing social services districts, shall be reduced to an amount that can be supported by the non-federal share payment obligations of such social services districts as reduced by the

1 portion of such payment obligations to be utilized for expanded family  
2 health plus coverage as described above.

3 S 67-b. Notwithstanding any contrary provision of law, the commis-  
4 sioner of health is authorized to enter into a waiver agreement with the  
5 United States department of health and human services pursuant to  
6 section 1115 of the federal social security act to utilize federal funds  
7 available to the state under its federal disproportionate share hospital  
8 allotment pursuant to section 1923(f) of the federal social security  
9 act, that are projected to be in excess of the amounts necessary to  
10 fully fund existing state authorized disproportionate share hospital  
11 programs, to provide funding for expanded coverage under the family  
12 health plus program as provided in clause (D) of subparagraph (v) of  
13 paragraph (a) of subdivision 2 of section 369-ee of the social services  
14 law.

15 S 68. Subparagraph (iii) of paragraph (a) of subdivision 2 of section  
16 369-ee of the social services law, as amended by section 28 of part E of  
17 chapter 63 of the laws of 2005, is amended to read as follows:

18 (iii) does not have equivalent health care coverage under insurance or  
19 equivalent mechanisms, as defined by the commissioner in consultation  
20 with the superintendent of insurance[, and is not a federal, state,  
21 county, municipal or school district employee that is eligible for  
22 health care coverage through his or her employer];

23 S 69. Intentionally omitted.

24 S 70. Intentionally omitted.

25 S 71. Intentionally omitted.

26 S 72. Intentionally omitted.

27 S 73. Subdivision 9 of section 2510 of the public health law is  
28 amended by adding a new paragraph (d) to read as follows:

29 (D) FOR PERIODS ON OR AFTER JULY FIRST, TWO THOUSAND NINE, AMOUNTS AS  
30 FOLLOWS:

31 (I) NO PAYMENTS ARE REQUIRED FOR ELIGIBLE CHILDREN WHOSE FAMILY GROSS  
32 HOUSEHOLD INCOME IS LESS THAN ONE HUNDRED SIXTY PERCENT OF THE NON-FARM  
33 FEDERAL POVERTY LEVEL AND FOR ELIGIBLE CHILDREN WHO ARE AMERICAN INDIANS  
34 OR ALASKAN NATIVES, AS DEFINED BY THE U.S. DEPARTMENT OF HEALTH AND  
35 HUMAN SERVICES, WHOSE FAMILY GROSS HOUSEHOLD INCOME IS LESS THAN TWO  
36 HUNDRED FIFTY-ONE PERCENT OF THE NON-FARM FEDERAL POVERTY LEVEL; AND

37 (II) FIFTEEN DOLLARS PER MONTH FOR EACH ELIGIBLE CHILD WHOSE FAMILY  
38 GROSS HOUSEHOLD INCOME IS BETWEEN ONE HUNDRED SIXTY PERCENT AND TWO  
39 HUNDRED TWENTY-TWO PERCENT OF THE NON-FARM FEDERAL POVERTY LEVEL, BUT NO  
40 MORE THAN FORTY-FIVE DOLLARS PER MONTH PER FAMILY; AND

41 (III) TWENTY-FIVE DOLLARS PER MONTH FOR EACH ELIGIBLE CHILD WHOSE  
42 FAMILY GROSS HOUSEHOLD INCOME IS BETWEEN TWO HUNDRED TWENTY-THREE  
43 PERCENT AND TWO HUNDRED FIFTY PERCENT OF THE NON-FARM FEDERAL POVERTY  
44 LEVEL, BUT NO MORE THAN SEVENTY-FIVE DOLLARS PER MONTH PER FAMILY; AND

45 (IV) THIRTY-FIVE DOLLARS PER MONTH FOR EACH ELIGIBLE CHILD WHOSE FAMI-  
46 LY GROSS HOUSEHOLD INCOME IS BETWEEN TWO HUNDRED FIFTY-ONE PERCENT AND  
47 THREE HUNDRED PERCENT OF THE NON-FARM FEDERAL POVERTY LEVEL, BUT NO MORE  
48 THAN ONE HUNDRED FIVE DOLLARS PER MONTH PER FAMILY;

49 (V) FIFTY-FIVE DOLLARS PER MONTH FOR EACH ELIGIBLE CHILD WHOSE FAMILY  
50 GROSS HOUSEHOLD INCOME IS BETWEEN THREE HUNDRED ONE PERCENT AND THREE  
51 HUNDRED FIFTY PERCENT OF THE NON-FARM FEDERAL POVERTY LEVEL, BUT NO MORE  
52 THAN ONE HUNDRED SIXTY-FIVE DOLLARS PER MONTH PER FAMILY; AND

53 (VI) SEVENTY-FIVE DOLLARS PER MONTH FOR EACH ELIGIBLE CHILD WHOSE  
54 FAMILY GROSS HOUSEHOLD INCOME IS BETWEEN THREE HUNDRED FIFTY-ONE PERCENT  
55 AND FOUR HUNDRED PERCENT OF THE NON-FARM FEDERAL POVERTY LEVEL, BUT NO  
56 MORE THAN TWO HUNDRED TWENTY-FIVE DOLLARS PER MONTH PER FAMILY.

1 S 74. Clause (iii) of subparagraph 2 of paragraph (b) of subdivision 2  
2 of section 366 of the social services law, as added by chapter 170 of  
3 the laws of 1994, subclause (B) as amended by chapter 656 of the laws of  
4 1997, is amended to read as follows:

5 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this  
6 subparagraph, in the case of an applicant or recipient who is disabled,  
7 as such term is defined in section 1614(a)(3) of the federal social  
8 security act, the department must not consider as available income or  
9 resources the corpus or income of the following trusts which comply with  
10 the provisions of the regulations authorized by clause (iv) of this  
11 subparagraph: (A) a trust containing the assets of such a disabled indi-  
12 vidual which was established for the benefit of the disabled individual  
13 while such individual was under sixty-five years of age by a parent,  
14 grandparent, legal guardian, or court of competent jurisdiction, if upon  
15 the death of such individual the state will receive all amounts remain-  
16 ing in the trust up to the total value of all medical assistance paid on  
17 behalf of such individual; (B) and a trust containing the assets of such  
18 a disabled individual established and managed by a non-profit associ-  
19 ation which maintains separate accounts for the benefit of disabled  
20 individuals, but, for purposes of investment and management of trust  
21 funds, pools the accounts, provided that accounts in the trust fund are  
22 established solely for the benefit of individuals who are disabled as  
23 such term is defined in section 1614(a)(3) of the federal social securi-  
24 ty act by such disabled individual, a parent, grandparent, legal guardi-  
25 an, or court of competent jurisdiction, and [to the extent that amounts  
26 remaining in the individual's account are not retained by the trust]  
27 PROVIDED THAT upon the death of the individual, the state will receive  
28 all [such remaining amounts up to] AMOUNTS REMAINING IN THE INDIVIDUAL'S  
29 ACCOUNT THAT ARE NOT RETAINED BY THE TRUST OR NINETY PERCENT OF THE  
30 TOTAL AMOUNT REMAINING IN THE INDIVIDUAL'S TRUST ACCOUNT, WHICHEVER IS  
31 GREATER, BUT NOT TO EXCEED the total value of all medical assistance  
32 paid on behalf of such individual. Notwithstanding any law to the  
33 contrary, a not-for-profit corporation may, in furtherance of and as an  
34 adjunct to its corporate purposes, act as trustee of a trust for persons  
35 with disabilities established pursuant to this subclause, provided that  
36 a trust company, as defined in subdivision seven of section one  
37 hundred-c of the banking law, acts as co-trustee.

38 S 75. Subdivision 12 of section 367-a of the social services law, as  
39 amended by section 63-a of part C of chapter 58 of the laws of 2007, is  
40 amended to read as follows:

41 12. Prior to receiving medical assistance under subparagraphs twelve  
42 and thirteen of paragraph (a) of subdivision one of section three  
43 hundred sixty-six of this title, a person whose net available income is  
44 at least one hundred fifty percent of the applicable federal income  
45 official poverty line, as defined and updated by the United States  
46 department of health and human services, must pay a monthly premium, in  
47 accordance with a procedure to be established by the commissioner. The  
48 amount of such premium shall be [twenty-five dollars for an individual  
49 who is otherwise eligible for medical assistance under such subpara-  
50 graphs, and fifty dollars for a couple, both of whom are otherwise  
51 eligible for medical assistance under such subparagraphs] AS FOLLOWS:  
52 (A) FOR AN INDIVIDUAL OR MARRIED COUPLE WHO ARE OTHERWISE ELIGIBLE FOR  
53 MEDICAL ASSISTANCE UNDER SUCH SUBPARAGRAPHS AND WHOSE NET AVAILABLE  
54 INCOME IS AT LEAST ONE HUNDRED FIFTY PERCENT BUT DOES NOT EXCEED ONE  
55 HUNDRED EIGHTY-FIVE PERCENT OF THE APPLICABLE FEDERAL INCOME OFFICIAL  
56 POVERTY LINE FOR A HOUSEHOLD OF THE SAME SIZE, TWENTY-FIVE DOLLARS PER



1 MONTH FOR AN INDIVIDUAL AND FIFTY DOLLARS PER MONTH FOR A COUPLE; (B)  
2 FOR AN INDIVIDUAL OR MARRIED COUPLE WHO ARE OTHERWISE ELIGIBLE FOR  
3 MEDICAL ASSISTANCE UNDER SUCH SUBPARAGRAPHS AND WHOSE NET AVAILABLE  
4 INCOME IS GREATER THAN ONE HUNDRED EIGHTY-FIVE PERCENT BUT DOES NOT  
5 EXCEED TWO HUNDRED TWENTY PERCENT OF THE APPLICABLE FEDERAL INCOME OFFI-  
6 CIAL POVERTY LINE FOR A HOUSEHOLD OF THE SAME SIZE, FIFTY DOLLARS PER  
7 MONTH FOR AN INDIVIDUAL AND ONE HUNDRED DOLLARS PER MONTH FOR A COUPLE;  
8 AND (C) FOR AN INDIVIDUAL OR MARRIED COUPLE WHO ARE OTHERWISE ELIGIBLE  
9 FOR MEDICAL ASSISTANCE UNDER SUCH SUBPARAGRAPHS AND WHOSE NET AVAILABLE  
10 INCOME IS GREATER THAN TWO HUNDRED TWENTY PERCENT BUT DOES NOT EXCEED  
11 TWO HUNDRED FIFTY PERCENT OF THE APPLICABLE FEDERAL INCOME OFFICIAL  
12 POVERTY LINE FOR A HOUSEHOLD OF THE SAME SIZE, SEVENTY-FIVE DOLLARS PER  
13 MONTH FOR AN INDIVIDUAL AND ONE HUNDRED FIFTY DOLLARS PER MONTH FOR A  
14 COUPLE. FOR PURPOSES OF THIS SUBDIVISION, HOUSEHOLD SIZE SHALL BE DETER-  
15 MINED BY THE SAME METHODOLOGY USED FOR DETERMINING ELIGIBILITY FOR  
16 FEDERAL SUPPLEMENTAL SECURITY BENEFITS UNDER TITLE XVI OF THE FEDERAL  
17 SOCIAL SECURITY ACT. No premium shall be required from a person whose  
18 net available income is less than one hundred fifty percent of the  
19 applicable federal income official poverty line, as defined and updated  
20 by the United States department of health and human services.

21 S 76. Subdivision 1 of section 104-b of the social services law, as  
22 amended by chapter 271 of the laws of 1965 and such section as renum-  
23 bered by chapter 550 of the laws of 1971, is amended to read as follows:

24 1. If a recipient of public assistance and care shall have a right of  
25 action, suit, claim, counterclaim or demand against another on account  
26 of any personal injuries suffered by such recipient, then THE PLEADINGS  
27 IN SUCH ACTION, SUIT, CLAIM, COUNTERCLAIM OR DEMAND SHALL CONTAIN A  
28 DEMAND FOR MEDICAL EXPENSES INCURRED BY THE RECIPIENT AS A DIRECT OR  
29 INDIRECT RESULT OF THOSE PERSONAL INJURIES, AND the [public welfare  
30 official for the public welfare] SOCIAL SERVICES OFFICIAL AND SOCIAL  
31 SERVICES district providing such assistance and care shall have a lien  
32 for such amount as may be fixed by the [public welfare] SOCIAL SERVICES  
33 official not exceeding, however, the total amount of such assistance and  
34 care furnished by such [public welfare] SOCIAL SERVICES official on and  
35 after the date when such injuries were incurred. IN ALL SUCH CASES,  
36 NOTICE OF THE PLEADINGS SHALL BE SERVED UPON THE SOCIAL SERVICES  
37 DISTRICT THAT HAS PROVIDED OR IS PROVIDING SUCH ASSISTANCE AND CARE, OR  
38 UPON THE DEPARTMENT OF HEALTH.

39 The [welfare] commissioner OF HEALTH shall endeavor to ascertain  
40 whether such person, firm or corporation alleged to be responsible for  
41 such injuries is insured with a liability insurance company, as the case  
42 may be, and the name thereof.

43 S 77. Section 104-b of the social services law is amended by adding a  
44 new subdivision 1-a to read as follows:

45 1-A. NO RIGHT OF ACTION, SUIT, CLAIM, COUNTERCLAIM OR DEMAND AGAINST  
46 ANOTHER ON ACCOUNT OF PERSONAL INJURIES SUFFERED BY A RECIPIENT OF  
47 PUBLIC ASSISTANCE AND CARE SHALL BE SETTLED WITHOUT THE APPROVAL OF THE  
48 SOCIAL SERVICES DISTRICT THAT HAS PROVIDED OR IS PROVIDING SUCH ASSIST-  
49 ANCE AND CARE, OR THE DEPARTMENT OF HEALTH. UNLESS WAIVED IN WHOLE OR IN  
50 PART BY THE DISTRICT OR DEPARTMENT, ANY SUCH SETTLEMENT MUST ALLOCATE  
51 FOR MEDICAL EXPENSES A SUFFICIENT AMOUNT:

52 (A) TO REPAY THE MEDICAL ASSISTANCE PROGRAM IN FULL, IF THE TOTAL  
53 AMOUNT OF MEDICAL ASSISTANCE PROVIDED TO THE RECIPIENT DOES NOT EXCEED  
54 ONE-THIRD OF THE GROSS PROCEEDS OF THE SETTLEMENT; OR

(B) TO REPAY THE MEDICAL ASSISTANCE PROGRAM AN AMOUNT EQUAL TO ONE-THIRD OF THE GROSS PROCEEDS OF THE SETTLEMENT, IF THE TOTAL AMOUNT OF MEDICAL ASSISTANCE PROVIDED TO THE RECIPIENT EXCEEDS SUCH AMOUNT.

S 78. Subdivision 8 of section 2511 of the public health law is amended by adding a new paragraph (d) to read as follows:

(D)(I) EFFECTIVE APRIL FIRST, TWO THOUSAND NINE, PAYMENT FOR MARKETING AND FACILITATED ENROLLMENT ACTIVITIES SET FORTH IN SUBDIVISION NINE OF THIS SECTION AND INCLUDED IN SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS PROVIDING SUCH SERVICES PURSUANT TO A CONTRACT WITH THE STATE SHALL BE LIMITED TO AN AMOUNT DETERMINED ANNUALLY BY THE COMMISSIONER.

(II) SUCH SUBSIDY PAYMENTS SHALL BE ADJUSTED BY THE COMMISSIONER TO REMOVE ANY COSTS OF APPROVED ORGANIZATIONS IN EXCESS OF THE AMOUNT DETERMINED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH BASED ON COST REPORTS SUBMITTED TO THE DEPARTMENT BY APPROVED ORGANIZATIONS.

S 79. Subdivision 8 of section 2510 of the public health law, as amended by chapter 2 of the laws of 1998, is amended to read as follows:

8. "Subsidy payment" means a payment made to an approved organization for the cost of covered health care services coverage to an eligible child or children, THE AMOUNT OF WHICH SHALL BE DETERMINED SOLELY BY THE COMMISSIONER.

S 80. Subdivision 5 of section 2511 of the public health law, as amended by section 34 of part A of chapter 58 of the laws of 2007, is amended to read as follows:

5. Notwithstanding any inconsistent provisions of subdivision two of this section, an individual who meets the criteria of paragraphs (b) and (c) of subdivision two of this section but not the criteria of paragraph (a) of such subdivision may be enrolled for covered health care services, provided however, that an approved organization shall not be eligible to receive a subsidy payment for providing coverage to such individuals. The cost of coverage shall be determined by the commissioner[, in consultation with the superintendent] and shall be no more than the cost of providing such coverage.

S 81. Paragraph (b) of subdivision 7 of section 2511 of the public health law, as amended by chapter 923 of the laws of 1990, is amended to read as follows:

(b) The commissioner, in consultation with the superintendent, shall make a determination whether to approve, disapprove or recommend modification of the proposal. In order for a proposal to be approved by the commissioner, the proposal must also be approved by the superintendent with respect to the provisions of subparagraphs (viii) through (X) AND (xii) of paragraph (a) of this subdivision.

S 82. Intentionally omitted.

S 83. Intentionally omitted.

S 84. Intentionally omitted.

S 85. Intentionally omitted.

S 86. Section 2801-a of the public health law is amended by adding a new subdivision 16 to read as follows:

16. (A) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR THE ESTABLISHMENT OF HOSPITALS THE FOLLOWING APPLICATION FEE:

(I) FOR GENERAL HOSPITALS: \$3,000

(II) FOR NURSING HOMES: \$3,000

(III) FOR SAFETY NET DIAGNOSTIC

AND TREATMENT CENTERS AS

DEFINED IN PARAGRAPH (C) OF

THIS SUBDIVISION:

\$1,000

(IV) FOR ALL OTHER DIAGNOSTIC

AND TREATMENT CENTERS: \$2,000

(B) AN APPLICANT FOR BOTH ESTABLISHMENT AND CONSTRUCTION OF A HOSPITAL SHALL NOT BE SUBJECT TO THIS SUBDIVISION AND SHALL BE SUBJECT TO FEES AND CHARGES AS SET FORTH IN SECTION TWENTY-EIGHT HUNDRED TWO OF THIS ARTICLE.

(C) THE COMMISSIONER MAY DESIGNATE A DIAGNOSTIC AND TREATMENT CENTER OR PROPOSED DIAGNOSTIC AND TREATMENT CENTER AS A "SAFETY NET DIAGNOSTIC AND TREATMENT CENTER" IF IT IS OPERATED OR PROPOSES TO BE OPERATED BY A NOT-FOR-PROFIT CORPORATION OR LOCAL HEALTH DEPARTMENT; PARTICIPATES OR INTENDS TO PARTICIPATE IN THE MEDICAL ASSISTANCE PROGRAM; DEMONSTRATES OR PROJECTS THAT A SIGNIFICANT PERCENTAGE OF ITS VISITS, AS DETERMINED BY THE COMMISSIONER, WERE BY UNINSURED INDIVIDUALS; AND PRINCIPALLY PROVIDES PRIMARY CARE SERVICES AS DEFINED BY THE COMMISSIONER.

(D) THE FEES AND CHARGES PAID BY AN APPLICANT PURSUANT TO THIS SUBDIVISION FOR ANY APPLICATION FOR ESTABLISHMENT OF A HOSPITAL APPROVED IN ACCORDANCE WITH THIS SECTION SHALL BE DEEMED ALLOWABLE CAPITAL COSTS IN THE DETERMINATION OF REIMBURSEMENT RATES ESTABLISHED PURSUANT TO THIS ARTICLE. THE COST OF SUCH FEES AND CHARGES SHALL NOT BE SUBJECT TO REIMBURSEMENT CEILING OR OTHER PENALTIES USED BY THE COMMISSIONER FOR THE PURPOSE OF ESTABLISHING REIMBURSEMENT RATES PURSUANT TO THIS ARTICLE. ALL FEES PURSUANT TO THIS SECTION SHALL BE PAYABLE TO THE DEPARTMENT OF HEALTH FOR DEPOSIT INTO THE SPECIAL REVENUE FUNDS - OTHER, MISCELLANEOUS SPECIAL REVENUE FUND - 339, CERTIFICATE OF NEED ACCOUNT.

S 87. Subdivision 7 of section 2802 of the public health law, as amended by section 1 of part C of chapter 1 of the laws of 2002, is amended to read as follows:

7. (A) The commissioner shall charge to applicants for construction of hospitals the following fees and charges for administrative services so as to recover departmental costs in performing these functions. Each applicant for construction of a hospital shall pay to the department an application fee of [one thousand two hundred fifty dollars] TWO THOUSAND DOLLARS, PROVIDED, HOWEVER, THAT DIAGNOSTIC AND TREATMENT CENTERS DESIGNATED BY THE COMMISSIONER AS SAFETY NET DIAGNOSTIC AND TREATMENT CENTERS, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION SIXTEEN OF SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS ARTICLE, SHALL PAY A FEE OF ONE THOUSAND TWO HUNDRED FIFTY DOLLARS.

(B) At such time as the commissioner's written approval OF THE CONSTRUCTION is granted, each applicant shall pay [an] THE FOLLOWING additional fee [of forty-five hundredths of one percent of the total capital value of the application, provided that only those applications requiring review by the State Hospital Review and Planning Council shall be subject to such fee.]:

(I) FOR HOSPITAL, NURSING HOME AND DIAGNOSTIC AND TREATMENT CENTER APPLICATIONS THAT REQUIRE APPROVAL BY THE COUNCIL, THE ADDITIONAL FEE SHALL BE FIFTY-FIVE HUNDREDTHS OF ONE PERCENT OF THE TOTAL CAPITAL VALUE OF THE APPLICATION, PROVIDED HOWEVER THAT APPLICATIONS FOR CONSTRUCTION OF A SAFETY NET DIAGNOSTIC AND TREATMENT CENTER, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION SIXTEEN OF SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS ARTICLE, SHALL BE SUBJECT TO A FEE OF FORTY-FIVE HUNDREDTHS OF ONE PERCENT OF THE TOTAL CAPITAL VALUE OF THE APPLICATION; AND

(II) FOR HOSPITAL, NURSING HOME AND DIAGNOSTIC AND TREATMENT CENTER APPLICATIONS THAT DO NOT REQUIRE APPROVAL BY THE COUNCIL, THE ADDITIONAL FEE SHALL BE THIRTY HUNDREDTHS OF ONE PERCENT OF THE TOTAL CAPITAL VALUE OF THE APPLICATION, PROVIDED HOWEVER THAT SAFETY NET DIAGNOSTIC AND TREATMENT CENTER APPLICATIONS, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION SIXTEEN OF SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS ARTICLE,

1 SHALL BE SUBJECT TO A FEE OF TWENTY-FIVE HUNDREDTHS OF ONE PERCENT OF  
2 THE TOTAL CAPITAL VALUE OF THE APPLICATION.

3 (C) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH REDUCED FEES FOR  
4 APPLICATIONS SUBJECT TO LIMITED REVIEW, AS DESCRIBED IN REGULATION, THAT  
5 DO NOT REQUIRE REVIEW BY THE COUNCIL.

6 (D) The fees and charges paid by an applicant pursuant to this subdi-  
7 vision for any application for construction of a hospital approved in  
8 accordance with this section shall be deemed allowable capital costs in  
9 the determination of reimbursement rates established pursuant to this  
10 article. The cost of such fees and charges shall not be subject to  
11 reimbursement ceiling or other penalties used by the commissioner for  
12 the purpose of establishing reimbursement rates pursuant to this arti-  
13 cle. All fees pursuant to this section shall be payable to the depart-  
14 ment of health for deposit into the special revenue funds - other,  
15 miscellaneous special revenue fund - 339, certificate of need account.

16 S 88. Section 3605 of the public health law is amended by adding a new  
17 subdivision 13 to read as follows:

18 13. THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR THE LICENSURE OF  
19 HOME CARE SERVICES AGENCIES AN APPLICATION FEE OF TWO THOUSAND DOLLARS.  
20 ALL FEES PURSUANT TO THIS SECTION SHALL BE PAYABLE TO THE DEPARTMENT OF  
21 HEALTH FOR DEPOSIT INTO THE SPECIAL REVENUE FUNDS - OTHER, MISCELLANEOUS  
22 SPECIAL REVENUE FUND - 339, CERTIFICATE OF NEED ACCOUNT.

23 S 89. Section 3606 of the public health law is amended by adding a new  
24 subdivision 4 to read as follows:

25 4. (A) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR THE ESTABLISH-  
26 MENT OF CERTIFIED HOME HEALTH AGENCIES AN APPLICATION FEE OF TWO THOU-  
27 SAND DOLLARS.

28 (B) AN APPLICANT FOR BOTH ESTABLISHMENT AND CONSTRUCTION OF A CERTI-  
29 FIED HOME HEALTH AGENCY SHALL NOT BE SUBJECT TO THIS SUBDIVISION AND  
30 SHALL BE SUBJECT TO FEES AND CHARGES AS SET FORTH IN SECTION THIRTY-SIX  
31 HUNDRED SIX-A OF THIS ARTICLE.

32 (C) THE FEES AND CHARGES PAID BY AN APPLICANT PURSUANT TO THIS SUBDI-  
33 VISION FOR ANY APPLICATION APPROVED IN ACCORDANCE WITH THIS SECTION  
34 SHALL BE DEEMED ALLOWABLE COSTS IN THE DETERMINATION OF REIMBURSEMENT  
35 RATES ESTABLISHED PURSUANT TO THIS ARTICLE. ALL FEES PURSUANT TO THIS  
36 SECTION SHALL BE PAYABLE TO THE DEPARTMENT OF HEALTH FOR DEPOSIT INTO  
37 THE SPECIAL REVENUE FUNDS - OTHER, MISCELLANEOUS SPECIAL REVENUE FUND -  
38 339, CERTIFICATE OF NEED ACCOUNT.

39 S 90. Section 3606-a of the public health law is amended by adding a  
40 new subdivision 9 to read as follows:

41 9. (A) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR CONSTRUCTION OF  
42 CERTIFIED HOME HEALTH AGENCIES AN APPLICATION FEE OF TWO THOUSAND  
43 DOLLARS. EACH SUCH APPLICANT SHALL, AT SUCH TIME AS THE COMMISSIONER'S  
44 WRITTEN APPROVAL OF THE CONSTRUCTION IS GRANTED, PAY AN ADDITIONAL FEE  
45 OF THIRTY HUNDREDTHS OF ONE PERCENT OF THE TOTAL CAPITAL VALUE OF THE  
46 APPLICATION.

47 (B) THE FEES AND CHARGES PAID BY AN APPLICANT PURSUANT TO THIS SUBDI-  
48 VISION FOR ANY APPLICATION APPROVED IN ACCORDANCE WITH THIS SECTION  
49 SHALL BE DEEMED ALLOWABLE COSTS IN THE DETERMINATION OF REIMBURSEMENT  
50 RATES ESTABLISHED PURSUANT TO THIS ARTICLE. ALL FEES PURSUANT TO THIS  
51 SECTION SHALL BE PAYABLE TO THE DEPARTMENT OF HEALTH FOR DEPOSIT INTO  
52 THE SPECIAL REVENUE FUNDS - OTHER, MISCELLANEOUS SPECIAL REVENUE FUND -  
53 339, CERTIFICATE OF NEED ACCOUNT.

54 S 91. Section 3610 of the public health law is amended by adding a  
55 new subdivision 6 to read as follows:

6. (A) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR THE AUTHORIZATION OR CONSTRUCTION OF LONG TERM HOME HEALTH CARE PROGRAMS AN APPLICATION FEE OF TWO THOUSAND DOLLARS. EACH SUCH APPLICANT SHALL, AT SUCH TIME AS THE COMMISSIONER'S WRITTEN APPROVAL OF A CONSTRUCTION APPLICATION IS GRANTED, PAY AN ADDITIONAL FEE OF THIRTY HUNDREDTHS OF ONE PERCENT OF THE TOTAL CAPITAL VALUE OF THE APPLICATION.

(B) THE FEES PAID BY AN APPLICANT PURSUANT TO THIS SUBDIVISION FOR ANY APPLICATION APPROVED IN ACCORDANCE WITH THIS SECTION SHALL BE DEEMED ALLOWABLE COSTS IN THE DETERMINATION OF REIMBURSEMENT RATES ESTABLISHED PURSUANT TO THIS ARTICLE. ALL FEES PURSUANT TO THIS SECTION SHALL BE PAYABLE TO THE DEPARTMENT OF HEALTH FOR DEPOSIT INTO THE SPECIAL REVENUE FUNDS - OTHER, MISCELLANEOUS SPECIAL REVENUE FUND - 339, CERTIFICATE OF NEED ACCOUNT.

S 92. Section 3611-a of the public health law, as added by chapter 959 of the laws of 1984, is amended to read as follows:

S 3611-a. Change in the operator or owner. 1. Any change in the person who, or ANY TRANSFER, ASSIGNMENT, OR OTHER DISPOSITION OF AN INTEREST OR VOTING RIGHTS OF TEN PERCENT OR MORE, OR ANY TRANSFER, ASSIGNMENT OR OTHER DISPOSITION WHICH RESULTS IN THE OWNERSHIP OR CONTROL OF AN INTEREST OR VOTING RIGHTS OF TEN PERCENT OR MORE, IN A LIMITED LIABILITY COMPANY OR A partnership which is the operator of a licensed home care services agency or a certified home health agency shall be approved by the public health council in accordance with the provisions of subdivision four of section three thousand six hundred five of this [chapter] ARTICLE relative to licensure or subdivision two of section three thousand six hundred six of this [chapter] ARTICLE relative to certificate of approval, EXCEPT THAT:

(A) PUBLIC HEALTH COUNCIL APPROVAL SHALL BE REQUIRED ONLY WITH RESPECT TO THE PERSON, OR THE MEMBER OR PARTNER THAT IS ACQUIRING THE INTEREST OR VOTING RIGHTS; AND

(B) WITH RESPECT TO CERTIFIED HOME HEALTH AGENCIES, SUCH CHANGE SHALL NOT BE SUBJECT TO THE PUBLIC NEED ASSESSMENT DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION THREE THOUSAND SIX HUNDRED SIX OF THIS ARTICLE.

(C) NO PRIOR APPROVAL OF THE PUBLIC HEALTH COUNCIL SHALL BE REQUIRED WITH RESPECT TO A TRANSFER, ASSIGNMENT OR DISPOSITION OF:

(I) AN INTEREST OR VOTING RIGHTS TO ANY PERSON PREVIOUSLY APPROVED BY THE PUBLIC HEALTH COUNCIL FOR THAT OPERATOR; OR

(II) AN INTEREST OR VOTING RIGHTS OF LESS THAN TEN PERCENT IN THE OPERATOR. HOWEVER, NO SUCH TRANSACTION SHALL BE EFFECTIVE UNLESS AT LEAST NINETY DAYS PRIOR TO THE INTENDED EFFECTIVE DATE THEREOF, THE PARTNER OR MEMBER COMPLETES AND FILES WITH THE PUBLIC HEALTH COUNCIL NOTICE ON FORMS TO BE DEVELOPED BY THE PUBLIC HEALTH COUNCIL, WHICH SHALL DISCLOSE SUCH INFORMATION AS MAY REASONABLY BE NECESSARY FOR THE PUBLIC HEALTH COUNCIL TO DETERMINE WHETHER IT SHOULD BAR THE TRANSACTION. SUCH TRANSACTION WILL BE FINAL AS OF THE INTENDED EFFECTIVE DATE UNLESS, PRIOR THERETO, THE PUBLIC HEALTH COUNCIL SHALL STATE SPECIFIC REASONS FOR BARRING SUCH TRANSACTIONS UNDER THIS PARAGRAPH AND SHALL NOTIFY EACH PARTY TO THE PROPOSED TRANSACTION.

2. Any transfer, assignment or other disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the operator of a licensed home care services agency or a certified home health agency, or any transfer, assignment or other disposition of the stock or voting rights thereunder of such a corporation which results in the ownership or control of more than ten percent of the stock or voting rights thereunder of such corporation by any person shall be subject to

1 approval by the public health council in accordance with the provisions  
2 of subdivision four of section three thousand six hundred five of this  
3 [chapter] ARTICLE relative to licensure or subdivision two of section  
4 three thousand six hundred six of this [chapter] ARTICLE relative to  
5 certificate of approval , EXCEPT THAT:

6 (A) PUBLIC HEALTH COUNCIL APPROVAL SHALL BE REQUIRED ONLY WITH RESPECT  
7 TO THE PERSON OR ENTITY ACQUIRING SUCH STOCK OR VOTING RIGHTS; AND

8 (B) WITH RESPECT TO CERTIFIED HOME HEALTH AGENCIES, SUCH CHANGE SHALL  
9 NOT BE SUBJECT TO THE PUBLIC NEED ASSESSMENT DESCRIBED IN PARAGRAPH (A)  
10 OF SUBDIVISION TWO OF SECTION THREE THOUSAND SIX HUNDRED SIX OF THIS  
11 ARTICLE. In the absence of such approval, the license or certificate of  
12 approval shall be subject to revocation or suspension.

13 (C) NO PRIOR APPROVAL OF THE PUBLIC HEALTH COUNCIL SHALL BE REQUIRED  
14 WITH RESPECT TO A TRANSFER, ASSIGNMENT OR DISPOSITION OF AN INTEREST OR  
15 VOTING RIGHTS TO ANY PERSON PREVIOUSLY APPROVED BY THE PUBLIC HEALTH  
16 COUNCIL FOR THAT OPERATOR. HOWEVER, NO SUCH TRANSACTION SHALL BE EFFEC-  
17 TIVE UNLESS AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE INTENDED  
18 EFFECTIVE DATE THEREOF, THE PARTNER OR MEMBER COMPLETES AND FILES WITH  
19 THE PUBLIC HEALTH COUNCIL NOTICE ON FORMS TO BE DEVELOPED BY THE PUBLIC  
20 HEALTH COUNCIL, WHICH SHALL DISCLOSE SUCH INFORMATION AS MAY REASONABLY  
21 BE NECESSARY FOR THE PUBLIC HEALTH COUNCIL TO DETERMINE WHETHER IT  
22 SHOULD BAR THE TRANSACTION. SUCH TRANSACTION WILL BE FINAL AS OF THE  
23 INTENDED EFFECTIVE DATE UNLESS, PRIOR THERETO, THE PUBLIC HEALTH COUNCIL  
24 SHALL STATE SPECIFIC REASONS FOR BARRING SUCH TRANSACTIONS UNDER THIS  
25 PARAGRAPH AND SHALL NOTIFY EACH PARTY TO THE PROPOSED TRANSACTION.

26 3. (A) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR A CHANGE IN  
27 OPERATOR OR OWNER OF A LICENSED HOME CARE SERVICES AGENCY OR A CERTIFIED  
28 HOME HEALTH AGENCY AN APPLICATION FEE IN THE AMOUNT OF TWO THOUSAND  
29 DOLLARS.

30 (B) THE FEES PAID BY CERTIFIED HOME HEALTH AGENCIES PURSUANT TO THIS  
31 SUBDIVISION FOR ANY APPLICATION APPROVED IN ACCORDANCE WITH THIS SECTION  
32 SHALL BE DEEMED ALLOWABLE COSTS IN THE DETERMINATION OF REIMBURSEMENT  
33 RATES ESTABLISHED PURSUANT TO THIS ARTICLE. ALL FEES PURSUANT TO THIS  
34 SECTION SHALL BE PAYABLE TO THE DEPARTMENT OF HEALTH FOR DEPOSIT INTO  
35 THE SPECIAL REVENUE FUNDS - OTHER, MISCELLANEOUS SPECIAL REVENUE FUND -  
36 339, CERTIFICATE OF NEED ACCOUNT.

37 S 93. Section 4004 of the public health law is amended by adding a new  
38 subdivision 5 to read as follows:

39 5. (A) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR THE ESTABLISH-  
40 MENT OF A HOSPICE AN APPLICATION FEE IN THE AMOUNT OF TWO THOUSAND  
41 DOLLARS.

42 (B) AN APPLICANT FOR BOTH ESTABLISHMENT AND CONSTRUCTION OF A HOSPICE  
43 SHALL NOT BE SUBJECT TO THIS SUBDIVISION AND SHALL BE SUBJECT TO FEES  
44 AND CHARGES AS SET FORTH IN SECTION FOUR THOUSAND SIX OF THIS ARTICLE.

45 (C) ALL FEES PURSUANT TO THIS SECTION SHALL BE PAYABLE TO THE DEPART-  
46 MENT OF HEALTH FOR DEPOSIT INTO THE SPECIAL REVENUE FUNDS - OTHER,  
47 MISCELLANEOUS SPECIAL REVENUE FUND - 339, CERTIFICATE OF NEED ACCOUNT.

48 S 94. Section 4006 of the public health law is amended by adding a new  
49 subdivision 9 to read as follows:

50 9. (A) THE COMMISSIONER SHALL CHARGE TO APPLICANTS FOR CONSTRUCTION OF  
51 A HOSPICE AN APPLICATION FEE OF TWO THOUSAND DOLLARS.

52 (B) AT SUCH TIME AS THE COMMISSIONER'S WRITTEN APPROVAL OF THE  
53 CONSTRUCTION IS GRANTED, EACH SUCH APPLICANT SHALL PAY AN ADDITIONAL FEE  
54 OF THIRTY HUNDREDTHS OF ONE PERCENT OF THE TOTAL CAPITAL VALUE OF THE  
55 APPLICATION.

(C) ALL FEES PURSUANT TO THIS SECTION SHALL BE PAYABLE TO THE DEPARTMENT OF HEALTH FOR DEPOSIT INTO THE SPECIAL REVENUE FUND - OTHER, MISCELLANEOUS SPECIAL REVENUE FUND - 339, CERTIFICATE OF NEED ACCOUNT.

S 95. The opening paragraph of paragraph (s) of subdivision 1 of section 2807-m of the public health law, as amended by section 16 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

"Adjustment amount" means an amount determined for each teaching hospital FOR PERIODS PRIOR TO JANUARY FIRST, TWO THOUSAND NINE by:

S 96. Paragraph (b) of subdivision 2 of section 2807-m of the public health law, as amended by chapter 1 of the laws of 1999, is amended to read as follows:

(b) [Each] FOR PERIODS PRIOR TO JANUARY FIRST, TWO THOUSAND NINE, EACH regional pool shall be distributed on a monthly basis to teaching general hospitals for costs associated with graduate medical education provided by such teaching general hospitals in accordance with the distribution methodology set forth in subdivision three of this section; provided however, teaching general hospitals with a resident count of zero as of July first of the year preceding the distribution period shall not be eligible for distributions pursuant to this section. General hospitals may elect to have their distribution paid through the consortium.

S 97. Paragraphs (a), (c), (e) and (f) and the opening paragraphs of paragraphs (b) and (d) of subdivision 3 of section 2807-m of the public health law, paragraph (a) and the opening paragraph of paragraph (b) as added by chapter 639 of the laws of 1996, paragraph (c) as amended by chapter 419 of the laws of 2000, the opening paragraph of paragraph (d) as amended by section 17 of part B of chapter 58 of the laws of 2008, paragraph (e) as amended by section 11 of part 00 of chapter 57 of the laws of 2008 and paragraph (f) as amended by section 13 of part E of chapter 63 of the laws of 2005, are amended to read as follows:

(a) Distributions to teaching general hospitals shall be made from the regional pools described in subdivision two of this section for each period PRIOR TO JANUARY FIRST, TWO THOUSAND NINE, less amounts set aside pursuant to subdivision five of this section. To be eligible to participate in distributions pursuant to this section, a teaching general hospital and consortium must be in compliance with graduate medical education reporting requirements set forth in subdivision four of this section.

[Each] FOR PERIODS PRIOR TO JANUARY FIRST, TWO THOUSAND NINE, EACH teaching general hospital in a region shall have a proxy calculated for its graduate medical education costs as follows:

(c) [A] FOR PERIODS PRIOR TO JANUARY FIRST, TWO THOUSAND NINE, A distribution amount for each teaching general hospital shall be calculated from the applicable regional pool described in subdivision two of this section as adjusted pursuant to paragraph (d) of this subdivision based upon its percentage of the regional total of the graduate medical education proxies, except that for purposes of this paragraph the statewide amount used to compute such distribution amounts shall be four hundred ninety million dollars on an annual basis for the periods January first, two thousand through December thirty-first, two thousand two and two hundred forty-five million dollars for the period January first, two thousand three through June thirtieth, two thousand three, less amounts set aside each period pursuant to subdivision seven of this section.

[Each] FOR PERIODS PRIOR TO JANUARY FIRST, TWO THOUSAND NINE, EACH teaching general hospital shall receive a distribution from the applica-

1 ble regional pool based on its distribution amount determined under  
2 paragraph (c) of this subdivision adjusted by a reduction amount that is  
3 determined as follows:

4 (e) Effective April first, two thousand four THROUGH DECEMBER THIRTY-  
5 FIRST, TWO THOUSAND EIGHT, the distribution amount calculated pursuant  
6 to paragraphs (c) and (d) of this subdivision for each non-public teach-  
7 ing general hospital shall be reduced by the amount calculated and  
8 included in rates pursuant to paragraph (d) of subdivision twenty-five  
9 of section twenty-eight hundred seven-c of this article.

10 (f) Effective January first, two thousand five THROUGH DECEMBER THIR-  
11 TY-FIRST, TWO THOUSAND EIGHT, each teaching general hospital shall  
12 receive a distribution from the applicable regional pool based on its  
13 distribution amount determined under paragraphs (c), (d) and (e) of this  
14 subdivision and reduced by its adjustment amount calculated pursuant to  
15 paragraph [(1)] (S) of subdivision one of this section and, for distrib-  
16 utions for the period January first, two thousand five through December  
17 thirty-first, two thousand five, further reduced by its extra reduction  
18 amount calculated pursuant to paragraph [(m)] (T) of subdivision one of  
19 this section.

20 S 98. The opening paragraph of paragraph (b), paragraph (c), the open-  
21 ing paragraphs of paragraphs (d) and (e) and paragraphs (f) and (g) of  
22 subdivision 5-a of section 2807-m of the public health law, the opening  
23 paragraph of paragraph (b), paragraph (c), the opening paragraph of  
24 paragraph (e), and paragraphs (f) and (g) as added by section 75-c of  
25 part C of chapter 58 of the laws of 2008 and the opening paragraph of  
26 paragraph (d) as amended by section 15 of part 00 of chapter 57 of the  
27 laws of 2008, are amended to read as follows:

28 Empire clinical research investigator program (ECRIP) and other gradu-  
29 ate medical education reforms. [Thirty-one] THIRTY million FOUR HUNDRED  
30 THOUSAND dollars annually for the period January first, two thousand  
31 nine through December thirty-first, two thousand ten, and seven million  
32 [seven hundred fifty] SIX HUNDRED thousand dollars for the period Janu-  
33 ary first, two thousand eleven through March thirty-first, two thousand  
34 eleven, shall be set aside and reserved by the commissioner from the  
35 regional pools established pursuant to subdivision two of this section  
36 to be allocated regionally with two-thirds of the available funding  
37 going to New York city and one-third of the available funding going to  
38 the rest of the state and shall be available for distribution as  
39 follows:

40 (c) Ambulatory care training. [Five] FOUR million NINE HUNDRED THOU-  
41 SAND dollars for the period January first, two thousand eight through  
42 December thirty-first, two thousand eight, [five] FOUR million NINE  
43 HUNDRED THOUSAND dollars for the period January first, two thousand nine  
44 through December thirty-first, two thousand nine, [five] FOUR million  
45 NINE HUNDRED THOUSAND dollars for the period January first, two thousand  
46 ten through December thirty-first, two thousand ten, and one million two  
47 hundred [fifty] TWENTY-FIVE thousand dollars for the period January  
48 first, two thousand eleven through March thirty-first, two thousand  
49 eleven, shall be set aside and reserved by the commissioner from the  
50 regional pools established pursuant to subdivision two of this section  
51 and shall be available for distributions to sponsoring institutions to  
52 be directed to support clinical training of medical students and resi-  
53 dents in free-standing ambulatory care settings, including community  
54 health centers and private practices. Such funding shall be allocated  
55 regionally with two-thirds of the available funding going to New York  
56 city and one-third of the available funding going to the rest of the



1 state and shall be distributed to sponsoring institutions in each region  
2 pursuant to a request for application or request for proposal process  
3 with preference being given to sponsoring institutions which provide  
4 training in sites located in underserved rural or inner-city areas and  
5 those that include medical students in such training.

6 [Two] ONE million NINE HUNDRED SIXTY THOUSAND dollars for the period  
7 January first, two thousand eight through December thirty-first, two  
8 thousand eight, [two] ONE million NINE HUNDRED SIXTY THOUSAND dollars  
9 for the period January first, two thousand nine through December thir-  
10 ty-first, two thousand nine, [two] ONE million NINE HUNDRED SIXTY THOU-  
11 SAND dollars for the period January first, two thousand ten through  
12 December thirty-first, two thousand ten, and [five] FOUR hundred NINETY  
13 thousand dollars for the period January first, two thousand eleven  
14 through March thirty-first, two thousand eleven, shall be set aside and  
15 reserved by the commissioner from the regional pools established pursu-  
16 ant to subdivision two of this section and shall be available for  
17 purposes of physician loan repayment in accordance with subdivision ten  
18 of this section. Such funding shall be allocated regionally with one-  
19 third of available funds going to New York city and two-thirds of avail-  
20 able funds going to the rest of the state and shall be distributed in a  
21 manner to be determined by the commissioner as follows:

22 [Five] FOUR million NINE HUNDRED THOUSAND dollars for the period Janu-  
23 ary first, two thousand eight through December thirty-first, two thou-  
24 sand eight, [five] FOUR million NINE HUNDRED THOUSAND dollars annually  
25 for the period January first, two thousand nine through December thir-  
26 ty-first, two thousand ten, and one million two hundred [fifty] TWENTY-  
27 FIVE thousand dollars for the period January first, two thousand eleven  
28 through March thirty-first, two thousand eleven, shall be set aside and  
29 reserved by the commissioner from the regional pools established pursu-  
30 ant to subdivision two of this section and shall be available for  
31 purposes of physician practice support. Such funding shall be allocated  
32 regionally with one-third of available funds going to New York city and  
33 two-thirds of available funds going to the rest of the state and shall  
34 be distributed in a manner to be determined by the commissioner as  
35 follows:

36 (f) Study on physician workforce. [Six] FIVE hundred NINETY thousand  
37 dollars annually for the period January first, two thousand eight  
38 through December thirty-first, two thousand ten, and one hundred [fifty]  
39 FORTY-EIGHT thousand dollars for the period January first, two thousand  
40 eleven through March thirty-first, two thousand eleven, shall be set  
41 aside and reserved by the commissioner from the regional pools estab-  
42 lished pursuant to subdivision two of this section and shall be avail-  
43 able to fund a study of physician workforce needs and solutions includ-  
44 ing, but not limited to, an analysis of residency programs and projected  
45 physician workforce and community needs. The commissioner shall enter  
46 into agreements with one or more organizations to conduct such study  
47 based on a request for proposal process.

48 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding  
49 any inconsistent provision of section one hundred twelve or one hundred  
50 sixty-three of the state finance law or any other law, [two] ONE million  
51 NINE HUNDRED SIXTY THOUSAND dollars annually for the period January  
52 first, two thousand eight through December thirty-first, two thousand  
53 ten, and [five] FOUR hundred NINETY thousand dollars for the period  
54 January first, two thousand eleven through March thirty-first, two thou-  
55 sand eleven shall be set aside and reserved by the commissioner from the  
56 regional pools established pursuant to subdivision two of this section

1 and shall be available for distributions to the Associated Medical  
2 Schools of New York to fund its diversity program including existing and  
3 new post-baccalaureate programs for minority and economically disadvan-  
4 tagged students and encourage participation from all medical schools in  
5 New York. The associated medical schools of New York shall report to the  
6 commissioner on an annual basis regarding the use of funds for such  
7 purpose in such form and manner as specified by the commissioner.

8 S 99. Subdivision 7 of section 2807-m of the public health law, as  
9 amended by section 75-d of part C of chapter 58 of the laws of 2008, is  
10 amended to read as follows:

11 7. Notwithstanding any inconsistent provision of section one hundred  
12 twelve or one hundred sixty-three of the state finance law or any other  
13 law, up to one million dollars for the period January first, two thou-  
14 sand through December thirty-first, two thousand, one million six  
15 hundred thousand dollars annually for the periods January first, two  
16 thousand one through December thirty-first, two thousand [ten,] EIGHT,  
17 ONE MILLION FIVE HUNDRED THOUSAND DOLLARS ANNUALLY FOR THE PERIODS JANU-  
18 ARY FIRST, TWO THOUSAND NINE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND  
19 TEN, and [four] THREE hundred SEVENTY-FIVE thousand dollars for the  
20 period January first, two thousand eleven through March thirty-first,  
21 two thousand eleven, shall be set aside and reserved by the commissioner  
22 from the regional pools established pursuant to subdivision two of this  
23 section and shall be available for distributions to the New York state  
24 area health education center program for the purpose of expanding commu-  
25 nity-based training of medical students. In addition, one million  
26 dollars annually for the period January first, two thousand eight  
27 through December thirty-first, two thousand ten, and two hundred fifty  
28 thousand dollars for the period January first, two thousand eleven  
29 through March thirty-first, two thousand eleven, shall be set aside and  
30 reserved by the commissioner from the regional pools established pursu-  
31 ant to subdivision two of this section and shall be available for  
32 distributions to the New York state area health education center program  
33 for the purpose of post-secondary training of health care professionals  
34 who will achieve specific program outcomes within the New York state  
35 area health education center program. The New York state area health  
36 education center program shall report to the commissioner on an annual  
37 basis regarding the use of funds for each purpose in such form and  
38 manner as specified by the commissioner.

39 S 100. Paragraph (a) of subdivision 7 of section 2807-s of the public  
40 health law, as amended by section 22 of part A of chapter 58 of the laws  
41 of 2007, subparagraphs (viii), (ix) and (xii) as amended by section 14  
42 of part B of chapter 58 of the laws of 2008, is amended to read as  
43 follows:

44 (a) funds shall be accumulated in regional professional education  
45 pools established by the commissioner or the healthcare reform act  
46 (HCRA) resources fund established pursuant to section ninety-two-dd of  
47 the state finance law, whichever is applicable, for distribution in  
48 accordance with section twenty-eight hundred seven-m of this article, in  
49 the following amounts:

50 (i) ninety-two and forty-five-hundredths percent of the funds accumu-  
51 lated less seventy-six million dollars for the period January first,  
52 nineteen hundred ninety-seven through December thirty-first, nineteen  
53 hundred ninety-seven,

54 (ii) ninety-two and forty-five-hundredths percent of the funds accumu-  
55 lated less seventy-six million dollars for the period January first,

19 nineteen hundred ninety-eight through December thirty-first, nineteen  
2 hundred ninety-eight,  
3 (iii) ninety-two and forty-five-hundredths percent of the funds accu-  
4 mulated less one hundred one million dollars for the period January  
5 first, nineteen hundred ninety-nine through December thirty-first, nine-  
6 teen hundred ninety-nine,  
7 (iv) four hundred ninety-four million dollars on an annual basis for  
8 the periods January first, two thousand through December thirty-first,  
9 two thousand three,  
10 (v) four hundred sixty-three million dollars for the period January  
11 first, two thousand four through December thirty-first, two thousand  
12 four,  
13 (vi) four hundred eighty-eight million dollars for the period January  
14 first, two thousand five through December thirty-first, two thousand  
15 five,  
16 (vii) four hundred ninety-four million dollars for the period January  
17 first, two thousand six through December thirty-first, two thousand six,  
18 (viii) four hundred seventy million dollars [annually] for the period  
19 January first, two thousand seven through December thirty-first, two  
20 thousand [ten] SEVEN, [and]  
21 (ix) [one hundred seventeen] FOUR HUNDRED FORTY-SIX MILLION SIX  
22 HUNDRED THOUSAND DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND  
23 EIGHT THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHT,  
24 (X) FORTY-SEVEN MILLION TWO HUNDRED TEN THOUSAND DOLLARS ON AN ANNUAL  
25 BASIS FOR THE PERIODS JANUARY FIRST, TWO THOUSAND NINE THROUGH DECEMBER  
26 THIRTY-FIRST, TWO THOUSAND TEN; AND  
27 (XI) ELEVEN million [five] EIGHT hundred thousand dollars for the  
28 period January first, two thousand eleven through March thirty-first,  
29 two thousand eleven;  
30 [(x)] (XII) provided, however, FOR PERIODS PRIOR TO JANUARY FIRST, TWO  
31 THOUSAND NINE, amounts set forth in this paragraph may be reduced by the  
32 commissioner in an amount to be approved by the director of the budget  
33 to reflect the amount received from the federal government under the  
34 state's 1115 waiver which is directed under its terms and conditions to  
35 the graduate medical education program established pursuant to section  
36 twenty-eight hundred seven-m of this article;  
37 [(xi)] (XIII) provided further, however, FOR PERIODS PRIOR TO JULY  
38 FIRST, TWO THOUSAND NINE, amounts set forth in this paragraph shall be  
39 reduced by an amount equal to the total actual distribution reductions  
40 for all facilities pursuant to paragraph (e) of subdivision three of  
41 section twenty-eight hundred seven-m of this article; and  
42 [(xii)] (XIV) provided further, however, FOR PERIODS PRIOR TO JULY  
43 FIRST, TWO THOUSAND NINE, amounts set forth in this paragraph shall be  
44 reduced by an amount equal to the actual distribution reductions for all  
45 facilities pursuant to paragraph (s) of subdivision one of section twen-  
46 ty-eight hundred seven-m of this article.  
47 S 101. Section 2807-k of the public health law is amended by adding a  
48 new subdivision 5-b to read as follows:  
49 5-B. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION,  
50 SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE OR ANY OTHER  
51 CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL  
52 FINANCIAL PARTICIPATION, FOR PERIODS ON AND AFTER JANUARY FIRST, TWO  
53 THOUSAND NINE, FUNDS AVAILABLE PURSUANT TO PARAGRAPH (A-1) OF SUBDIVI-  
54 SION FOUR OF THIS SECTION AND AN ADDITIONAL TWO HUNDRED EIGHTY-THREE  
55 MILLION DOLLARS AS IS OTHERWISE AVAILABLE FOR DISTRIBUTION PURSUANT TO

THIS SECTION, SHALL BE RESERVED AND SET ASIDE AND DISTRIBUTED ON AN ANNUAL BASIS IN ACCORDANCE WITH THE FOLLOWING:

(A) DISTRIBUTIONS PURSUANT TO THIS SUBDIVISION SHALL BE LIMITED TO GENERAL HOSPITALS WHICH ARE TEACHING HOSPITALS AS DEFINED IN APPLICABLE REGULATIONS.

(B) FOR THE PURPOSES OF DISTRIBUTIONS IN ACCORDANCE WITH THIS SUBDIVISION, EACH ELIGIBLE FACILITY'S RELATIVE UNCOMPENSATED CARE NEED AMOUNT SHALL BE DETERMINED UTILIZING THE METHODOLOGY SET FORTH IN PARAGRAPH (C) OF SUBDIVISION FIVE-A OF THIS SECTION.

(C) DISTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION REMAIN SUBJECT TO THE PROVISIONS OF PARAGRAPH (D) OF SUBDIVISION FIVE-A OF THIS SECTION.

S 102. Paragraph (c) of subdivision 5-a of section 2807-k of the public health law, as added by section 28-b of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(c) For the purposes of distributions in accordance with paragraphs (a) and (b) of this subdivision, each facility's relative uncompensated care need amount shall be determined [by multiplying reported inpatient and outpatient units of service from the calendar year two years prior to the distribution year, but excluding referred ambulatory services units of service, for all uninsured patients by the applicable Medicaid rates, but not including prospective rate adjustments and rate add-ons, in effect for the calendar year two years prior to the distribution year for such services, provided, however, that for distributions on and after January first, two thousand ten, each facility's uncompensated need amount shall be reduced by the sum of all payment amounts collected from such patients. The total uncompensated care need for each facility subject to paragraph (a) or (b) of this subdivision shall then be adjusted by application of the nominal need scale set forth in subdivision five of this section.] IN ACCORDANCE WITH THE FOLLOWING:

(I) INPATIENT UNITS OF SERVICES FOR ALL UNINSURED PATIENTS FROM THE CALENDAR YEAR TWO YEARS PRIOR TO THE DISTRIBUTION YEAR, BUT EXCLUDING REFERRED AMBULATORY UNITS OF SERVICES, SHALL BE MULTIPLIED BY THE APPLICABLE MEDICAID INPATIENT RATES IN EFFECT FOR SUCH PRIOR YEAR, BUT NOT INCLUDING PROSPECTIVE RATE ADJUSTMENTS AND RATE ADD-ONS, PROVIDED, HOWEVER, THAT FOR DISTRIBUTIONS ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN, THE UNCOMPENSATED AMOUNT FOR INPATIENT SERVICES SHALL UTILIZE THE INPATIENT RATES IN EFFECT AS OF JULY FIRST OF THE PRIOR YEAR;

(II) OUTPATIENT UNITS OF SERVICE FOR ALL UNINSURED PATIENTS FROM THE CALENDAR YEAR TWO YEARS PRIOR TO THE DISTRIBUTION YEAR, INCLUDING EMERGENCY DEPARTMENT SERVICES AND AMBULATORY SURGERY SERVICES, BUT EXCLUDING REFERRED AMBULATORY SERVICES UNITS OF SERVICE, SHALL BE MULTIPLIED BY MEDICAID OUTPATIENT RATES THAT REFLECT THE EXCLUSIVE UTILIZATION OF THE AMBULATORY PATIENT GROUPS (APG) RATE-SETTING METHODOLOGY AS SET FORTH IN REGULATIONS PROMULGATED PURSUANT TO SUBDIVISION TWO-A OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE, AS IN EFFECT FOR THE DISTRIBUTION YEAR, PROVIDED FURTHER, HOWEVER, THAT FOR THOSE SERVICES FOR WHICH APG RATES ARE NOT AVAILABLE THE APPLICABLE MEDICAID OUTPATIENT RATE SHALL BE THE RATE IN EFFECT FOR THE CALENDAR YEAR TWO YEARS PRIOR TO THE DISTRIBUTION YEAR;

(III) THE UNCOMPENSATED CARE NEED FOR EACH FACILITY FOR PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL BE REDUCED BY THE SUM OF ALL PAYMENT AMOUNTS COLLECTED FROM SUCH PATIENTS; AND

(IV) THE TOTAL UNCOMPENSATED CARE NEED FOR EACH FACILITY SUBJECT TO THIS SUBDIVISION SHALL THEN BE ADJUSTED BY APPLICATION OF THE NOMINAL NEED SCALE SET FORTH IN SUBDIVISION FIVE OF THIS SECTION.

1 S 103. Section 2807-p of the public health law is amended by adding a  
2 new subdivision 10 to read as follows:

3 10. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR  
4 ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER IS AUTHORIZED TO  
5 SEEK A WAIVER FROM THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES  
6 PURSUANT TO SECTION ELEVEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURI-  
7 TY ACT, OR SUCH OTHER FEDERAL LAW PROVISION AS MAY BE DEEMED APPROPRI-  
8 ATE, SEEKING FEDERAL FINANCIAL PARTICIPATION IN PAYMENTS MADE PURSUANT  
9 TO THIS SECTION, IN WHICH CASE THE STATE FUNDING MADE AVAILABLE PURSUANT  
10 TO THIS SECTION SHALL BE UTILIZED AS THE NON-FEDERAL SHARE OF SUCH  
11 PAYMENTS. TO THE EXTENT AS MAY BE REQUIRED, PAYMENTS MADE PURSUANT TO  
12 THIS SECTION AND IN ACCORDANCE WITH THIS SUBDIVISION, MAY BE DEEMED TO  
13 BE DISPROPORTIONATE SHARE HOSPITAL PAYMENTS IN ACCORDANCE WITH THE  
14 PROVISIONS OF THE FEDERAL SOCIAL SECURITY ACT.

15 (B) IF FEDERAL FINANCIAL PARTICIPATION IN PAYMENTS MADE PURSUANT TO  
16 THIS SECTION ARE MADE AVAILABLE IN ACCORDANCE WITH THE PROVISIONS OF  
17 THIS SUBDIVISION, FREE-STANDING CLINICS LICENSED SOLELY PURSUANT TO  
18 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW SHALL ALSO BE DEEMED ELIGI-  
19 BLE FOR PARTICIPATION IN SUCH PAYMENTS TO THE SAME DEGREE AND IN ACCORD-  
20 ANCE WITH THE SAME DISTRIBUTION METHODOLOGY OTHERWISE PROVIDED IN THIS  
21 SECTION, PROVIDED, HOWEVER, THAT ONLY THOSE UNITS OF SERVICE PROVIDED BY  
22 SUCH FREE-STANDING CLINICS THAT CONSTITUTE MEDICAL SERVICES THAT ARE  
23 OTHERWISE ELIGIBLE FOR CONSIDERATION FOR MEDICAID PAYMENTS SHALL BE  
24 REFLECTED IN DISTRIBUTIONS MADE PURSUANT TO THIS SECTION, AND FURTHER  
25 PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY, IN CONSULTATION WITH THE  
26 COMMISSIONER OF THE OFFICE OF MENTAL HEALTH, REQUIRE SUCH CLINICS, AS A  
27 CONDITION OF RECEIVING SUCH DISTRIBUTIONS, TO PROVIDE REPORTS AND DATA  
28 TO THE DEPARTMENT AS THE COMMISSIONER DEEMS NECESSARY TO ADEQUATELY  
29 IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION WITH REGARD TO SUCH CLIN-  
30 ICS.

31 S 104. Subdivision 3 of section 241 of the elder law is amended to  
32 read as follows:

33 3. "Income" shall mean "household gross income" as defined in the real  
34 property tax circuit breaker credit program, pursuant to subparagraph  
35 (C) of paragraph one of subsection (e) of section six hundred six of the  
36 tax law, but only shall include the income of program applicants and  
37 spouses and shall exclude the income of other members of the household;  
38 PROVIDED, HOWEVER, THAT THE PANEL MAY ADOPT POLICIES TO EXCLUDE FROM  
39 INCOME CERTAIN NON-RECURRING ITEMS THAT WOULD ACT TO ARTIFICIALLY  
40 INFLATE THE AVAILABILITY OF FUNDS TO MEET CURRENT NEEDS INCLUDING, BUT  
41 NOT LIMITED TO, A RETIREE'S PREVIOUS YEAR'S WAGES, AND NON-RECURRING  
42 DISTRIBUTIONS FROM AN INDIVIDUAL RETIREMENT ACCOUNT.

43 S 105. Subdivision 1 of section 241 of the elder law, as amended by  
44 section 29 of part A of chapter 58 of the laws of 2008, is amended to  
45 read as follows:

46 1. "Covered drug" shall mean a drug dispensed subject to a legally  
47 authorized prescription pursuant to section sixty-eight hundred ten of  
48 the education law, and insulin, an insulin syringe, or an insulin  
49 needle. Such term shall not include: (a) any drug determined by the  
50 commissioner of the federal food and drug administration to be ineffec-  
51 tive or unsafe; (b) any drug dispensed in a package, or form of dosage  
52 or administration, as to which the commissioner of health finally deter-  
53 mines in accordance with the provisions of section two hundred fifty-two  
54 of this title that a less expensive package, or form of dosage or admin-  
55 istration, is available that is pharmaceutically equivalent and equiv-  
56 alent in its therapeutic effect for the general health characteristics

1 of the eligible program participant population; (c) any device for the  
2 aid or correction of vision; (d) any drug, including vitamins, which is  
3 generally available without a physician's prescription; [and] (e) drugs  
4 for the treatment of sexual or erectile dysfunction, unless such drugs  
5 are used to treat a condition, other than sexual or erectile dysfunc-  
6 tion, for which the drugs have been approved by the federal food and  
7 drug administration; [and] (f) a brand name drug for which a multi-  
8 source therapeutically and generically equivalent drug, as determined by  
9 the federal food and drug administration, is available, unless previous-  
10 ly authorized by the elderly pharmaceutical insurance coverage program,  
11 provided, however, that the elderly pharmaceutical insurance coverage  
12 panel is authorized to exempt, for good cause shown, any brand name drug  
13 from such restriction, and provided further that such restriction shall  
14 not apply to any drug that is included on the preferred drug list under  
15 section two hundred seventy-two of the public health law or is in the  
16 clinical drug review program under section two hundred seventy-four of  
17 the public health law to the extent that the preferred drug program and  
18 the clinical drug review program are applied to the elderly pharmaceu-  
19 tical insurance coverage program pursuant to section two hundred seven-  
20 ty-five of the public health law, or to any drug covered under a program  
21 participant's Medicare part D or other primary insurance plan; AND (G)  
22 ANY DRUG EXCLUDED FROM COVERAGE BY THE MEDICAL ASSISTANCE PROGRAM ESTAB-  
23 LISHED UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW.  
24 Any of the drugs enumerated in the preceding sentence shall be consid-  
25 ered a covered drug or a prescription drug for purposes of this article  
26 if it is added to the preferred drug list under article two-A of the  
27 public health law. For the purpose of this title, except as otherwise  
28 provided in this section, a covered drug shall be dispensed in quanti-  
29 ties no greater than a thirty day supply or one hundred units, whichever  
30 is greater. In the case of a drug dispensed in a form of administration  
31 other than a tablet or capsule, the maximum allowed quantity shall be a  
32 thirty day supply; the panel is authorized to approve exceptions to  
33 these limits for specific products following consideration of recommen-  
34 dations from pharmaceutical or medical experts regarding commonly pack-  
35 aged quantities, unusual forms of administration, length of treatment or  
36 cost effectiveness. In the case of a drug prescribed pursuant to section  
37 thirty-three hundred thirty-two of the public health law to treat one of  
38 the conditions that have been enumerated by the commissioner of health  
39 pursuant to regulation as warranting the prescribing of greater than a  
40 thirty day supply, such drug shall be dispensed in quantities not to  
41 exceed a three month supply.

42 S 106. The opening paragraph of paragraph (f) and paragraph (h) of  
43 subdivision 3 of section 242 of the elder law, as added by section 3 of  
44 part B of chapter 58 of the laws of 2007, are amended to read as  
45 follows:

46 As a condition of continued eligibility for benefits under this title,  
47 if a program participant is eligible for Medicare part D drug coverage  
48 under section 1860D of the federal social security act, the participant  
49 is required to enroll in Medicare part D at the first available enroll-  
50 ment period and to maintain such enrollment. This requirement shall be  
51 waived if such enrollment would result [in significant additional finan-  
52 cial liability by the participant, including, but not limited to, indi-  
53 viduals in a Medicare advantage plan whose cost sharing would be  
54 increased, or if such enrollment would result] in the loss of any health  
55 coverage through a union or employer plan for the participant, the  
56 participant's spouse or other dependent. The elderly pharmaceutical

1 insurance coverage program shall provide premium assistance for all  
2 participants enrolled in Medicare part D as follows:

3 (h) In order to maximize prescription drug coverage under Medicare  
4 part D, the elderly pharmaceutical insurance coverage program is author-  
5 ized to represent program participants under this title in the pursuit  
6 of such coverage. Such representation [shall not result in any addi-  
7 tional financial liability on behalf of such program participants and]  
8 shall include, but not be limited to, the following actions:

9 (i) application for the premium and cost-sharing subsidies, AND THE  
10 MEDICARE SAVINGS PROGRAMS, on behalf of eligible program participants;

11 (ii) enrollment in a prescription drug plan or MA-PD plan; the elderly  
12 pharmaceutical insurance coverage program shall provide program partic-  
13 ipants with prior written notice of, and the opportunity to decline such  
14 facilitated enrollment subject, however, to the provisions of paragraph  
15 (f) of this subdivision;

16 (iii) pursuit of appeals, grievances, or coverage determinations.

17 S 107. Paragraph (c) of subdivision 3 of section 242 of the elder law,  
18 as amended by section 4 of part A of chapter 58 of the laws of 2005, is  
19 amended to read as follows:

20 (c) The fact that some of an individual's prescription drug expenses  
21 are paid or reimbursable under the provisions of the medicare program  
22 shall not disqualify an individual, if he or she is otherwise eligible,  
23 from receiving assistance under this title. [In such cases, the state  
24 shall pay the portion of the cost of those prescriptions for qualified  
25 drugs for which no payment or reimbursement is made by the medicare  
26 program or any federally funded prescription drug benefit, less the  
27 participant's co-payment required on the amount not paid by the medicare  
28 program.] HOWEVER, EXCEPT FOR DRUGS EXCLUDED FROM MEDICARE COVERAGE IN  
29 ACCORDANCE WITH SECTION EIGHTEEN HUNDRED SIXTY-D-2 OF THE FEDERAL SOCIAL  
30 SECURITY ACT, SUCH ASSISTANCE SHALL BE LIMITED TO PRESCRIPTION DRUGS  
31 COVERED BY THE INDIVIDUAL'S MEDICARE PLAN. IN SUCH CASES, THE STATE  
32 SHALL COVER THE AMOUNT THAT IS THE RESPONSIBILITY OF THE INDIVIDUAL  
33 UNDER THE MEDICARE PLAN BENEFIT, SUBJECT TO THE INDIVIDUAL'S COST-SHAR-  
34 ING RESPONSIBILITY UNDER SECTIONS TWO HUNDRED FORTY-SEVEN OR TWO HUNDRED  
35 FORTY-EIGHT OF THIS TITLE ON SUCH AMOUNT. In addition, the participant  
36 registration fee charged to eligible program participants for comprehen-  
37 sive coverage pursuant to section two hundred forty-seven of this title  
38 shall be waived for the portion of the annual coverage period that the  
39 participant is also enrolled as a transitional assistance beneficiary in  
40 the medicare prescription drug discount card program, authorized pursu-  
41 ant to title XVIII of the federal social security act, provided that:

42 (i) any sponsor of such drug discount card program has signed an agree-  
43 ment to complete coordination of benefit functions with EPIC, and has  
44 been endorsed by the EPIC panel; or (ii) any exclusive sponsor of such  
45 drug discount card program authorized pursuant to title XVIII of the  
46 federal social security act that limits the participants to the medicare  
47 prescription drug discount card program sponsored by such exclusive  
48 sponsor, shall coordinate benefits available under such discount card  
49 program with EPIC. [The participant registration fee charged to eligible  
50 program participants for comprehensive coverage pursuant to section two  
51 hundred forty-seven of this title shall be waived for the portion of the  
52 annual coverage period that the participant is also enrolled as a full  
53 subsidy individual in a prescription drug or MA-PD plan under Part D of  
54 title XVIII of the federal social security act.]

1 S 107-a. Paragraph (g) of subdivision 3 of section 242 of the elder  
2 law, as added by section 3 of part B of chapter 58 of the laws of 2007,  
3 is amended to read as follows:

4 (g) The elderly pharmaceutical insurance coverage program is author-  
5 ized and directed to conduct an enrollment program to facilitate, in as  
6 prompt and streamlined a fashion as possible, the enrollment into Medi-  
7 care part D of program participants who are required by the provisions  
8 of this section to enroll in part D. [Provided, however, that a partic-  
9 ipant shall not be prevented from receiving his or her drugs immediately  
10 at the pharmacy under the elderly pharmaceutical insurance coverage  
11 program as a result of such participant's enrollment in Medicare part  
12 D.]

13 S 108. Subdivision 6 of section 250 of the elder law is REPEALED.

14 S 109. The opening paragraph of subdivision 2 and paragraph (b) of  
15 subdivision 3 of section 247 of the elder law are amended to read as  
16 follows:

17 Eligible individuals electing to meet the requirements of this subdi-  
18 vision shall pay a quarterly registration fee in a manner and form  
19 determined by the executive director; at the option of the participant,  
20 the registration fee may be paid annually in a lump sum upon the begin-  
21 ning of the annual coverage period. No eligible individual electing to  
22 meet the requirements of this subdivision shall have his OR HER partic-  
23 ipation in the program lapse by virtue of non-payment of the applicable  
24 registration fee unless the contractor has provided notification of the  
25 amount and due date thereof, and more than thirty days have elapsed  
26 since the due date of the individual's registration fee. The registra-  
27 tion fee to be charged to eligible program participants for comprehen-  
28 sive coverage under this option shall be in accordance with the follow-  
29 ing schedule, EXCEPT THAT SUCH FEE SHALL BE WAIVED FOR PARTICIPANTS WITH  
30 INCOME AT OR BELOW ONE HUNDRED FIFTY PERCENT OF THE OFFICIAL POVERTY  
31 LINE MAINTAINED BY THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES:

32 (b) The point of sale co-payment amounts which are to be charged  
33 eligible program participants shall be in accordance with the following  
34 schedule:

35 For each prescription of covered drugs costing \$15.00 or less.....\$3.00  
36 For each prescription of covered drugs costing \$15.01 to \$35.00...\$7.00  
37 For each prescription of covered drugs costing \$35.01 [to \$55.00...\$15.00  
38 For each prescription of covered drugs costing \$55.01] or  
39 more....[\$20.00] \$15.00

40 S 110. Subdivision 2 of section 241 of the elder law, as amended by  
41 section 13 of part B of chapter 57 of the laws of 2006, is amended to  
42 read as follows:

43 2. "Provider pharmacy" shall mean a pharmacy registered in the state  
44 of New York pursuant to section sixty-eight hundred eight of the educa-  
45 tion law, A NON-RESIDENT ESTABLISHMENT REGISTERED PURSUANT TO SECTION  
46 SIXTY-EIGHT HUNDRED EIGHT-B OF THE EDUCATION LAW, or a pharmacy regis-  
47 tered in a state bordering the state of New York when certified as  
48 necessary by the executive director pursuant to section two hundred  
49 fifty-three of this title, for which an agreement to provide pharmacy  
50 services for purposes of this program pursuant to section two hundred  
51 forty-nine of this title is in effect.

52 S 111. Subdivision 1 of section 249 of the elder law is amended to  
53 read as follows:

54 1. The state shall offer an opportunity to participate in this program  
55 to all provider pharmacies as defined in section two hundred forty-one  
56 of this title, PROVIDED, HOWEVER, THAT THE PARTICIPATION OF PHARMACIES



1 REGISTERED IN THE STATE PURSUANT TO SECTION SIXTY-EIGHT HUNDRED EIGHT-B  
2 OF THE EDUCATION LAW SHALL BE LIMITED TO STATE ASSISTANCE PROVIDED UNDER  
3 THIS TITLE FOR PRESCRIPTION DRUGS COVERED BY A PROGRAM PARTICIPANT'S  
4 MEDICARE OR OTHER DRUG PLAN.

5 S 112. Paragraph (e) of subdivision 3 of section 242 of the elder law,  
6 as amended by section 3 of part B of chapter 58 of the laws of 2007, is  
7 amended to read as follows:

8 (e) As a condition of continued eligibility for benefits under this  
9 title, if a program participant's income indicates that the participant  
10 could be eligible for an income-related subsidy under section 1860D-14  
11 of the federal social security act BY EITHER APPLYING FOR SUCH SUBSIDY  
12 OR BY ENROLLING IN A MEDICARE SAVINGS PROGRAM AS A QUALIFIED MEDICARE  
13 BENEFICIARY (QMB), A SPECIFIED LOW-INCOME MEDICARE BENEFICIARY (SLMB),  
14 OR A QUALIFYING INDIVIDUAL (QI), a program participant is required to  
15 provide[, and to authorize the elderly pharmaceutical insurance coverage  
16 program to obtain,] any information or documentation required to estab-  
17 lish the participant's eligibility for such subsidy, AND TO AUTHORIZE  
18 THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM TO APPLY ON BEHALF  
19 OF THE PARTICIPANT FOR THE SUBSIDY OR THE MEDICARE SAVINGS PROGRAM. The  
20 elderly pharmaceutical insurance coverage program shall make a reason-  
21 able effort to notify the program participant of his or her need to  
22 provide any of the above required information. After a reasonable effort  
23 has been made to contact the participant, a participant shall be noti-  
24 fied in writing that he or she has sixty days to provide such required  
25 information. If such information is not provided within the sixty day  
26 period, the participant's coverage may be terminated.

27 S 113. Section 2807-j of the public health law is amended by adding a  
28 new subdivision 13 to read as follows:

29 13. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS SECTION OR  
30 ANY OTHER CONTRARY PROVISION OF LAW, FOR PERIODS ON AND AFTER JULY  
31 FIRST, TWO THOUSAND NINE, EACH THIRD PARTY PAYOR WHICH HAS ENTERED INTO  
32 AN ELECTION AGREEMENT WITH THE COMMISSIONER PURSUANT TO SUBDIVISION FIVE  
33 OF THIS SECTION SHALL, AS A CONDITION OF SUCH ELECTION, PAY TO THE  
34 COMMISSIONER OR THE COMMISSIONER'S DESIGNEE, A PERCENTAGE SURCHARGE  
35 EQUAL TO THE SURCHARGE PERCENT SET FORTH IN PARAGRAPH (C) OF SUBDIVISION  
36 TWO OF THIS SECTION FOR THE SAME PERIOD AND APPLIED TO ALL PAYMENTS MADE  
37 BY SUCH THIRD PARTY PAYORS FOR PATIENT CARE SERVICES PROVIDED WITHIN THE  
38 STATE BY PHYSICIANS IN PHYSICIAN OFFICES OR IN URGENT CARE FACILITIES  
39 THAT ARE NOT OTHERWISE LICENSED PURSUANT TO THIS ARTICLE AND WHICH ARE  
40 BILLED AS SURGERY OR RADIOLOGY SERVICES IN ACCORDANCE WITH THE CURRENT  
41 PROCEDURE TERMINOLOGY, FOURTH EDITION, AS PUBLISHED BY THE AMERICAN  
42 MEDICAL ASSOCIATION.

43 (B) SUCH PAYMENTS SHALL BE MADE AND REPORTED AT THE SAME TIME AND IN  
44 THE SAME MANNER AS THE PAYMENTS AND REPORTS WHICH ARE OTHERWISE SUBMIT-  
45 TED BY EACH THIRD PARTY PAYOR TO THE COMMISSIONER OR THE COMMISSIONER'S  
46 DESIGNEE IN ACCORDANCE WITH THIS SECTION. SUCH PAYMENTS SHALL BE SUBJECT  
47 TO AUDIT BY THE COMMISSIONER IN THE SAME MANNER AS THE OTHER PAYMENTS  
48 OTHERWISE SUBMITTED AND REPORTED PURSUANT TO THIS SECTION. THE COMMIS-  
49 SIONER MAY TAKE ALL MEASURES TO COLLECT DELINQUENT PAYMENTS DUE PURSUANT  
50 TO THIS SUBDIVISION AS ARE OTHERWISE PERMITTED WITH REGARD TO DELINQUENT  
51 PAYMENTS DUE PURSUANT TO OTHER SUBDIVISIONS OF THIS SECTION.

52 (C) SURCHARGES PURSUANT TO THIS SUBDIVISION SHALL NOT APPLY TO  
53 PAYMENTS MADE BY THIRD PARTY PAYORS FOR SERVICES PROVIDED TO PATIENTS  
54 INSURED BY MEDICAID OR BY THE CHILD HEALTH PLUS PROGRAM OR TO ANY  
55 PATIENT IN A CATEGORY THAT IS EXEMPT FROM SURCHARGE OBLIGATIONS ASSESSED  
56 PURSUANT TO SUBDIVISIONS ONE THROUGH TWELVE OF THIS SECTION.

1 S 114. Paragraph (b) of subdivision 1-a of section 2807-s of the  
2 public health law, as added by chapter 639 of the laws of 1996, is  
3 amended to read as follows:

4 (b) "Specified third-party payors", for purposes of this section and  
5 sections twenty-eight hundred seven-j and twenty-eight hundred seven-t  
6 of this article, shall include corporations organized and operating in  
7 accordance with article forty-three of the insurance law, organizations  
8 operating in accordance with the provisions of article forty-four of  
9 this chapter, self-insured funds and administrators acting on behalf of  
10 self-insured funds, and commercial insurers [licensed to do business in  
11 this state and] authorized to write accident and health insurance and  
12 whose policy provides coverage on an expense incurred basis. Specified  
13 third-party payors, for purposes of this section, shall not include  
14 governmental agencies or providers of coverage pursuant to the compre-  
15 hensive motor vehicle insurance reparations act, the workers' compen-  
16 sation law, the volunteer firefighters' benefit law, or the volunteer  
17 ambulance workers' benefit law.

18 S 115. Paragraph (j) of subdivision 1 of section 2807-v of the public  
19 health law, as amended by section 5 of part B of chapter 58 of the laws  
20 of 2008, is amended to read as follows:

21 (j) Funds shall be reserved and accumulated from year to year and  
22 shall be available, including income from invested funds, for purposes  
23 of services and expenses related to the tobacco use prevention and  
24 control program established pursuant to sections thirteen hundred nine-  
25 ty-nine-ii and thirteen hundred ninety-nine-jj of this chapter, from the  
26 tobacco control and insurance initiatives pool established for the  
27 following periods in the following amounts:

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

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

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

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

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

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

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

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

54 (ix) up to ninety-four million one hundred fifty thousand dollars for  
55 the period January first, two thousand eight through December thirty-  
56 first, two thousand eight[;

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

4 (xi) up to ninety-four million one hundred fifty thousand dollars for  
5 the period January first, two thousand ten through December thirty-  
6 first, two thousand ten; and

7 (xii) up to twenty-three million five hundred thirty-seven thousand  
8 dollars for the period January first, two thousand eleven through March  
9 thirty-first, two thousand eleven].

10 S 116. Paragraph (b) of subdivision 2 of section 367-a of the social  
11 services law, as amended by section 58 of part C of chapter 58 of the  
12 laws of 2007, is amended to read as follows:

13 (b) Any inconsistent provision of this chapter or other law notwith-  
14 standing, upon furnishing assistance under this title to any applicant  
15 or recipient of medical assistance, the local social services district  
16 or the department shall be subrogated, to the extent of the expenditures  
17 by such district or department for medical care furnished, to any rights  
18 such person may have to medical support or [third party reimbursement]  
19 REIMBURSEMENT FROM LIABLE THIRD PARTIES, INCLUDING BUT NOT LIMITED TO  
20 HEALTH INSURERS, SELF-INSURED PLANS, GROUP HEALTH PLANS, SERVICE BENEFIT  
21 PLANS, MANAGED CARE ORGANIZATIONS, PHARMACY BENEFIT MANAGERS, OR OTHER  
22 PARTIES THAT ARE, BY STATUTE, CONTRACT, OR AGREEMENT, LEGALLY RESPONSI-  
23 BLE FOR PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR SERVICE. For  
24 purposes of this section, the term medical support shall mean the right  
25 to support specified as support for the purpose of medical care by a  
26 court or administrative order. The right of subrogation does not attach  
27 to insurance benefits paid or provided under any health insurance policy  
28 prior to the receipt of written notice of the exercise of subrogation  
29 rights by the carrier issuing such insurance, nor shall such right of  
30 subrogation attach to any benefits which may be claimed by a social  
31 services official or the department, by agreement or other established  
32 procedure, directly from an insurance carrier. No right of subrogation  
33 to insurance benefits available under any health insurance policy shall  
34 be enforceable unless written notice of the exercise of such subrogation  
35 right is received by the carrier within three years from the date  
36 services for which benefits are provided under the policy or contract  
37 are rendered. The local social services district or the department shall  
38 also notify the carrier when the exercise of subrogation rights has  
39 terminated because a person is no longer receiving assistance under this  
40 title. Such carrier shall establish mechanisms to maintain the confiden-  
41 tiality of all individually identifiable information or records. Such  
42 carrier shall limit the use of such information or record to the specif-  
43 ic purpose for which such disclosure is made, and shall not further  
44 disclose such information or records.

45 S 117. Paragraph (a) of subdivision 11 of section 367-a of the social  
46 services law, as amended by chapter 170 of the laws of 1994, is amended  
47 to read as follows:

48 (a) Any inconsistent provisions of this title or other law notwith-  
49 standing, no health insurer, [health maintenance organization] SELF-IN-  
50 SURED PLAN, MANAGED CARE ORGANIZATION, PHARMACY BENEFIT MANAGER, or  
51 other [entity providing medical benefits] PARTY THAT IS, BY STATUTE,  
52 CONTRACT, OR AGREEMENT, LEGALLY RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A  
53 HEALTH CARE ITEM OR SERVICE, employer or organization who has a plan,  
54 including an employee retirement income security act or service benefit  
55 plan, providing care and other medical benefits for persons, whether by  
56 insurance or otherwise, shall exclude a person from eligibility, cover-

1 age or entitlement to medical benefits by reason of the eligibility of  
2 such person for medical assistance under this title, or by reason of the  
3 fact that such person would, except for such plan, be eligible for bene-  
4 fits under this title.

5 S 118. Paragraph 2 of subsection (b) of section 313 of the insurance  
6 law is amended to read as follows:

7 (2) Notwithstanding any provisions of this section to the contrary, in  
8 case of an examination or appraisal of [a domestic] AN AUTHORIZED insur-  
9 er made within this state, the traveling and living expense of the  
10 person or persons making the examination shall be considered a cost of  
11 operation, as referred to in section three hundred thirty-two of this  
12 article and not an expense of examination.

13 S 119. Section 332 of the insurance law, subsection (a) as amended by  
14 chapter 61 of the laws of 1989, is amended to read as follows:

15 S 332. Assessments to defray [operating] expenses of department. (a)  
16 [The] FOR PURPOSES OF THIS SECTION, THE expenses of the department,  
17 excluding the expenses of the supervision of employee welfare funds,  
18 SHALL INCLUDE ALL APPROPRIATIONS WHETHER ADMINISTERED BY THE DEPARTMENT  
19 OR SUBALLOCATED TO ANOTHER STATE DEPARTMENT, BOARD, OR AGENCY, for any  
20 fiscal year, including all direct and indirect costs, as approved by the  
21 director of the budget and audited by the comptroller, except as other-  
22 wise provided by sections one hundred fifty-one and two hundred twenty-  
23 eight of the workers' compensation law and by section sixty of the  
24 volunteer firefighters' benefit law, shall be assessed by the super-  
25 intendent pro rata upon all [domestic] AUTHORIZED insurers [and all  
26 licensed United States branches of alien insurers domiciled in this  
27 state within the meaning of paragraph four of subsection (b) of section  
28 seven thousand four hundred eight of this chapter], in proportion to the  
29 gross direct premiums and other considerations, written or received by  
30 them in this state during the calendar year ending December thirty-first  
31 immediately preceding the end of the fiscal year for which the assess-  
32 ment is made (less return premiums and considerations thereon) for poli-  
33 cies or contracts of insurance covering property or risks resident or  
34 located in this state the issuance of which policies or contracts  
35 requires a license from the superintendent; and the superintendent shall  
36 levy and collect such assessments and pay the same into the state treas-  
37 ury, subject to the provisions of section one hundred twenty-one of the  
38 state finance law and subsection (b) [hereof] OF THIS SECTION.

39 (b) For each fiscal year commencing on or after April first, nineteen  
40 hundred eighty-three, a partial payment shall be made by each insurer  
41 subject to this section in a sum equal to twenty-five per centum of the  
42 annual expenses assessed upon it for the fiscal year as estimated by the  
43 superintendent. Such payment shall be made on March tenth of the preced-  
44 ing fiscal year and on June tenth, September tenth and December tenth of  
45 each year, or at such other dates as the director of the budget may  
46 prescribe. [Provided, however, that the payment due March tenth, nine-  
47 teen hundred eighty-three for the fiscal year beginning April first,  
48 nineteen hundred eighty-three shall not be required to be paid until  
49 June tenth, nineteen hundred eighty-three.] The balance of assessments  
50 for the fiscal year shall be paid upon determination of the actual  
51 amount due in accordance with the provisions of this section. Any over-  
52 payment of annual assessment resulting from complying with the require-  
53 ments of this subsection shall be refunded or at the option of the  
54 assessed applied as a credit against the assessment for the succeeding  
55 fiscal year. The partial payment schedule provided for herein shall not  
56 be applicable to any insurer whose annual assessment pursuant to this

1 section for the fiscal year is estimated to be less than one hundred  
2 dollars and such insurers shall make a single annual payment on or  
3 before September thirtieth of the fiscal year.

4 S 120. Subparagraphs (vi), (vii) and (viii) of paragraph (uu) of  
5 subdivision 1 of section 2807-v of the public health law, as amended by  
6 section 5 of part B of chapter 58 of the laws of 2008, are amended to  
7 read as follows:

8 (vi) [nine] SEVEN million [five] EIGHT hundred THIRTY-THREE thousand  
9 THREE HUNDRED THIRTY-THREE dollars for the period January first, two  
10 thousand nine through December thirty-first, two thousand nine, of which  
11 seven million five hundred thousand dollars shall be available for  
12 disease management demonstration programs and [two million] THREE  
13 HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED THIRTY-THREE dollars shall  
14 be available for telemedicine demonstration programs FOR THE PERIOD  
15 JANUARY FIRST, TWO THOUSAND NINE THROUGH MARCH FIRST, TWO THOUSAND NINE;

16 (vii) [nine] SEVEN million five hundred thousand dollars for the peri-  
17 od January first, two thousand ten through December thirty-first, two  
18 thousand ten[, of which seven million five hundred thousand dollars]  
19 shall be available for disease management demonstration programs [and  
20 two million dollars shall be available for telemedicine demonstration  
21 programs]; and

22 (viii) [two] ONE million [three] EIGHT hundred seventy-five thousand  
23 dollars for the period January first, two thousand eleven through March  
24 thirty-first, two thousand eleven[, of which one million eight hundred  
25 seventy-five thousand dollars] shall be available for disease management  
26 demonstration programs [and five hundred thousand dollars shall be  
27 available for telemedicine demonstration programs].

28 S 121. Section 3621 of the public health law is REPEALED.

29 S 122. Paragraph 1 of subsection (g) of section 2101 of the insurance  
30 law, as amended by chapter 301 of the laws of 2008, is amended to read  
31 as follows:

32 (1) The term "independent adjuster" means any person, firm, associ-  
33 ation or corporation who[, ] or [which,] THAT for money, commission or  
34 any other thing of value, acts [in this state] on behalf of an insurer  
35 in the work of investigating and adjusting claims arising under insur-  
36 ance contracts issued by such insurer and who performs such duties  
37 required by such insurer as are incidental to such claims; ANY PERSON,  
38 FIRM, ASSOCIATION OR CORPORATION WHO OR THAT FOR MONEY, COMMISSION OR  
39 ANY OTHER THING OF VALUE, PAYS CLAIMS OR ADMINISTERS THE PAYMENT OF  
40 CLAIMS ON BEHALF OF AN INSURER; and [also includes] any person who for  
41 compensation or anything of value investigates and adjusts claims on  
42 behalf of any independent adjuster, except that such term shall not  
43 include:

44 (A) any officer, director or regular salaried employee of an author-  
45 ized insurer or entity licensed pursuant to article forty-four of the  
46 public health law providing comprehensive health service plans (as used  
47 in this paragraph, a "health maintenance organization"), or any manager  
48 thereof, individual or corporate, or the manager, agent or general agent  
49 of any department thereof, individual or corporate, or attorney in fact  
50 of any reciprocal insurer or Lloyds underwriter, or marine underwriting  
51 office, unless acting as an auto body repair estimator as defined in  
52 subsection (j) of this section;

53 (B) any officer, director or regular salaried employee of an insurer  
54 authorized to write accident and health insurance, a corporation  
55 licensed under article forty-three of this chapter (collectively, as  
56 used in this paragraph, a "health insurer") or a health maintenance

1 organization, or any manager thereof, individual or corporate, when the  
2 claim to be adjusted is issued [or administered] by another health  
3 insurer or health maintenance organization within the same holding  
4 company system as the health insurer or health maintenance organization  
5 adjusting the claim;

6 (C) [any officer, director or regular salaried employee of an article  
7 fifteen holding company or a controlled person within such holding  
8 company system providing administrative services within that holding  
9 company, or any manager thereof, individual or corporate, when the claim  
10 to be adjusted is submitted for payment under a health benefit plan that  
11 is issued or administered by a health insurer or health maintenance  
12 organization within that same holding company system;

13 (D)] any officer, director or regular salaried employee of an author-  
14 ized insurer that is licensed to write the kind of insurance to be  
15 adjusted, or any manager thereof, individual or corporate, when the  
16 claim to be adjusted is pursuant to a policy that is issued [or adminis-  
17 tered] by another insurer within the same holding company system as the  
18 authorized insurer adjusting the claim, unless acting as an auto body  
19 repair estimator as defined in subsection (j) of this section;

20 [(E)] (D) any officer, director or regular salaried employee of an  
21 authorized life insurance company, or any manager thereof, individual or  
22 corporate, or the manager, agent or general agent of any department  
23 thereof, individual or corporate, when the claim to be adjusted is  
24 submitted under an insurance contract issued by another insurer and the  
25 claim: (i) is within the scope of a contract of reinsurance between the  
26 two insurers for all of the underlying risks and none of the underlying  
27 risks are later reinsured back to the ceding insurer OR AN AFFILIATE,  
28 PARENT OR SUBSIDIARY OF THE CEDING INSURER; and (ii) relates to a kind  
29 of insurance that the authorized life insurance company adjusting the  
30 claim is licensed to write;

31 (E) ANY OFFICER, DIRECTOR OR REGULAR SALARIED EMPLOYEE OF A LICENSED  
32 INDEPENDENT ADJUSTER WHO DOES NOT INVESTIGATE OR ADJUST CLAIMS;

33 (F) any adjustment bureau or association owned and maintained by  
34 insurers to adjust or investigate losses, or any regular salaried  
35 employee or manager thereof who devotes substantially all of his time to  
36 the business of such bureau or association, unless acting as an auto  
37 body repair estimator as defined in subsection (j) of this section;

38 (G) any licensed agent of an authorized insurer who adjusts losses for  
39 such insurer solely under policies issued through his or its agency,  
40 provided the agent receives no compensation for such services in excess  
41 of fifty dollars per loss adjusted;

42 (H) any licensed attorney at law of this state;

43 (I) any average adjuster or adjuster of maritime losses; or

44 (J) any agent or other representative of an insurer authorized to  
45 issue life and annuity contracts, provided he receives no compensation  
46 for such services.

47 S 123. The insurance law is amended by adding a new section 9112 to  
48 read as follows:

49 S 9112. FEE ON INSURANCE CLAIMS PROCESSED BY AN INDEPENDENT ADJUSTER.  
50 (A) AN INDEPENDENT ADJUSTER SHALL PAY A FEE OF ONE DOLLAR PER CLAIM FOR  
51 EACH INSURANCE CLAIM OVER TWENTY DOLLARS IN VALUE THAT IT INVESTIGATES,  
52 ADJUSTS, PAYS OR ADMINISTERS THE PAYMENT IN NEW YORK STATE. THE FEE  
53 SHALL BE PAID ON A MONTHLY BASIS TO THE COMMISSIONER OF HEALTH OR THE  
54 COMMISSIONER OF HEALTH'S DESIGNEE FOR DEPOSIT INTO THE HEALTH CARE  
55 REFORM ACT RESOURCES FUND AUTHORIZED BY SECTION NINETY-TWO-DD OF THE  
56 STATE FINANCE LAW. THE COMMISSIONER OF HEALTH MAY PERMIT AN INDEPENDENT

1 ADJUSTER THAT HAS AT LEAST TWELVE FULL MONTHS OF PAYMENT EXPERIENCE TO  
2 MAKE ANNUAL, RATHER THAN MONTHLY PAYMENTS, BASED ON AN ANNUAL DEMON-  
3 STRATION BY THE INDEPENDENT ADJUSTER THROUGH THE ADJUSTERS PRIOR YEARS'  
4 PAYMENTS UNDER THIS SECTION THAT ITS PAYMENTS ARE NOT EXPECTED TO EXCEED  
5 TWENTY-FIVE THOUSAND DOLLARS ANNUALLY.

6 (B) FEES PAID PURSUANT TO THIS SECTION SHALL BE SUBJECT TO AUDIT AND  
7 COLLECTION BY THE COMMISSIONER OF HEALTH IN ACCORDANCE WITH THE  
8 PROVISIONS OF SUBDIVISION EIGHT-A OF SECTION TWENTY-EIGHT HUNDRED  
9 SEVEN-J OF THE PUBLIC HEALTH LAW.

10 (C) IF MORE THAN ONE INDEPENDENT ADJUSTER IS INVOLVED IN INVESTIGAT-  
11 ING, ADJUSTING OR PAYING A CLAIM ON BEHALF OF AN INSURER, THE ADJUSTERS  
12 MAY ENTER INTO AN APPORTIONMENT AGREEMENT TO SATISFY THE PAYMENT OBLI-  
13 GATIONS OF THIS SECTION. AGGREGATE PAYMENTS MUST TOTAL ONE HUNDRED  
14 PERCENT OF THE AMOUNT DUE. APPORTIONMENT AGREEMENTS AND ANY MODIFICA-  
15 TIONS, AMENDMENTS OR TERMINATIONS THEREOF MUST BE IN WRITING, SIGNED BY  
16 ALL PARTIES AND RETAINED FOR A PERIOD OF NOT LESS THAN SIX YEARS AFTER  
17 TERMINATION OF THE AGREEMENT. THE INDEPENDENT ADJUSTER SHALL MAKE THE  
18 AGREEMENT AVAILABLE TO THE COMMISSIONER OF HEALTH UPON REQUEST FOR AUDIT  
19 VERIFICATION PURPOSES.

20 (D) THE FEE REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL NOT BE  
21 ASSESSED UPON INSURANCE CLAIMS INVESTIGATED, ADJUSTED OR PAID IN  
22 CONJUNCTION WITH:

23 (1) PART A OR B OF TITLE XVIII OF THE SOCIAL SECURITY ACT;

24 (2) TITLE XIX OF THE SOCIAL SECURITY ACT;

25 (3) THE FEDERAL EMPLOYEE HEALTH BENEFITS ACT, CHAPTER 5 U.S. CODE,  
26 SECTION 8901-8913;

27 (4) THE CHILD HEALTH INSURANCE PROGRAM AUTHORIZED BY SECTION  
28 TWENTY-FIVE HUNDRED ELEVEN OF THE PUBLIC HEALTH LAW;

29 (5) THE FAMILY HEALTH PLUS PROGRAM AUTHORIZED BY SECTION THREE HUNDRED  
30 SIXTY-NINE-EE OF THE SOCIAL SERVICES LAW;

31 (6) CLAIMS ARISING UNDER AN INSURANCE CONTRACT ISSUED BY AN INSURER  
32 SUBJECT TO THE FRANCHISE TAX ON GROSS DIRECT PREMIUMS PURSUANT TO ARTI-  
33 CLE THIRTY-THREE OF THE TAX LAW;

34 (7) CLAIMS ARISING UNDER AN INSURANCE CONTRACT ISSUED BY AN INSURER  
35 LICENSED UNDER ARTICLE FORTY-THREE, FORTY-FIVE, FORTY-SEVEN OR  
36 SIXTY-SEVEN OF THIS CHAPTER OR THE STATE INSURANCE FUND;

37 (8) CLAIMS ARISING UNDER A CONTRACT ISSUED BY A LICENSED HEALTH MAIN-  
38 TENANCE ORGANIZATION PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH  
39 LAW;

40 (9) CLAIMS ARISING UNDER A CONTRACT ISSUED BY A CHARITABLE ANNUITY  
41 SOCIETY THAT COMPLIES WITH THE REQUIREMENTS OF SECTION ONE THOUSAND ONE  
42 HUNDRED TEN OF THIS CHAPTER; OR

43 (10) CLAIMS ARISING UNDER AN INSURANCE POLICY, WHERE THE GROSS PREMIUM  
44 IS TAXABLE PURSUANT TO SUBSECTION (D) OF SECTION TWO THOUSAND ONE  
45 HUNDRED EIGHTEEN OF THIS CHAPTER.

46 S 123-a. Subdivision 1 of section 2807-y of the public health law, as  
47 added by section 67 of part B of chapter 58 of the laws of 2005, is  
48 amended to read as follows:

49 1. For periods on and after January first, two thousand five, the  
50 commissioner is authorized to contract with the article forty-three  
51 insurance law plans, or such other contractors as the commissioner shall  
52 designate, to receive and distribute funds from the allowances [and],  
53 assessments AND FEES established pursuant to:

54 (a) subdivision eighteen of section twenty-eight hundred seven-c of  
55 this article;

56 (b) section twenty-eight hundred seven-j of this article;

- (c) section twenty-eight hundred seven-s of this article;  
(d) section twenty-eight hundred seven-t of this article;  
(e) section twenty-eight hundred seven-v of this article;  
(f) section twenty-eight hundred seven-d of this article;  
(g) section thirty-six hundred fourteen-a of this chapter; [and]  
(h) section three hundred sixty-seven-i of the social services law[.];

AND

(I) SECTION NINE THOUSAND ONE HUNDRED TWELVE OF THE INSURANCE LAW.

S 123-b. Subdivision 8-a of section 2807-j of the public health law is amended by adding a new paragraph (g) to read as follows:

(G) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION ONE HUNDRED TWELVE OR ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW OR ANY OTHER LAW, AT THE DISCRETION OF THE COMMISSIONER WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, CONTRACTS IN EFFECT AS OF APRIL FIRST, TWO THOUSAND NINE FOR THE PURPOSE OF CONDUCTING AUDITS OF PAYOR AND PROVIDER COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND SECTIONS TWENTY-EIGHT HUNDRED SEVEN-S AND TWENTY-EIGHT HUNDRED SEVEN-T OF THIS ARTICLE MAY BE AMENDED AS NECESSARY FOR THE PURPOSE OF CONDUCTING PAYOR COMPLIANCE AUDITS WITH REGARD TO THE REQUIREMENTS OF SUBDIVISION THIRTEEN OF THIS SECTION AND SECTION NINE THOUSAND ONE HUNDRED TWELVE OF THE INSURANCE LAW.

S 124. Paragraph (kk) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(kk) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds -- other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of [Medicaid] MEDICAL ASSISTANCE PROGRAM expenditures [for pharmacy services] from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

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

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

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

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

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

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

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

(viii) [up to five hundred fifty-one million dollars for the period] WITHIN AMOUNTS APPROPRIATED ON AND AFTER January first, two thousand nine [through December thirty-first, two thousand nine;



(ix) up to three hundred twenty million six hundred twenty-five thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) up to sixty-one million one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven].

S 125. Paragraphs (a) and (b) of subdivision 2 of section 480-a of the tax law, as added by chapter 190 of the laws of 1990, are amended to read as follows:

(a) (I) Every retail dealer and every person owning or, if the owner is not the operator, then any person operating one or more vending machines through which cigarettes or tobacco products are sold in this state, who is required under section eleven hundred thirty-six of this chapter to file a return for the quarterly period ending on the last day of August, nineteen hundred ninety or for the quarterly period ending on the last day of August in any year thereafter, [shall] MUST file an application for registration under this section with [such] THAT quarterly return, in such form as shall be prescribed by the commissioner [of taxation and finance].

(II) Each retail dealer [shall] MUST pay an application fee with [such] THE quarterly return [of one hundred dollars] DESCRIBED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH for each retail place of business in this state through which it sells cigarettes or tobacco products, WHICH IS BASED ON GROSS SALES OF THAT PLACE OF BUSINESS DURING THE PREVIOUS CALENDAR YEAR. THE APPLICATION FEE IS: ONE THOUSAND DOLLARS FOR EACH RETAIL LOCATION WITH GROSS SALES TOTALING LESS THAN ONE MILLION DOLLARS; TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH RETAIL LOCATION WITH GROSS SALES TOTALING AT LEAST ONE MILLION DOLLARS BUT LESS THAN TEN MILLION DOLLARS; AND FIVE THOUSAND DOLLARS FOR EACH RETAIL LOCATION WITH GROSS SALES TOTALING AT LEAST TEN MILLION DOLLARS.

(III) Every person who owns or, if the owner is not the operator, then any person who operates one or more vending machines through which cigarettes or tobacco products are sold in this state, regardless of whether located on the premises of the vending machine owner or, if the owner is not the operator, then the premises of the operator or the premises of any other person, [shall] MUST pay an application fee with [such] THE quarterly return [of twenty-five dollars] DESCRIBED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH for each [such] vending machine, WHICH IS BASED ON GROSS SALES OF THAT VENDING MACHINE DURING THE PREVIOUS CALENDAR YEAR. THE APPLICATION FEE IS: TWO HUNDRED FIFTY DOLLARS FOR EACH VENDING MACHINE WITH GROSS SALES TOTALING LESS THAN ONE HUNDRED THOUSAND DOLLARS; SIX HUNDRED TWENTY-FIVE DOLLARS FOR EACH VENDING MACHINE WITH GROSS SALES TOTALING AT LEAST ONE HUNDRED THOUSAND DOLLARS BUT LESS THAN ONE MILLION DOLLARS; AND ONE THOUSAND TWO HUNDRED FIFTY DOLLARS FOR EACH VENDING MACHINE WITH GROSS SALES TOTALING AT LEAST ONE MILLION DOLLARS. The department [shall] WILL issue a registration certificate, as prescribed by the commissioner [of taxation and finance], after receipt of a registration application and the appropriate registration fee, prior to the next succeeding January first.

(b) Every retail dealer and every person who owns or, if the owner is not the operator, then any person who operates one or more vending machines through which cigarettes or tobacco products are sold in this state who commences business after the last day of August, nineteen hundred ninety, or who commences selling cigarettes or tobacco products at retail through a new or different place of business in this state after such date, or who commences selling cigarettes or tobacco products

1 through new or different vending machines after such date, [shall] MUST  
2 file with the commissioner [of taxation and finance] an application for  
3 registration, in a form prescribed by him OR HER, at least thirty days  
4 prior to commencing [such] business or commencing [such] sales. Each  
5 [such] application [shall] MUST be accompanied by an application fee [of  
6 one hundred dollars] for each retail place of business [to be regis-  
7 tered] and [twenty-five dollars for] each vending machine to be regis-  
8 tered. THE AMOUNT OF THE APPLICATION FEE IS DETERMINED BY SUBPARAGRAPHS  
9 (II) AND (III) OF PARAGRAPH (A) OF THIS SUBDIVISION, EXCEPT THAT ANY  
10 RETAIL LOCATION OR VENDING MACHINE WITH ZERO DOLLARS IN GROSS SALES  
11 DURING THE PREVIOUS CALENDAR YEAR IS SUBJECT TO THE LOWEST APPLICATION  
12 FEE REQUIRED BY SUCH SUBPARAGRAPHS. The department, within ten days  
13 after receipt of an application for registration under this paragraph  
14 and payment of the proper fee for application for registration, [shall]  
15 WILL issue a registration certificate, as prescribed by the commission-  
16 er, for each retail place of business or cigarette or tobacco products  
17 vending machine registered.

18 S 125-a. Subdivision 3 of section 480-a of the tax law, as amended by  
19 chapter 262 of the laws of 2000, is amended to read as follows:

20 3. In addition to any other penalty imposed by this chapter: (a) Any  
21 retail dealer who violates the provisions of this section [shall], after  
22 due notice and an opportunity for a hearing, for a first violation [be]  
23 IS liable for a civil fine not less than five [hundred] THOUSAND dollars  
24 but not to exceed [two] TWENTY-FIVE thousand dollars and for a second or  
25 subsequent violation within three years following a prior finding of  
26 violation [be] IS liable for a civil fine not less than [one] TEN thou-  
27 sand dollars but not to exceed [three thousand five hundred] THIRTY-FIVE  
28 THOUSAND dollars; or

29 (b) Any person who owns or, if the owner is not the operator, then any  
30 person who operates one or more vending machines through which ciga-  
31 rettes or tobacco products are sold in this state and who violates the  
32 provisions of this section [shall], after due notice and an opportunity  
33 for a hearing, for a first violation [be] IS liable for a civil fine not  
34 less than [seventy-five] SEVEN HUNDRED FIFTY dollars but not to exceed  
35 two [hundred] THOUSAND dollars and for a second or subsequent violation  
36 within three years following a prior finding of violation be liable for  
37 a civil fine not less than two [hundred] THOUSAND dollars but not to  
38 exceed six [hundred] THOUSAND dollars.

39 S 125-b. Section 482 of the tax law, as amended by section 3 of part  
40 RR-1 of chapter 57 of the laws of 2008, is amended to read as follows:

41 S 482. Deposit and disposition of revenue. (A) All taxes, fees, inter-  
42 est and penalties collected or received by the commissioner under this  
43 article and article twenty-A of this chapter shall be deposited and  
44 disposed of pursuant to the provisions of section one hundred seventy-  
45 one-a of this chapter. (B) From the taxes, interest and penalties  
46 collected or received by the commissioner under sections four hundred  
47 seventy-one and four hundred seventy-one-a of this article, effective on  
48 and after March first, two thousand, forty-nine and fifty-five  
49 hundredths, and effective on and after February first, two thousand two,  
50 forty-three and seventy hundredths; and effective on and after May  
51 first, two thousand two, sixty-four and fifty-five hundredths; and  
52 effective on and after April first, two thousand three, sixty-one and  
53 twenty-two hundredths percent; and effective on and after June third,  
54 two thousand eight, seventy and sixty-three hundredths percent collected  
55 or received under [such] THOSE sections [shall] MUST be deposited to the  
56 credit of the tobacco control and insurance initiatives pool to be

1 established and distributed by the commissioner of health in accordance  
2 with section twenty-eight hundred seven-v of the public health law. (C)  
3 FROM THE FEES COLLECTED OR RECEIVED BY THE COMMISSIONER UNDER SUBDIVI-  
4 SION TWO OF SECTION FOUR HUNDRED EIGHTY-A OF THIS ARTICLE, EFFECTIVE ON  
5 OR AFTER SEPTEMBER FIRST, TWO THOUSAND NINE, ANY MONIES COLLECTED OR  
6 RECEIVED UNDER THAT SECTION IN EXCESS OF THREE MILLION DOLLARS MUST BE  
7 DEPOSITED TO THE CREDIT OF THE TOBACCO CONTROL AND INSURANCE INITIATIVES  
8 POOL TO BE DISTRIBUTED BY THE COMMISSIONER OF HEALTH IN ACCORDANCE WITH  
9 SECTION TWENTY-EIGHT HUNDRED SEVEN-V OF THE PUBLIC HEALTH LAW.

10 S 125-c. Subdivisions (a) and (b) of section 92-dd of the state  
11 finance law, as added by section 89 of part B of chapter 58 of the laws  
12 of 2005, are amended to read as follows:

13 (a) On and after April first, two thousand five, such fund shall  
14 consist of the revenues heretofore and hereafter collected or required  
15 to be deposited pursuant to paragraph (a) of subdivision eighteen of  
16 section twenty-eight hundred seven-c, and sections twenty-eight hundred  
17 seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t  
18 of the public health law, SUBDIVISIONS (B) AND (C) OF section four  
19 hundred eighty-two of the tax law and required to be credited to the  
20 tobacco control and insurance initiatives pool, subparagraph (O) of  
21 paragraph four of subsection (j) of section four thousand three hundred  
22 one of the insurance law, section twenty-seven of part A of chapter one  
23 of the laws of two thousand two and all other moneys credited or trans-  
24 ferred thereto from any other fund or source pursuant to law.

25 (b) The pool administrator under contract with the commissioner of  
26 health pursuant to section twenty-eight hundred seven-y of the public  
27 health law shall continue to collect moneys required to be collected or  
28 deposited pursuant to paragraph (a) of subdivision eighteen of section  
29 twenty-eight hundred seven-c, and sections twenty-eight hundred seven-j,  
30 twenty-eight hundred seven-s and twenty-eight hundred seven-t of the  
31 public health law, and shall deposit such moneys in the HCRA resources  
32 fund. The comptroller shall deposit moneys collected or required to be  
33 deposited pursuant to SUBDIVISIONS (B) AND (C) OF section four hundred  
34 eighty-two of the tax law and required to be credited to the tobacco  
35 control and insurance initiatives pool, subparagraph (O) of paragraph  
36 four of subsection (j) of section four thousand three hundred one of the  
37 insurance law, section twenty-seven of part A of chapter one of the laws  
38 of two thousand two and all other moneys credited or transferred thereto  
39 from any other fund or source pursuant to law in the HCRA resources  
40 fund.

41 S 125-d. Clause (i) of subparagraph 7 of paragraph (a) subdivision 2  
42 of section 366 of the social services law, as added by section 47 of  
43 part C of chapter 58 of the laws of 2008, is amended to read as follows:

44 (i) The amounts for one and two person households and families shall  
45 be equal to twelve times the standard of monthly need IN EFFECT ON MAY  
46 THIRTY-FIRST, TWO THOUSAND NINE OR SUCH HIGHER STANDARD AS MAY BE ESTAB-  
47 LISHED for determining eligibility for and the amount of additional  
48 state payments for aged, blind and disabled persons pursuant to section  
49 two hundred nine of this article rounded up to the next highest one  
50 hundred dollars for eligible individuals and couples living alone,  
51 respectively.

52 S 126. Notwithstanding any inconsistent provision of law, rule or  
53 regulation, for purposes of implementing the provisions of the public  
54 health law and the social services law, references to titles XIX and XXI  
55 of the federal social security act in the public health law and the

1 social services law shall be deemed to include and also to mean any  
2 successor titles thereto under the federal social security act.

3 S 127. Notwithstanding any inconsistent provision of law, rule or  
4 regulation, the effectiveness of subdivisions 4, 7, 7-a and 7-b of  
5 section 2807 of the public health law and section 18 of chapter 2 of the  
6 laws of 1988, as they relate to time frames for notice, approval or  
7 certification of rates of payment, are hereby suspended and shall, for  
8 purposes of implementing the provisions of this act, be deemed to have  
9 been without any force or effect from and after October 1, 2008 for such  
10 rates effective for the period January 1, 2008 through December 31,  
11 2008.

12 S 128. Severability clause. If any clause, sentence, paragraph, subdi-  
13 vision, section or part of this act shall be adjudged by any court of  
14 competent jurisdiction to be invalid, such judgment shall not affect,  
15 impair or invalidate the remainder thereof, but shall be confined in its  
16 operation to the clause, sentence, paragraph, subdivision, section or  
17 part thereof directly involved in the controversy in which such judgment  
18 shall have been rendered. It is hereby declared to be the intent of the  
19 legislature that this act would have been enacted even if such invalid  
20 provisions had not been included herein.

21 S 129. This act shall take effect immediately and shall be deemed to  
22 have been in full force and effect on and after March 1, 2009; provided  
23 that:

24 (a) sections forty-three, forty-four, seventy-four and seventy-eight  
25 through eighty-one of this act shall take effect April 1, 2009;

26 (b) sections forty-five and seventy-three of this act shall take  
27 effect June 1, 2009;

28 (c) sections two through ten, twelve through twenty-three, twenty-five  
29 through twenty-seven, sixty-two and one hundred four through one hundred  
30 twelve of this act shall take effect July 1, 2009;

31 (d) sections twenty-nine, thirty-eight through forty-two, forty-six,  
32 forty-seven, forty-eight and seventy-five of this act shall take effect  
33 September 1, 2009;

34 (e) sections fifty through fifty-nine, one hundred twenty-two and one  
35 hundred twenty-three of this act shall take effect October 1, 2009;

36 (f) sections sixty, sixty-one, sixty-three through sixty-seven,  
37 sixty-seven-a, seventy-seven-b, one hundred eighteen and one hundred  
38 nineteen of this act shall take effect April 1, 2010;

39 (g) section twenty-five of this act shall expire and be deemed  
40 repealed April 1, 2013;

41 (h) section twenty-six of this act shall expire and be deemed repealed  
42 April 1, 2014;

43 (h-1) section one hundred twenty-five of this act applies only to fees  
44 related to applications for registration for the 2010 calendar year and  
45 thereafter;

46 (h-2) sections one hundred twenty-five-a, one hundred twenty-five-b,  
47 and one hundred twenty-five-c of this act shall take effect September 1,  
48 2009.

49 (i) any rules or regulations necessary to implement the provisions of  
50 this act may be promulgated and any procedures, forms, or instructions  
51 necessary for such implementation may be adopted and issued on or after  
52 the date this act shall have become a law;

53 (j) this act shall not be construed to alter, change, affect, impair  
54 or defeat any rights, obligations, duties or interests accrued, incurred  
55 or conferred prior to the effective date of this act;

1 (k) the commissioner of health and the superintendent of insurance and  
2 any appropriate council may take any steps necessary to implement this  
3 act prior to its effect date;

4 (l) notwithstanding any inconsistent provision of the state adminis-  
5 trative procedure act or any other provision of law, rule or regulation,  
6 the commissioner of health and the superintendent of insurance and any  
7 appropriate council is authorized to adopt or amend or promulgate on an  
8 emergency basis any regulation he or she or such council determines  
9 necessary to implement any provision of this act on its effective date;

10 (m) the provisions of this act shall become effective notwithstanding  
11 the failure of the commissioner of health or the superintendent of  
12 insurance or any council to adopt or amend or promulgate regulations  
13 implementing this act;

14 (n) the amendments to section 364-f of the social services law made by  
15 section thirty of this act shall not affect the expiration of such  
16 section and shall be deemed to expire therewith;

17 (o) the amendments to subdivision 7 of section 274 of the public  
18 health law made by section forty-five of this act shall not affect the  
19 repeal of such section and shall be deemed repealed therewith;

20 (p) the amendments to paragraph (a-1) of subdivision 4 of section  
21 365-a of the social services law made by section forty-six of this act  
22 shall not affect the expiration of such paragraph and shall be deemed to  
23 expire therewith;

24 (q) the amendments to subparagraph (iii) of paragraph (c) of subdivi-  
25 sion 6 of section 367-a of the social services law made by section  
26 forty-seven of this act shall not affect the expiration of such para-  
27 graph and shall be deemed to expire therewith;

28 (r) the amendments to subdivision 9 of section 367-a of the social  
29 services law made by sections forty-eight and forty-nine of this act  
30 shall not affect the expiration of such subdivision and shall be deemed  
31 to expire therewith;

32 (s) section 279 of the public health law as added by section fifty of  
33 this act shall not affect the repeal of article 2-A of such law and  
34 shall be deemed repealed therewith;

35 (t) section sixty-eight of this act shall take effect on the same date  
36 and in the same manner as the amendments made to subparagraph (iii) of  
37 paragraph (a) of subdivision 2 of section 369-ee of the social services  
38 law by section 28 of part E of chapter 63 of the laws of 2005, takes  
39 effect;

40 (u) the amendments to subdivision 8 of section 2510 of the public  
41 health law made by section seventy-nine of this act shall not affect the  
42 expiration of such subdivision and shall be deemed to expire therewith;

43 (v) the amendments to subdivision 5 of section 2511 of the public  
44 health law made by section eighty of this act shall not affect the expi-  
45 ration of such subdivision and shall be deemed to expire therewith;

46 (w) the amendments to section 2807-s of the public health law made by  
47 sections one hundred and one hundred fourteen of this act shall not  
48 affect the expiration of such section and shall be deemed to expire  
49 therewith;

50 (x) the amendments to paragraph (c) of subdivision 5-a of section  
51 2807-k of the public health law made by section one hundred two of this  
52 act shall not affect the expiration of such subdivision and shall be  
53 deemed to expire therewith;

54 (y) the amendments to subdivision one of section 241 of the elder law  
55 made by section one hundred five of this act shall not affect the expi-  
56 ration of such subdivision and shall be deemed to expire therewith; and

(z) the amendments to section 2807-j of the public health law made by sections one hundred thirteen and one hundred twenty-three-b of this act shall not affect the expiration of such section and shall be deemed to expire therewith.

## PART D

Section 1. The legislature finds that New York leads the nation in Medicaid spending on long-term care services and that Medicaid spending on home and personal care services are among the fastest growing areas of Medicaid expenditure despite the fact that the number of beneficiaries receiving these services has not increased. Current processes for assessing the service needs of elderly and disabled beneficiaries do not consistently result in appropriate placement and services and show wide variation across the state. Current reimbursement levels and methodologies do not ensure quality or efficiency, with providers in the same community serving comparable populations receiving markedly different Medicaid payments. It is the intent of this legislation to ensure that elderly and disabled beneficiaries have access to the right level of care in the most appropriate setting; to implement transparent and accurate reimbursement systems for nursing and home care services; and to reward quality and efficiency as well as to make targeted investments to improve long-term care services.

S 1-a. Short title. This act shall be known and may be cited as "The Long-Term Care Reform Act".

S 2. Subdivision 2-b of section 2808 of the public health law is amended by adding a new paragraph (h) to read as follows:

(H) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW OR REGULATION, THIS SUBDIVISION SHALL BE NULL AND VOID AS OF MARCH FIRST, TWO THOUSAND NINE.

S 3. Section 2808 of the public health law is amended by adding a new subdivision 2-c to read as follows:

2-C. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, THE OPERATING COSTS OF RATES OF PAYMENT BY GOVERNMENTAL AGENCIES FOR INPATIENT SERVICES PROVIDED ON AND AFTER MARCH FIRST, TWO THOUSAND NINE SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING:

(I) THE OPERATING COST COMPONENT OF FACILITIES' RATES WILL BE COMPUTED ON A REGIONAL BASIS, USING ALLOWABLE OPERATING COSTS, AS DETERMINED BY THE COMMISSIONER, FROM THE TWO THOUSAND FIVE CERTIFIED COST REPORTS FROM FACILITIES ON FILE WITH THE DEPARTMENT AS OF DECEMBER FIRST, TWO THOUSAND EIGHT, AS ADJUSTED FOR INFLATION IN ACCORDANCE WITH PARAGRAPH (C) OF SUBDIVISION TEN OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE. FOR THE PURPOSE OF THIS PARAGRAPH, THE REGIONS OF THE STATE SHALL BE AS FOLLOWS:

(A) NEW YORK CITY, CONSISTING OF THE COUNTIES OF BRONX, NEW YORK, KINGS, QUEENS AND RICHMOND;

(B) LONG ISLAND, CONSISTING OF THE COUNTIES OF NASSAU AND SUFFOLK;

(C) NORTHERN METROPOLITAN, CONSISTING OF THE COUNTIES OF COLUMBIA, DELAWARE, DUTCHESS, ORANGE, PUTNAM, ROCKLAND, SULLIVAN, ULSTER AND WEST-CHESTER;

(D) NORTHEAST CONSISTING OF THE COUNTIES OF ALBANY, CLINTON, ESSEX, FULTON, GREENE, MONTGOMERY, RENSSELAER, SARATOGA, SCHENECTADY, SCHOHAR-IE, WARREN AND WASHINGTON;

1 (E) UTICA/WATERTOWN, CONSISTING OF THE COUNTIES OF FRANKLIN, HAMILTON,  
2 HERKIMER, LEWIS, OSWEGO, OTSEGO, ST. LAWRENCE, JEFFERSON, CHENANGO,  
3 MADISON AND ONEIDA;

4 (F) CENTRAL, CONSISTING OF THE COUNTIES OF BROOME, CAYUGA, CHEMUNG,  
5 CORTLAND, ONONDAGA, SCHUYLER, STEUBEN, TIOGA AND TOMPKINS;

6 (G) ROCHESTER, CONSISTING OF MONROE, ONTARIO, LIVINGSTON, SENECA,  
7 WAYNE AND YATES; AND

8 (H) WESTERN, CONSISTING OF THE COUNTIES OF ALLEGANY, CATTARAUGUS,  
9 CHAUTAUQUA, ERIE, GENESEE, NIAGARA, ORLEANS AND WYOMING.

10 (II) THE CAPITAL COMPONENT OF RATES ON AND AFTER JANUARY FIRST, TWO  
11 THOUSAND NINE SHALL FULLY REFLECT THE COST OF LOCAL PROPERTY TAXES AND  
12 PAYMENTS MADE IN LIEU OF LOCAL PROPERTY TAXES, AS REPORTED IN EACH  
13 FACILITY'S COST REPORT SUBMITTED FOR THE YEAR TWO YEARS PRIOR TO THE  
14 RATE YEAR.

15 (III) THE DIRECT COMPONENT OF THE OPERATING COMPONENT OF RATES SHALL  
16 BE SUBJECT TO CASE MIX ADJUSTMENT THROUGH APPLICATION OF THE MINIMUM  
17 DATA SET (MDS) CLASSIFICATION EMPLOYED BY THE FEDERAL GOVERNMENT WITH  
18 REGARD TO PAYMENTS TO SKILLED NURSING FACILITIES PURSUANT TO TITLE XVIII  
19 OF THE FEDERAL SOCIAL SECURITY ACT (MEDICARE) TO REFLECT PATIENT SERVICE  
20 INTENSITY, AS MAY BE ADJUSTED BY THE COMMISSIONER. SUCH ADJUSTMENTS  
21 SHALL BE MADE SEMI-ANNUALLY IN EACH CALENDAR YEAR, AND BOTH THE ADJUST-  
22 MENTS AND THE RELATED PATIENT CLASSIFICATIONS IN EACH FACILITY SHALL BE  
23 SUBJECT TO AUDIT REVIEW IN ACCORDANCE WITH REGULATIONS PROMULGATED BY  
24 THE COMMISSIONER.

25 (IV) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY  
26 OTHER CONTRARY PROVISION OF LAW, RULE OR REGULATION, RATES OF PAYMENT  
27 FOR INPATIENT SERVICES PROVIDED ON AND AFTER MARCH FIRST, TWO THOUSAND  
28 NINE BY RESIDENTIAL HEALTH CARE FACILITIES SHALL, EXCEPT FOR THE ESTAB-  
29 LISHMENT OF ANY REGIONAL PRICES, BE CALCULATED UTILIZING ONLY THE NUMBER  
30 OF PATIENTS PROPERLY ASSESSED AND REPORTED IN EACH PATIENT CLASSIFICA-  
31 TION GROUP AND ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN  
32 OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW.

33 (V) NOTWITHSTANDING SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVI-  
34 SION, THE OPERATING COST COMPONENT OF THE RATES, EFFECTIVE MARCH FIRST,  
35 TWO THOUSAND NINE FOR THE FOLLOWING CATEGORIES OF FACILITIES, AS ESTAB-  
36 LISHED PURSUANT TO APPLICABLE REGULATIONS, SHALL REFLECT THE RATES IN  
37 EFFECT FOR SUCH FACILITIES ON DECEMBER THIRTY-FIRST, TWO THOUSAND SIX,  
38 AS ADJUSTED FOR INFLATION IN ACCORDANCE WITH PARAGRAPH (C) OF SUBDIVI-  
39 SION TEN OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE: (A)  
40 AIDS FACILITIES OR DISCRETE AIDS UNITS WITHIN FACILITIES, (B) DISCRETE  
41 UNITS FOR RESIDENTS RECEIVING CARE IN A LONG-TERM INPATIENT REHABILI-  
42 TATION PROGRAM FOR TRAUMATIC BRAIN INJURED PERSONS, (C) DISCRETE UNITS  
43 PROVIDING SPECIALIZED PROGRAMS FOR RESIDENTS REQUIRING BEHAVIORAL INTER-  
44 VENTIONS, (D) DISCRETE UNITS FOR LONG-TERM VENTILATOR DEPENDENT RESI-  
45 DENTS, AND (E) FACILITIES OR DISCRETE UNITS WITHIN FACILITIES THAT  
46 PROVIDE EXTENSIVE NURSING, MEDICAL, PSYCHOLOGICAL AND COUNSELING SUPPORT  
47 SERVICES SOLELY TO CHILDREN. SUCH RATE SHALL REMAIN IN EFFECT UNTIL THE  
48 DEPARTMENT, IN CONSULTATION WITH REPRESENTATIVES OF THE NURSING HOME  
49 INDUSTRY, AS SELECTED BY THE COMMISSIONER, DEVELOPS A REGIONAL PRICING  
50 OR ALTERNATIVE METHODOLOGY FOR DETERMINING SUCH RATES.

51 (B) THE OPERATING COMPONENT OF RATES OF PAYMENT, AS ADJUSTED FOR  
52 INFLATION IN ACCORDANCE WITH SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS  
53 SUBDIVISION, SHALL, BY NO LATER THAN THE TWO THOUSAND TWELVE RATE PERI-  
54 OD, BE BASED ON ALLOWABLE COSTS, AS REPORTED ON ANNUAL FACILITY COST  
55 REPORTS SUBMITTED AS REQUIRED BY THE COMMISSIONER, FROM A BASE YEAR  
56 PERIOD NO EARLIER THAN THREE YEARS PRIOR TO THE INITIAL RATE YEAR.

1 THEREAFTER, THE BASE YEAR UTILIZED FOR RATE-SETTING PURPOSES SHALL BE  
2 UPDATED TO BE CURRENT NO LESS FREQUENTLY THAN EVERY SIX YEARS; PROVIDED,  
3 HOWEVER, THAT FOR THE PURPOSES OF THIS PARAGRAPH, CURRENT SHALL MEAN  
4 THAT THE OPERATING COMPONENTS OF THE INITIAL RATE YEAR, UTILIZING SUCH  
5 UPDATED BASE YEAR, SHALL REFLECT ALLOWABLE COSTS AS REPORTED IN ANNUAL  
6 FACILITY COST REPORTS FOR PERIODS NO EARLIER THAN THREE YEARS PRIOR TO  
7 SUCH INITIAL RATE YEAR, AS ADJUSTED FOR INFLATION IN ACCORDANCE WITH  
8 SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS SUBDIVISION.

9 (C) THE OPERATING COMPONENT OF RATES MAY BE ADJUSTED TO REFLECT A PER  
10 DIEM ADD-ON, AS DETERMINED BY THE COMMISSIONER, FOR THE FOLLOWING  
11 PATIENTS: (I) EACH PATIENT WHOSE BODY MASS INDEX IS GREATER THAN THIR-  
12 TY-FIVE; (II) EACH PATIENT WHO QUALIFIES UNDER THE RUG-III IMPAIRED  
13 COGNITION AND BEHAVIORAL PROBLEMS CATEGORIES, OR HAS BEEN DIAGNOSED WITH  
14 ALZHEIMER'S DISEASE OR DEMENTIA, AND IS CLASSIFIED IN THE REDUCED PHYS-  
15 ICAL FUNCTIONS A, B, OR C, OR IN BEHAVIORAL PROBLEMS A OR B CATEGORIES,  
16 AND HAS AN ACTIVITIES OF DAILY LIVING INDEX SCORE OF LESS THAN TEN;  
17 (III) EACH PATIENT WHO QUALIFIES FOR EXTENDED CARE AS A RESULT OF TRAU-  
18 MATIC BRAIN INJURY AS DEFINED BY APPLICABLE REGULATIONS.

19 (D) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION OR  
20 ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER MAY, SUBJECT TO  
21 THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, MAKE ADDITIONAL  
22 TRANSITION ADJUSTMENTS TO RATES OF PAYMENT FOR RESIDENTIAL HEALTH CARE  
23 FACILITIES FOR THE PERIODS BEGINNING MARCH FIRST, TWO THOUSAND NINE  
24 THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN TO FACILITATE  
25 IMPROVEMENTS IN RESIDENTIAL HEALTH CARE FACILITIES OPERATIONS AND  
26 FINANCES IN ACCORDANCE WITH THE FOLLOWING:

27 (I) RESIDENTIAL HEALTH CARE FACILITIES ELIGIBLE FOR DISTRIBUTIONS  
28 PURSUANT TO THIS PARAGRAPH SHALL BE THOSE NON-PUBLIC FACILITIES AND  
29 STATE OPERATED PUBLIC RESIDENTIAL HEALTH CARE FACILITIES, WHICH HAVE AN  
30 AVERAGE ANNUAL MEDICAID UTILIZATION PERCENTAGE OF FIFTY PERCENT OR  
31 GREATER, FOR THE PERIOD TWO YEARS PRIOR TO THE RATE YEAR AND WHICH, AS  
32 DETERMINED BY THE COMMISSIONER, EXPERIENCE A REDUCTION IN THEIR MEDICAID  
33 REVENUE OF A PERCENTAGE AS DETERMINED BY THE COMMISSIONER AS A RESULT OF  
34 THE APPLICATION OF REGIONAL PRICING AS DESCRIBED IN THIS SUBDIVISION.

35 (II) TRANSITION FUNDS DISTRIBUTED PURSUANT TO THIS PARAGRAPH SHALL BE  
36 ALLOCATED BASED ON EACH ELIGIBLE FACILITY'S RELATIVE NEED AS DETERMINED  
37 BY THE COMMISSIONER.

38 (III) TRANSITION FUNDING PURSUANT TO THIS PARAGRAPH SHALL BE AVAILABLE  
39 FOR THE FOLLOWING PERIODS AND IN THE FOLLOWING AMOUNTS:

40 (A) FOR THE PERIOD MARCH FIRST, TWO THOUSAND NINE THROUGH MARCH THIR-  
41 TY-FIRST, TWO THOUSAND TEN, UP TO SEVENTY-FIVE MILLION DOLLARS;

42 (B) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIR-  
43 TY-FIRST, TWO THOUSAND ELEVEN, UP TO SEVENTY-FIVE MILLION DOLLARS;

44 (C) FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH  
45 THIRTY-FIRST, TWO THOUSAND TWELVE, UP TO FIFTY MILLION DOLLARS;

46 (D) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH  
47 THIRTY-FIRST, TWO THOUSAND THIRTEEN, UP TO TWENTY-FIVE MILLION DOLLARS.

48 (IV) PAYMENTS MADE PURSUANT TO THIS PARAGRAPH SHALL NOT BE SUBJECT TO  
49 RETROACTIVE ADJUSTMENT OR RECONCILIATION AND MAY BE ADDED TO RATES OF  
50 PAYMENT OR MADE AS LUMP SUM PAYMENTS.

51 (V) EACH RESIDENTIAL HEALTH CARE FACILITY RECEIVING FUNDS PURSUANT TO  
52 THIS PARAGRAPH SHALL, AS A CONDITION FOR ELIGIBILITY FOR SUCH FUNDS,  
53 ADOPT A RESOLUTION OF THE BOARD OF DIRECTORS OR SUBMIT A REPORT BY THE  
54 OWNER ACCEPTABLE TO THE COMMISSIONER SETTING FORTH ITS CURRENT FINANCIAL  
55 CONDITION AND A PLAN FOR REFORMING AND IMPROVING SUCH FINANCIAL CONDI-  
56 TION, INCLUDING ONGOING BOARD OR OWNER OVERSIGHT, AND SHALL, AFTER TWO



1 YEARS, ISSUE A REPORT AS ADOPTED BY EACH SUCH BOARD OR ISSUE A FURTHER  
2 REPORT BY THE OWNER ACCEPTABLE TO THE COMMISSIONER SETTING FORTH WHAT  
3 PROGRESS HAS BEEN ACHIEVED REGARDING SUCH IMPROVEMENT, PROVIDED, HOWEV-  
4 ER, IF SUCH FURTHER REPORT IS NOT SUBMITTED TO THE COMMISSIONER, OR IF  
5 SUCH FURTHER REPORT FAILS TO SET FORTH ADEQUATE PROGRESS, AS DETERMINED  
6 BY THE COMMISSIONER, THE COMMISSIONER MAY DEEM SUCH FACILITY INELIGIBLE  
7 FOR FURTHER DISTRIBUTIONS PURSUANT TO THIS PARAGRAPH AND MAY REDISTRIB-  
8 UTE SUCH FURTHER DISTRIBUTIONS TO OTHER ELIGIBLE FACILITIES IN ACCORD-  
9 ANCE WITH THE PROVISIONS OF THIS PARAGRAPH. THE COMMISSIONER SHALL BE  
10 PROVIDED WITH COPIES OF ALL SUCH RESOLUTIONS AND REPORTS.

11 (E) THE COMMISSIONER MAY PROMULGATE REGULATIONS, INCLUDING EMERGENCY  
12 REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

13 S 4. Subdivision 11 of section 2808 of the public health law, as  
14 amended by chapter 474 of the laws of 1996, is amended to read as  
15 follows:

16 11. Residential health care facility reimbursement rate promulgation.  
17 With regard to a residential health care facility, the provisions of  
18 [paragraph (a) of] subdivision seven of section twenty-eight hundred  
19 seven of this article relating to advance notification of rates shall  
20 not apply to prospective or retroactive adjustments to rates that are  
21 based on rate appeals filed by such facility, audits, changes in patient  
22 conditions or acuity levels, the correction of errors or omissions of  
23 data or errors in the computations of such rates, the submission of cost  
24 report data from facilities without an established cost basis, the judi-  
25 cial annulment or invalidation of existing rates or changes in the meth-  
26 odology used to compute rates which changes are promulgated following  
27 the judicial annulment or invalidation of existing rates or as otherwise  
28 authorized by law. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR  
29 REGULATION, AS OF MARCH FIRST, TWO THOUSAND NINE, WITH REGARD TO ADMIN-  
30 ISTRACTIVE RATE APPEALS, THE DEPARTMENT WILL ONLY REVIEW SUCH APPEALS FOR  
31 (A) THE CORRECTION OF COMPUTATIONAL ERRORS OR OMISSIONS OF DATA BY THE  
32 DEPARTMENT IN DETERMINING THE OPERATING RATE BASED UPON THE INFORMATION  
33 PROVIDED TO THE DEPARTMENT PRIOR TO THE COMPUTATION OF THE RATE, (B)  
34 CAPITAL COST REIMBURSEMENT, OR (C) SUCH REASONS AS THE COMMISSIONER  
35 DETERMINES ARE APPROPRIATE. THE DEPARTMENT WILL NOT CONSIDER ANY  
36 REVISIONS MADE TO A FACILITY'S ANNUAL COST REPORT FOR OPERATING RATE  
37 ADJUSTMENT PURPOSES LATER THAN THE DUE DATE ESTABLISHED BY THE COMMIS-  
38 SIONER.

39 S 5. Paragraph d of subdivision 20 of section 2808 of the public  
40 health law is relettered paragraph e and a new paragraph d is added to  
41 read as follows:

42 D. (I) CAPITAL COST REIMBURSEMENT FOR PROPRIETARY RESIDENTIAL HEALTH  
43 CARE FACILITIES. ANY PROPRIETARY FACILITY WHICH OTHERWISE WOULD BE ENTI-  
44 TLED TO RESIDUAL REIMBURSEMENT AS PROVIDED UNDER APPLICABLE REGULATION,  
45 MAY HAVE THE CAPITAL COST COMPONENT OF ITS RATE RECALCULATED BY THE  
46 DEPARTMENT TO TAKE INTO ACCOUNT ANY CAPITAL IMPROVEMENTS AND/OR RENO-  
47 VATIONS MADE TO THE FACILITY'S EXISTING INFRASTRUCTURE FOR THE PURPOSE  
48 OF CONVERTING BEDS TO ALTERNATIVE LONG-TERM CARE USES OR PROTECTING THE  
49 HEALTH AND SAFETY OF PATIENTS, SUBJECT TO THE APPROVAL OF THE COMMIS-  
50 SIONER AND ALL APPLICABLE CERTIFICATE OF NEED REQUIREMENTS.

51 (II) THE DEPARTMENT SHALL EVALUATE THE ADEQUACY OF CURRENT CAPITAL  
52 COST REIMBURSEMENT FOR VOLUNTARY RESIDENTIAL HEALTH CARE FACILITIES.

53 S 6. Notwithstanding any contrary provision of law, if the commission-  
54 er of health determines that federal financial participation will not be  
55 available with regard to the provisions of subparagraph (ii) of para-  
56 graph (d) of subdivision 2-c of section 2808 of the public health law,

1 the commissioner of health may deem such provision null and void and  
2 instead may allocate funds pursuant to such subparagraph (ii) propor-  
3 tionally, based on each eligible facility's relative share of Medicaid  
4 days in the year two years prior to the distribution year.

5 S 7. Subdivision 21 of section 2808 of the public health law, as added  
6 by section 27 of part C of chapter 58 of the laws of 2004 and paragraphs  
7 (a), (b), (f), (g) and (h) as amended by chapter 746 of the laws of  
8 2004, is amended to read as follows:

9 21. (a) Notwithstanding any inconsistent provision of law or regu-  
10 lation to the contrary, for the purposes specified in subdivision nine-  
11 teen of this section, the commissioner shall adjust medical assistance  
12 rates of payment established pursuant to this article for services  
13 provided on and after October first, two thousand four through December  
14 thirty-first, two thousand four and annually thereafter for services  
15 provided on and after January first, two thousand five, to include a  
16 rate adjustment to assist qualifying facilities pursuant to this subdi-  
17 vision, PROVIDED, HOWEVER, THAT PUBLIC RESIDENTIAL HEALTH CARE FACILI-  
18 TIES SHALL NOT BE ELIGIBLE FOR RATE ADJUSTMENTS PURSUANT TO THIS SUBDI-  
19 VISION FOR RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE.

20 (b) Eligibility for such rate adjustments shall be determined on the  
21 basis of each residential health care facility's operating margin over  
22 the most recent three-year period for which financial data are available  
23 from the RHCF-4 cost report or the institutional cost report. For  
24 purposes of the adjustments made for the period October first, two thou-  
25 sand four through December thirty-first, two thousand four, financial  
26 information for the calendar years two thousand through two thousand two  
27 shall be utilized. For each subsequent rate year, the financial data for  
28 the three-year period ending two years prior to the applicable rate year  
29 shall be utilized for this purpose.

30 (c) Each facility's operating margin for the three-year period shall  
31 be calculated by subtracting total operating expenses for the three-year  
32 period from total operating revenues for the three-year period, and  
33 dividing the result by the total operating revenues for the three-year  
34 period, with the result expressed as a percentage. For hospital-based  
35 residential health care facilities for which an operating margin cannot  
36 be calculated on the basis of the submitted cost reports, the sponsoring  
37 hospital's overall three-year operating margin, as reported in the  
38 institutional cost report, shall be utilized for this purpose. All  
39 facilities with negative operating margins calculated in this way over  
40 the three-year period shall be arrayed into quartiles based on the  
41 magnitude of the operating margin. Any facility with a positive operat-  
42 ing margin for the most recent three-year period, a negative operating  
43 margin that places the facility in the quartile of facilities with the  
44 smallest negative operating margins, a positive total margin in the most  
45 recent year of the three year period, or an average Medicaid utilization  
46 percentage of fifty percent or less during the most recent year of the  
47 three-year period shall be disqualified from receiving an adjustment  
48 pursuant to this subdivision, PROVIDED, HOWEVER, THAT FOR RATE PERIODS  
49 ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, SUCH DISQUALIFICATION:

50 (I) SHALL NOT BE APPLIED SOLELY ON THE BASIS OF A FACILITY'S HAVING A  
51 POSITIVE TOTAL MARGIN IN THE MOST RECENT YEAR OF SUCH THREE-YEAR PERIOD;

52 (II) SHALL BE EXTENDED TO THOSE FACILITIES IN THE QUARTILE OF FACILI-  
53 TIES WITH THE SECOND SMALLEST NEGATIVE OPERATING MARGINS; AND

54 (III) SHALL ALSO BE EXTENDED TO THOSE FACILITIES WITH AN AVERAGE MEDI-  
55 CAID UTILIZATION PERCENTAGE OF LESS THAN SEVENTY PERCENT DURING THE MOST  
56 RECENT YEAR OF THE THREE-YEAR PERIOD.

1 (d) For each facility remaining after the exclusions made pursuant to  
2 paragraph (c) of this subdivision, the commissioner shall calculate the  
3 average annual operating loss for the three-year period by subtracting  
4 total operating expenses for the three-year period from total operating  
5 revenues for the three-year period, and dividing the result by three,  
6 PROVIDED, HOWEVER, THAT FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOU-  
7 SAND NINE, THE AMOUNT OF SUCH AVERAGE ANNUAL OPERATING LOSS SHALL BE  
8 REDUCED BY AN AMOUNT EQUAL TO THE AMOUNT RECEIVED BY SUCH FACILITY  
9 PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION TWO-B OF  
10 THIS SECTION. For this purpose, for hospital-based residential health  
11 care facilities for which the average annual operating loss cannot be  
12 calculated on the basis of the submitted cost reports, the sponsoring  
13 hospital's overall average annual operating loss for the three-year  
14 period shall be apportioned to the residential health care facility  
15 based on the proportion the residential health care facility's total  
16 revenues for the period bears to the total revenues reported by the  
17 sponsoring hospital, AND SUCH APPORTIONED AVERAGE ANNUAL OPERATING LOSS  
18 SHALL THEN BE REDUCED BY AN AMOUNT EQUAL TO THE AMOUNT RECEIVED BY SUCH  
19 FACILITY PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUBDIVISION  
20 TWO-B OF THIS SECTION.

21 (e) [Each] FOR PERIODS PRIOR TO APRIL FIRST, TWO THOUSAND NINE, EACH  
22 such facility's qualifying operating loss shall be determined by multi-  
23 plying the facility's average annual operating loss for the three-year  
24 period as calculated pursuant to paragraph (d) of this subdivision by  
25 the applicable percentage shown in the tables below for the quartile  
26 within which the facility's negative operating margin for the three-year  
27 period is assigned.

28 i. For a facility located in a county with a total population of two  
29 hundred thousand or more as determined by the two thousand U.S. Census:

30 First Quartile (lowest operating margins): 30 percent  
31 Second Quartile: 15 percent  
32 Third Quartile: 7.5 percent

33 ii. For a facility located in a county with a total population of fewer  
34 than two hundred thousand as determined by the two thousand U.S. Census:

35 First Quartile (lowest operating margins): 35 percent  
36 Second Quartile: 20 percent  
37 Third Quartile: 12.5 percent

38 (f) The amount of any facility's financially disadvantaged residential  
39 health care facility distribution calculated in accordance with this  
40 subdivision shall be reduced by the facility's estimated rate year bene-  
41 fit of the two thousand one update to the regional input price adjust-  
42 ment factors authorized pursuant to FORMER subdivision seventeen of this  
43 section as amended by section 24 of part C of chapter 58 of the laws of  
44 2004, OR AS AUTHORIZED BY SUBDIVISION SEVENTEEN-A OF THIS SECTION, AS  
45 ADDED BY SECTION 56 OF PART C OF CHAPTER 58 OF THE LAWS OF 2007, if any,  
46 PROVIDED, HOWEVER, THAT SUCH REDUCTION SHALL NOT BE APPLIED WITH REGARD  
47 TO RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE. After all  
48 other adjustments to a facility's financially disadvantaged residential  
49 health care facility distribution have been made in accordance with this  
50 subdivision, the amount of each facility's distribution shall be limited  
51 to no more than four hundred thousand dollars during the period October  
52 first, two thousand four through December thirty-first, two thousand

four and [during any subsequent annual rate period], ON AN ANNUALIZED BASIS, FOR RATE PERIODS THROUGH MARCH THIRTY-FIRST, TWO THOUSAND NINE, AND NO MORE THAN ONE MILLION DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND NINE AND FOR EACH ANNUAL RATE PERIOD THEREAFTER.

(g) The adjustment made to each qualifying facility's medical assistance rate of payment determined pursuant to this article shall be calculated by dividing the facility's financially disadvantaged residential health care facility distribution calculated in accordance with this subdivision by the facility's total medical assistance patient days reported in the cost report submitted two years prior to the rate year, provided however, that such rate adjustments for the period October first, two thousand four through December thirty-first, two thousand four shall be calculated based on twenty-five percent of each facility's reported total medical assistance patient days as reported in the applicable two thousand two cost report. Such amounts shall not be reconciled to reflect changes in medical assistance utilization between the year two years prior to the rate year and the rate year.

(h) The total amount of funds to be allocated and distributed as medical assistance for financially disadvantaged residential health care facility rate adjustments to eligible facilities for a rate period in accordance with this subdivision shall be thirty million dollars for the period October first, two thousand four through December thirty-first, two thousand four and thirty million dollars [for annual] ON AN ANNUALIZED BASIS FOR rate periods on and after January first, two thousand five THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHT AND FORTY MILLION DOLLARS ON AN ANNUALIZED BASIS ON AND AFTER JANUARY FIRST, TWO THOUSAND NINE. The nonfederal share of such [total shall be fifteen million dollars which] RATE ADJUSTMENTS shall be paid by the state, with no local share, from allocations made pursuant to paragraph (hh) of subdivision one of section twenty-eight hundred seven-v of this chapter. In the event the statewide total of the ANNUAL rate adjustments determined pursuant to paragraph (g) of this subdivision varies from [thirty million dollars] THE AMOUNTS SET FORTH IN THIS PARAGRAPH, each qualifying facility's rate adjustment shall be proportionately increased or decreased such that the total OF THE ANNUAL rate adjustments made pursuant to this subdivision is equal to [thirty million dollars] THE AMOUNTS SET FORTH IN THIS PARAGRAPH on a statewide basis.

(i) This subdivision shall be effective if, and as long as, federal financial participation is available for expenditures made for beneficiaries eligible for medical assistance under title XIX of the federal social security act for the rate adjustments determined in accordance with this subdivision.

(J) FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE, RESIDENTIAL HEALTH CARE FACILITIES WHICH ARE OTHERWISE ELIGIBLE FOR RATE ADJUSTMENTS PURSUANT TO THIS SUBDIVISION SHALL ALSO, AS A CONDITION FOR RECEIPT OF SUCH RATE ADJUSTMENTS, SUBMIT TO THE COMMISSIONER A WRITTEN RESTRUCTURING PLAN THAT IS ACCEPTABLE TO THE COMMISSIONER AND WHICH IS IN ACCORD WITH THE FOLLOWING:

(I) SUCH AN ACCEPTABLE PLAN SHALL BE SUBMITTED TO THE COMMISSIONER WITHIN SIXTY DAYS OF THE FACILITY'S RECEIPT OF RATE ADJUSTMENTS PURSUANT TO THIS SUBDIVISION FOR A RATE PERIOD SUBSEQUENT TO MARCH THIRTY-FIRST, TWO THOUSAND EIGHT, PROVIDED, HOWEVER, THAT FACILITIES WHICH ARE ALLOCATED FOUR HUNDRED THOUSAND DOLLARS OR LESS ON AN ANNUALIZED BASIS SHALL BE REQUIRED TO SUBMIT SUCH PLANS WITHIN ONE HUNDRED TWENTY DAYS, AND

FURTHER PROVIDED THAT THESE PERIODS MAY BE EXTENDED BY THE COMMISSIONER BY NO MORE THAN THIRTY DAYS, FOR GOOD CAUSE SHOWN; AND

(II) SUCH PLAN SHALL PROVIDE A DETAILED DESCRIPTION OF THE STEPS THE FACILITY WILL TAKE TO IMPROVE OPERATIONAL EFFICIENCY AND ALIGN ITS EXPENDITURES WITH ITS REVENUES, AND SHALL INCLUDE A PROJECTED SCHEDULE OF QUANTIFIABLE BENCHMARKS TO BE ACHIEVED IN THE IMPLEMENTATION OF THE PLAN; AND

(III) SUCH PLAN SHALL REQUIRE PERIODIC REPORTS TO THE COMMISSIONER, IN ACCORDANCE WITH A SCHEDULE ACCEPTABLE TO THE COMMISSIONER, SETTING FORTH THE PROGRESS THE FACILITY HAS MADE IN IMPLEMENTING ITS PLAN; AND

(IV) SUCH PLAN MAY INCLUDE THE FACILITY'S RETENTION OF A QUALIFIED CHIEF RESTRUCTURING OFFICER TO ASSIST IN THE IMPLEMENTATION OF THE PLAN, PROVIDED, HOWEVER, THAT THIS REQUIREMENT MAY BE WAIVED BY THE COMMISSIONER, FOR GOOD CAUSE SHOWN, UPON WRITTEN APPLICATION BY THE FACILITY.

(K) IF A RESIDENTIAL HEALTH CARE FACILITY FAILS TO SUBMIT AN ACCEPTABLE RESTRUCTURING PLAN IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (J) OF THIS SUBDIVISION, THE FACILITY SHALL, FROM THAT TIME FORWARD, BE PRECLUDED FROM RECEIPT OF ALL FURTHER RATE ADJUSTMENTS MADE PURSUANT TO THIS SUBDIVISION AND SHALL BE DEEMED INELIGIBLE FROM ANY FUTURE RE-APPLICATION FOR SUCH ADJUSTMENTS. FURTHER, IF THE COMMISSIONER DETERMINES THAT A FACILITY HAS FAILED TO MAKE SUBSTANTIAL PROGRESS IN IMPLEMENTING ITS PLAN OR IN ACHIEVING THE BENCHMARKS SET FORTH IN SUCH PLAN, THEN THE COMMISSIONER MAY, UPON THIRTY DAYS NOTICE TO THAT FACILITY, DISQUALIFY THE FACILITY FROM FURTHER PARTICIPATION IN THE RATE ADJUSTMENTS AUTHORIZED BY THIS SUBDIVISION AND THE COMMISSIONER MAY REQUIRE THE FACILITY TO REPAY SOME OR ALL OF THE PREVIOUS RATE ADJUSTMENTS.

S 8. Clause (A) of subparagraph (i) of paragraph (a) of subdivision 18 of section 2808 of the public health law, as amended by section 73-b of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(A) fifty-three million five hundred thousand dollars on an annualized basis for the period April first, two thousand two through December thirty-first, two thousand two; eighty-three million three hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three; one hundred fifteen million eight hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand six; fifty-seven million nine hundred thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven, fifty-seven million nine hundred thousand dollars for the period July first, two thousand seven through March thirty-first, two thousand eight, and [sixty-four] FIFTY-NINE million [eight] FOUR hundred thousand dollars for the period April first, two thousand eight through March [thirty-first] FIRST, two thousand nine [and twenty-six million two hundred thousand dollars for the period April first, two thousand nine through March thirty-first, two thousand ten and each state fiscal year thereafter].

S 9. Clause (A) of subparagraph (i) of paragraph (b) of subdivision 18 of section 2808 of the public health law, as amended by section 73-a of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(A) seven million five hundred thousand dollars on an annualized basis for the period April first, two thousand two through December thirty-first, two thousand two; eleven million seven hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three; sixteen million two hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand

1 six; and eight million one hundred thousand dollars for the period Janu-  
2 ary first, two thousand seven through June thirtieth, two thousand  
3 seven, eight million one hundred thousand dollars for the period July  
4 first, two thousand seven through March thirty-first, two thousand  
5 eight, [seven] SIX million [three] SIX hundred NINETY thousand dollars  
6 for the period April first, two thousand eight through March [thirty-  
7 first] FIRST, two thousand nine [and one million nine hundred thousand  
8 dollars for the period April first, two thousand nine through March  
9 thirty-first, two thousand ten and each state fiscal year thereafter].

10 S 9-a. Subdivision 5 of section 2808 of the public health law is  
11 amended by adding a new paragraph (c) to read as follows:

12 (C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION, ON  
13 AND AFTER MARCH FIRST, TWO THOUSAND NINE, NO NON-PUBLIC RESIDENTIAL  
14 HEALTH CARE FACILITY, WHETHER OPERATED AS A FOR-PROFIT FACILITY OR AS A  
15 NOT-FOR-PROFIT FACILITY, MAY WITHDRAW EQUITY OR TRANSFER ASSETS WHICH IN  
16 THE AGGREGATE EXCEED THREE PERCENT OF SUCH FACILITY'S TOTAL MEDICAID  
17 REVENUE IN THE PRIOR CALENDAR YEAR, WITHOUT THE PRIOR WRITTEN APPROVAL  
18 OF THE COMMISSIONER. THE COMMISSIONER SHALL MAKE A DETERMINATION TO  
19 APPROVE OR DISAPPROVE A REQUEST FOR WITHDRAWAL OF EQUITY OR ASSETS UNDER  
20 THIS SUBDIVISION WITHIN SIXTY DAYS OF THE DATE OF THE RECEIPT OF A WRIT-  
21 TEN REQUEST FROM THE FACILITY. REQUESTS SHALL BE MADE IN A FORM ACCEPT-  
22 ABLE TO THE DEPARTMENT BY CERTIFIED OR REGISTERED MAIL. IN ADDITION TO  
23 ANY OTHER REMEDY OR PENALTY AVAILABLE UNDER THIS CHAPTER, AND AFTER  
24 OPPORTUNITY FOR A HEARING, THE COMMISSIONER MAY REQUIRE REPLACEMENT OF  
25 THE WITHDRAWN EQUITY OR ASSETS AND MAY IMPOSE A PENALTY FOR VIOLATION OF  
26 THE PROVISIONS OF THIS SUBDIVISION IN AN AMOUNT NOT TO EXCEED TEN  
27 PERCENT OF ANY AMOUNT WITHDRAWN WITHOUT PRIOR APPROVAL.

28 S 10. Notwithstanding any inconsistent provision of law or regulation,  
29 effective March 1, 2009, for rates of payment by government agencies for  
30 impatient services provided by residential health care facilities, in  
31 determining the operating component of a facility's rate for care  
32 provided for an AIDS patient in a residential health care facility  
33 designated as an AIDS facility or having a discrete AIDS unit, the oper-  
34 ating component shall not reflect an occupancy factor increase.

35 S 11. Paragraph (a) of subdivision 1 of section 461-l of the social  
36 services law, as amended by chapter 597 of the laws of 2005, is amended  
37 to read as follows:

38 (a) "Assisted living program" means an entity or entities with identi-  
39 cal ownership, which are approved to operate pursuant to subdivision  
40 three of this section and possesses a valid operating certificate as A  
41 RESIDENTIAL HEALTH CARE FACILITY ISSUED PURSUANT TO ARTICLE TWENTY-EIGHT  
42 OF THE PUBLIC HEALTH LAW OR an adult care facility, other than a shelter  
43 for adults, a residence for adults or a family type home for adults,  
44 issued pursuant to this article and which possesses either: (i) a valid  
45 license as a home care services agency issued pursuant to section thir-  
46 ty-six hundred five of the public health law; or (ii) a valid certif-  
47 icate of approval as a certified home health agency issued pursuant to  
48 section thirty-six hundred six of the public health law; or (iii) valid  
49 authorization as a long term home health care program issued pursuant to  
50 section thirty-six hundred ten of the public health law.

51 S 12. Paragraph (c) of subdivision 1 of section 461-l of the social  
52 services law, as amended by chapter 597 of the laws of 2005, is amended  
53 to read as follows:

54 (c) "Eligible applicant" means:

55 (i) A single entity [that is]:

1 (A) THAT IS only: (1) a natural person [or]; (2) A partnership  
2 composed only of natural persons[,]; (3) a not-for-profit  
3 corporation[,]; (4) a public corporation[,]; (5) a business corporation  
4 other than a corporation whose shares are traded on a national securi-  
5 ties exchange or are regularly quoted on a national over-the-counter  
6 market or a subsidiary of such a corporation or a corporation any of the  
7 stock of which is owned by another corporation[,]; (6) a limited liabil-  
8 ity company provided that if a limited liability company has a member  
9 that is a corporation, a limited liability company or a partnership, the  
10 shareholders of the member corporation, the members of the member limit-  
11 ed liability company, or the partners of the member partnership must be  
12 natural persons[,]; (7) a social services district; or (8) other govern-  
13 mental agency [which possesses or is eligible pursuant to this article  
14 to apply for an adult care facility operating certificate]; [and]

15 (B) THAT (1) POSSESSES OR IS ELIGIBLE PURSUANT TO THIS ARTICLE TO  
16 APPLY FOR AN ADULT CARE FACILITY OPERATING CERTIFICATE; OR (2) POSSESSES  
17 A NURSING HOME OPERATING CERTIFICATE ISSUED PURSUANT TO ARTICLE TWENTY-  
18 EIGHT OF THE PUBLIC HEALTH LAW; AND

19 (C) THAT IS either: (1) an entity which possesses or is eligible  
20 pursuant to article thirty-six of the public health law to apply for  
21 licensure as a home care services agency; (2) an entity which possesses  
22 valid authorization as a long term home health care program; or (3) an  
23 entity which possesses a valid certificate of approval as a certified  
24 home health agency pursuant to article thirty-six of the public health  
25 law; or

26 (ii) One or more entities listed in subparagraph (i) of this paragraph  
27 with identical owners that, in combination, meet each of the criteria  
28 set forth by subparagraph (i) of this paragraph.

29 S 13. Subdivision 4 of section 461-1 of the social services law, as  
30 added by chapter 165 of the laws of 1991, is amended to read as follows:

31 4. Revocation, suspension, limitation or annulment. Authorization to  
32 operate an assisted living program may be revoked, suspended, limited or  
33 annulled by the commissioner:

34 (A) in accordance with the provisions of this article if the adult  
35 care facility fails to comply with applicable provisions of this chapter  
36 or rules or regulations promulgated hereunder OR IF THE NURSING HOME  
37 FAILS TO COMPLY WITH SUCH PROVISIONS OR THE PROVISIONS OF ARTICLE TWEN-  
38 TY-EIGHT OF THE PUBLIC HEALTH LAW OR RULES OR REGULATIONS PROMULGATED  
39 THEREUNDER; or [by the commissioner of health]

40 (B) in accordance with the provisions of article thirty-six of the  
41 public health law if the licensed home care service agency, certified  
42 home health agency or long term home health care program fails to comply  
43 with the provisions of article thirty-six of the public health law or  
44 rules or regulations promulgated thereunder.

45 S 14. Subdivision 3 of section 461-1 of the social services law is  
46 amended by adding a new paragraph (i) to read as follows:

47 (I) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ADD UP TO SIX THOUSAND  
48 ASSISTED LIVING PROGRAM BEDS TO THE GROSS NUMBER OF ASSISTED LIVING  
49 PROGRAM BEDS HAVING BEEN DETERMINED TO BE AVAILABLE AS OF APRIL FIRST,  
50 TWO THOUSAND NINE, PROVIDED THAT, FOR EACH ASSISTED LIVING PROGRAM BED  
51 SO ADDED, A NURSING HOME BED HAS BEEN DECERTIFIED UPON THE APPLICATION  
52 OF THE NURSING HOME OPERATOR OR THAT THE COMMISSIONER OF HEALTH HAS  
53 FOUND PURSUANT TO SUBDIVISION SIX OF SECTION TWENTY-EIGHT HUNDRED SIX OF  
54 THE PUBLIC HEALTH LAW THAT ANY ASSISTED LIVING PROGRAM BED SO ADDED  
55 WOULD SERVE AS A MORE APPROPRIATE ALTERNATIVE TO A CERTIFIED NURSING  
56 HOME BED AND HAS ACCORDINGLY LIMITED OR REVOKED THE OPERATING CERTIF-

1 ICATE OF THE NURSING HOME PROVIDING THAT CERTIFIED NURSING HOME BED. THE  
2 COMMISSIONER OF HEALTH SHALL NOT BE REQUIRED TO REVIEW ON A COMPARATIVE  
3 BASIS APPLICATIONS SUBMITTED FOR ASSISTED LIVING PROGRAM BEDS MADE  
4 AVAILABLE UNDER THIS PARAGRAPH. THE COMMISSIONER OF HEALTH SHALL ONLY  
5 AUTHORIZE THE ADDITION OF SIX THOUSAND BEDS PURSUANT TO A FIVE YEAR  
6 PLAN.

7 S 14-a. Paragraph (a) of subdivision 6 of section 3614 of the public  
8 health law, as added by chapter 165 of the Laws of 1991 and amended by  
9 chapter 645 of the Laws of 2003, is amended to read as follows:

10 (a) The commissioner shall, subject to the approval of the state  
11 director of the budget, establish capitated rates of payment for  
12 services provided by assisted living programs as defined by paragraph  
13 (a) of subdivision one of section four hundred sixty-one-1 of the social  
14 services law. Such rates of payment shall be related to costs incurred  
15 by residential health care facilities. The rates shall reflect the wage  
16 equalization factor established by the commissioner for residential  
17 health care facilities in the region in which the assisted living  
18 program is provided and real property capital construction costs associ-  
19 ated with the construction of a free-standing assisted living program  
20 such rate shall include a payment equal to the cost of interest owed and  
21 depreciation costs of such construction. The rates shall also reflect  
22 the efficient provision of a quality and quantity of services to  
23 patients in such residential health care facilities, with needs compara-  
24 ble to the needs of residents served in such assisted living programs.  
25 Such rates of payment shall be equal to fifty percent of the amounts  
26 which otherwise would have been expended, BASED UPON THE MEAN PRICES FOR  
27 THE FIRST OF JULY, NINETEEN HUNDRED NINETY-TWO (UTILIZING NINETEEN  
28 HUNDRED EIGHTY-THREE COSTS) FOR FREESTANDING, LOW INTENSITY RESIDENTIAL  
29 HEALTH CARE FACILITIES WITH LESS THAN THREE HUNDRED BEDS, AND FOR YEARS  
30 SUBSEQUENT TO NINETEEN HUNDRED NINETY-TWO, ADJUSTED FOR INFLATION IN  
31 ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TEN OF SECTION  
32 TWENTY-EIGHT HUNDRED SEVEN-C OF THIS CHAPTER, to provide the appropriate  
33 level of care for such residents in residential health care facilities  
34 in the applicable wage equalization factor regions plus an amount equal  
35 to capital construction costs associated with the construction of an  
36 assisted living program facility as provided for in this subdivision.

37 S 15. Section 21 of chapter 1 of the laws of 1999 amending the public  
38 health law and other laws relating to enacting the New York Health Care  
39 Reform Act of 2000, as amended by section 8 of part A of chapter 57 of  
40 the laws of 2000, is amended to read as follows:

41 S 21. Notwithstanding any inconsistent provision of law, effective  
42 April 1, 2000, in determining rates of payment for residential health  
43 care facilities pursuant to section 2808 of the public health law,  
44 hospital outpatient services and diagnostic and treatment centers pursu-  
45 ant to section 2807 of the public health law, unless otherwise subject  
46 to the limits set forth in section 4 of chapter 81 of the laws of 1995,  
47 as amended by this act, certified home health agencies and long term  
48 home health care programs pursuant to section 3614-a of the public  
49 health law and personal care services pursuant to section 367-i of the  
50 social services law, AND FOR PERIODS ON AND AFTER MARCH 1, 2009, ADULT  
51 DAY HEALTH CARE SERVICES PROVIDED TO PATIENTS DIAGNOSED WITH AIDS AS  
52 DEFINED BY APPLICABLE REGULATIONS, the commissioner of health shall  
53 apply trend factors using the methodology described in paragraph (c) of  
54 subdivision 10 of section 2807-c of the public health law, except that  
55 such trend factors shall not be applied to services for which rates of  
56 payment are established by the commissioners of the department of mental



1 hygiene. Nothing in this section is intended to reduce a change in any  
2 existing provision of law establishing maximum reimbursement rates.

3 S 16. Intentionally omitted.

4 S 16-a. Subparagraph (iii) of paragraph (a) of subdivision 23 of  
5 section 2808 of the public health law, as added by section 29 of part C  
6 of chapter 109 of the laws of 2006, is amended to read as follows:

7 (iii) For such programs which have not achieved an occupancy percent-  
8 age of ninety percent or greater for a calendar year prior to April  
9 first, two thousand seven, the operating component of the rate of  
10 payment established pursuant to this article shall be calculated utiliz-  
11 ing allowable costs reported in the first calendar year after two thou-  
12 sand six in which such a program achieves an occupancy percentage of  
13 ninety percent or greater effective January first of such calendar year  
14 except for calendar year two thousand seven, effective no earlier than  
15 April first of such year, provided, however, that effective January  
16 first, two thousand nine, for programs that have not achieved an occu-  
17 pancy percentage of ninety percent or greater for a calendar year prior  
18 to January first, two thousand nine, the operating component of the rate  
19 of payment established pursuant to this article shall be calculated  
20 utilizing allowable costs reported in the two thousand nine cost report  
21 filed by the sponsoring residential health care facility divided by  
22 visits imputed at actual or ninety percent occupancy, whichever is  
23 greater. THIS SUBPARAGRAPH SHALL ALSO APPLY TO PROGRAMS WHICH ACHIEVED  
24 AN OCCUPANCY PERCENTAGE OF NINETY PERCENT OR GREATER PRIOR TO CALENDAR  
25 YEAR TWO THOUSAND FOUR BUT IN SUCH YEAR HAD AN APPROVED CAPACITY THAT  
26 WAS NOT THE SAME AS IN CALENDAR YEAR TWO THOUSAND FOUR.

27 S 16-b. Paragraph (e-1) of subdivision 12 of section 2808 of the  
28 public health law, as amended by section 64 of part C of chapter 58 of  
29 the laws of 2007, is amended to read as follows:

30 (e-1) Notwithstanding any inconsistent provision of law or regulation,  
31 the commissioner shall provide, in addition to payments established  
32 pursuant to this article prior to application of this section, addi-  
33 tional payments under the medical assistance program pursuant to title  
34 eleven of article five of the social services law for non-state operated  
35 public residential health care facilities, including public residential  
36 health care facilities located in the county of Nassau, the county of  
37 Westchester and the county of Erie, but excluding public residential  
38 health care facilities operated by a town or city within a county, in  
39 aggregate annual amounts of up to one hundred fifty million dollars in  
40 additional payments for the state fiscal year beginning April first, two  
41 thousand six and for the state fiscal year beginning April first, two  
42 thousand seven and for the state fiscal year beginning April first, two  
43 thousand eight and OF UP TO THREE HUNDRED MILLION DOLLARS IN SUCH AGGRE-  
44 GATE ANNUAL ADDITIONAL PAYMENTS for the state fiscal year beginning  
45 April first, two thousand nine. The amount allocated to each eligible  
46 public residential health care facility for this period shall be  
47 computed in accordance with the provisions of paragraph (f) of this  
48 subdivision, provided, however, that patient days shall be utilized for  
49 such computation reflecting actual reported data for two thousand three  
50 and each representative succeeding year as applicable.

51 S 17. Section 3614 of the public health law is amended by adding a new  
52 subdivision 12 to read as follows:

53 12. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGU-  
54 LATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTIC-  
55 IPATION, EFFECTIVE JANUARY FIRST, TWO THOUSAND TEN, PAYMENTS BY GOVERN-  
56 MENT AGENCIES FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES

1 SHALL BE BASED ON EPISODIC PAYMENTS. IN ESTABLISHING SUCH PAYMENTS, A  
2 STATEWIDE BASE PRICE SHALL BE ESTABLISHED FOR EACH SIXTY DAY EPISODE OF  
3 CARE AND ADJUSTED BY A PROVIDER REGIONAL WAGE INDEX FACTOR AND AN INDI-  
4 VIDUAL PATIENT CASE MIX INDEX. SUCH EPISODIC PAYMENTS MAY BE FURTHER  
5 ADJUSTED FOR LOW UTILIZATION CASES AND TO REFLECT A PERCENTAGE OF THE  
6 COST FOR HIGH-UTILIZATION CASES THAT EXCEED OUTLIER THRESHOLDS OF SUCH  
7 PAYMENTS. BASE YEAR EPISODIC PAYMENTS SHALL BE FURTHER ADJUSTED TO THE  
8 APPLICABLE RATE YEAR IN ACCORDANCE WITH PARAGRAPH C OF SUBDIVISION TEN  
9 OF SECTION TWO THOUSAND EIGHT HUNDRED SEVEN-C OF THIS CHAPTER.

10 (B) INITIAL BASE YEAR EPISODIC PAYMENTS SHALL BE BASED ON MEDICAID  
11 PAID CLAIMS, AS DETERMINED BY THE COMMISSIONER, FOR SERVICE PROVIDED BY  
12 ALL CERTIFIED HOME HEALTH AGENCIES IN THE BASE YEAR TWO THOUSAND SEVEN.  
13 SUBSEQUENT BASE YEAR EPISODIC PAYMENTS MAY BE BASED ON MEDICAID PAID  
14 CLAIMS FOR SERVICES PROVIDED BY ALL CERTIFIED HOME HEALTH AGENCIES IN A  
15 BASE YEAR SUBSEQUENT TO TWO THOUSAND SEVEN AND AS DETERMINED BY THE  
16 COMMISSIONER. IN DETERMINING CASE MIX, EACH PATIENT SHALL BE CLASSIFIED  
17 USING A SYSTEM BASED ON MEASURES INCLUDING, BUT NOT LIMITED TO, CLINICAL  
18 AND FUNCTIONAL MEASURES, AS REPORTED ON THE FEDERAL OUTCOME AND ASSESS-  
19 MENT INFORMATION SET (OASIS).

20 (C) AS DETERMINED BY THE COMMISSIONER, AGENCIES WILL BE REQUIRED TO  
21 COLLECT AND SUBMIT ANY DATA REQUIRED TO IMPLEMENT THIS SECTION. THE  
22 COMMISSIONER MAY ADOPT REGULATIONS, INCLUDING EMERGENCY REGULATIONS, TO  
23 IMPLEMENT THE PROVISIONS OF THIS SECTION.

24 S 18. Paragraph (a) of subdivision 5 of section 3614 of the public  
25 health law, as added by chapter 884 of the laws of 1990, is amended to  
26 read as follows:

27 (a) During the period July first, nineteen hundred ninety through  
28 December thirty-first, nineteen hundred ninety, the period January  
29 first, nineteen hundred ninety-one through December thirty-first, nine-  
30 teen hundred ninety-one and for each calendar year period commencing on  
31 January first thereafter, rates of payment by governmental agencies  
32 established in accordance with subdivision three of this section appli-  
33 cable for services provided by certified home health agencies to indi-  
34 viduals eligible for medical assistance pursuant to title eleven of  
35 article five of the social services law for certified home health agen-  
36 cies which can demonstrate, on forms provided by the commissioner, loss-  
37 es from a disproportionate share of bad debt and charity care during the  
38 base year period as used in determining such rates may include an allow-  
39 ance determined in accordance with this subdivision to reflect the needs  
40 of the certified home health agency for the financing of losses result-  
41 ing from bad debt and the cost of charity care. Losses resulting from  
42 bad debt and the delivery of charity care shall be determined by the  
43 commissioner considering, but not limited to, such factors as the losses  
44 resulting from bad debt and the costs of charity care provided by the  
45 certified home health agency and the availability of other financial  
46 support, including state local assistance public health aid, to meet the  
47 losses resulting from bad debt and the costs of charity care of the  
48 certified home health agency. The bad debt and charity care allowance  
49 for a certified home health agency for a rate period shall be determined  
50 by the commissioner in accordance with rules and regulations adopted by  
51 the state hospital review and planning council and approved by the  
52 commissioner, and shall be consistent with the purposes for which such  
53 allowances are authorized for general hospitals pursuant to the  
54 provisions of article twenty-eight of this chapter and rules and regu-  
55 lations promulgated by the commissioner. For purposes of distribution of  
56 bad debt and charity care allowances to eligible certified home health

1 agencies, the commissioner, in accordance with rules and regulations  
2 adopted by the state hospital review and planning council and approved  
3 by the commissioner, may limit application of a bad debt and charity  
4 care allowance to a particular home care services unit or units of  
5 service, such as nursing service. A certified home health agency apply-  
6 ing for a bad debt and charity care allowance pursuant to this subdivi-  
7 sion shall provide assurances satisfactory to the commissioner that it  
8 shall undertake reasonable efforts to maintain financial support from  
9 community and public funding sources and reasonable efforts to collect  
10 payments for services from third party insurance payors, governmental  
11 payors and self-paying patients. To be eligible for an allowance pursu-  
12 ant to this subdivision, a certified home health agency shall: have  
13 professional assistance available on a seven day per week, twenty-four  
14 hour per day basis to all registered clients [and must]; demonstrate  
15 compliance with minimum charity care certification obligation levels  
16 established pursuant to rules and regulations adopted by the state  
17 hospital review and planning council and approved by the commissioner;  
18 AND PROVIDE TO THE COMMISSIONER AND MAINTAIN A COMMUNITY SERVICE PLAN  
19 WHICH OUTLINES THE AGENCY'S ORGANIZATIONAL MISSION AND COMMITMENT TO  
20 MEET THE HOME CARE NEEDS OF THE COMMUNITY, IN ACCORDANCE WITH PARAGRAPH  
21 (H) OF THIS SUBDIVISION.

22 S 19. Paragraph (h) of subdivision 5 of section 3614 of the public  
23 health law is relettered paragraph (i) and a new paragraph (h) is added  
24 to read as follows:

25 (H) COMMUNITY SERVICE PLANS. (I) THE GOVERNING BODY OF A CERTIFIED  
26 HOME HEALTH AGENCY SHALL ISSUE AN ORGANIZATIONAL MISSION STATEMENT IDEN-  
27 TIFYING AT A MINIMUM THE POPULATIONS AND COMMUNITIES SERVED BY THE AGEN-  
28 CY AND THE AGENCY'S COMMITMENT TO MEETING THE HOME CARE NEEDS OF THE  
29 COMMUNITY. THE COMMISSIONER SHALL TAKE INTO CONSIDERATION THE LIMITA-  
30 TIONS OF AGENCY SIZE AND RESOURCES, AND ALLOW FLEXIBILITY IN COMPLYING  
31 WITH THE PROVISIONS OF THIS SECTION.

32 (II) THE GOVERNING BODY OF THE CERTIFIED HOME HEALTH AGENCY SHALL AT  
33 LEAST ONCE EVERY THREE YEARS:

34 (A) REVIEW AND AMEND AS NECESSARY THE AGENCY'S MISSION STATEMENT;

35 (B) SOLICIT THE VIEWS OF THE COMMUNITIES SERVED BY THE AGENCY ON SUCH  
36 ISSUES AS THE AGENCY'S PERFORMANCE AND SERVICE PRIORITIES;

37 (C) DEMONSTRATE THE AGENCY'S OPERATIONAL AND FINANCIAL COMMITMENT TO  
38 MEETING COMMUNITY HOME CARE NEEDS, TO PROVIDE CHARITY CARE SERVICE AND  
39 TO IMPROVE ACCESS TO HOME CARE SERVICES BY THE UNDERSERVED; AND

40 (D) PREPARE AND MAKE AVAILABLE TO THE PUBLIC A STATEMENT SHOWING THE  
41 PROVISION OF FREE, REDUCED CHARGE AND/OR OTHER SERVICES OF A CHARITABLE  
42 OR COMMUNITY NATURE.

43 (III) THE GOVERNING BODY OF THE CERTIFIED HOME HEALTH AGENCY SHALL  
44 ANNUALLY MAKE AVAILABLE TO THE PUBLIC A REVIEW OF THE AGENCY'S PERFORM-  
45 ANCE IN MEETING THE HOME CARE NEEDS OF THE COMMUNITY, PROVIDING CHARITY  
46 CARE SERVICES, AND IMPROVING ACCESS TO HOME CARE SERVICES BY THE UNDER-  
47 SERVED.

48 (IV) THE GOVERNING BODY OF THE CERTIFIED HOME HEALTH AGENCY SHALL FILE  
49 WITH THE COMMISSIONER ITS MISSION STATEMENT, ITS ANNUAL PERFORMANCE  
50 REVIEW, AND AT LEAST EVERY THREE YEARS A REPORT DETAILING AMENDMENTS TO  
51 THE STATEMENT REFLECTING CHANGES IN THE AGENCY'S OPERATIONAL AND FINAN-  
52 CIAL COMMITMENT TO MEETING THE HOME CARE NEEDS OF THE COMMUNITY, PROVID-  
53 ING CHARITY CARE SERVICES, AND IMPROVING ACCESS TO HOME CARE SERVICES BY  
54 THE UNDERSERVED.

55 (V) THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING A  
56 REVISED PERCENTAGE FOR THE CHARITY CARE REQUIREMENT.

1 S 19-a. Paragraphs (e) and (f) of subdivision 9 of section 3614 of the  
2 public health law, as amended by section 22-e of part B of chapter 58 of  
3 the laws of 2008, are amended to read as follows:

4 (e) for the period April first, two thousand nine through March thir-  
5 ty-first, two thousand ten, up to [one hundred] NINETY million SEVEN  
6 HUNDRED FIFTY THOUSAND dollars, PROVIDED, HOWEVER, THAT UP TO  
7 TWENTY-SEVEN MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS OF SUCH AMOUNT  
8 SHALL BE RESERVED AND DISTRIBUTED TO CERTIFIED HOME HEALTH AGENCIES FOR  
9 THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH DECEMBER THIRTY-FIRST,  
10 TWO THOUSAND NINE IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TEN  
11 OF THIS SECTION, AND FURTHER PROVIDED THAT THE REMAINING FUNDS SHALL BE  
12 DISTRIBUTED TO ELIGIBLE PROVIDERS THAT ARE NOT CERTIFIED HOME HEALTH  
13 AGENCIES AND FURTHER PROVIDED THAT ON AND AFTER JANUARY FIRST, TWO THOU-  
14 SAND TEN CERTIFIED HOME HEALTH AGENCIES SHALL NOT BE ELIGIBLE FOR  
15 DISTRIBUTIONS PURSUANT TO THIS SUBDIVISION AND SUBDIVISION TEN;

16 (f) for the period April first, two thousand ten through March thir-  
17 ty-first, two thousand eleven, up to [one hundred] SIXTY-THREE million  
18 dollars.

19 S 20. Subdivision 3 of section 367-e of the social services law, as  
20 added by chapter 622 of the laws of 1988, is amended to read as follows:

21 3. The commissioner shall apply for any waivers, including home and  
22 community based services waivers pursuant to section nineteen hundred  
23 fifteen-c of the social security act, necessary to implement AIDS home  
24 care programs. Notwithstanding any inconsistent provision of law but  
25 subject to expenditure limitations of this section, the commissioner,  
26 subject to the approval of the state director of the budget, may author-  
27 ize the utilization of medical assistance funds to pay for services  
28 provided by AIDS home care programs in addition to those services  
29 included in the medical assistance program under section three hundred  
30 sixty-five-a of this [chapter] TITLE, so long as federal financial  
31 participation is available for such services. TOTAL MONTHLY EXPENDI-  
32 TURES MADE UNDER THIS TITLE FOR A PERSON RECEIVING AIDS HOME CARE  
33 PROGRAM SERVICES SHALL NOT EXCEED ONE HUNDRED PERCENT OF THE AVERAGE OF  
34 THE CURRENT MONTHLY RATES PAYABLE UNDER THIS TITLE FOR NURSING HOME  
35 SERVICES WITHIN THE APPLICABLE SOCIAL SERVICES DISTRICT. HOWEVER, IF A  
36 CONTINUING ASSESSMENT OF SUCH PERSON'S NEEDS DEMONSTRATES THAT HE OR SHE  
37 REQUIRES INCREASED SERVICES, THE SOCIAL SERVICES OFFICIAL MAY AUTHORIZE  
38 THE EXPENDITURE OF ANY AMOUNT ACCRUED UNDER THIS SECTION DURING THE PAST  
39 TWELVE MONTHS AS THE RESULT OF THE EXPENDITURES FOR THAT PERSON NOT  
40 HAVING EXCEEDED SUCH MAXIMUM AMOUNT. IF THE ASSESSMENT OF SUCH PERSON'S  
41 NEEDS DEMONSTRATES THAT HE OR SHE REQUIRES INCREASED SERVICES THE  
42 PAYMENT FOR WHICH WOULD EXCEED SUCH MONTHLY MAXIMUM, BUT IT CAN BE  
43 REASONABLY ANTICIPATED THAT TOTAL EXPENDITURES FOR REQUIRED SERVICES FOR  
44 SUCH PERSON WILL NOT EXCEED SUCH MAXIMUM CALCULATED OVER A ONE YEAR  
45 PERIOD, THE SOCIAL SERVICES OFFICIAL MAY AUTHORIZE PAYMENT FOR SUCH  
46 SERVICES. Expenditures made under this subdivision shall be deemed  
47 payments for medical assistance for needy persons and shall be subject  
48 to reimbursement by the state in accordance with the provisions of  
49 section three hundred sixty-eight-a of this [chapter] TITLE.

50 S 21. Paragraph (k) of subdivision 2 of section 365-a of the social  
51 services law, as amended by chapter 659 of the laws of 1997, is amended  
52 to read as follows:

53 (k) care and services furnished by an entity offering a comprehensive  
54 health services plan, including an entity that has received a certif-  
55 icate of authority pursuant to sections forty-four hundred three,  
56 forty-four hundred three-a or forty-four hundred eight-a of the public

1 health law (as added by chapter six hundred thirty-nine of the laws of  
2 nineteen hundred ninety-six) or a health maintenance organization  
3 authorized under article forty-three of the insurance law, to eligible  
4 individuals residing in the geographic area served by such entity, when  
5 such services are furnished in accordance with an agreement approved by  
6 the department which meets the requirements of federal law and regu-  
7 lations provided, that no such agreement shall allow for medical assist-  
8 ance payments on a capitated basis for nursing facility[, home care or  
9 other long term care] services of a duration and scope defined in regu-  
10 lations of the department of health promulgated pursuant to section  
11 forty-four hundred three-f of the public health law, unless such entity  
12 has received a certificate of authority as a managed long term care plan  
13 or is an operating demonstration or is an approved managed long term  
14 care demonstration, pursuant to such section.

15 S 22. Subdivision 4 of section 4403-f of the public health law is  
16 REPEALED and two new subdivisions 4 and 4-a are added to read as  
17 follows:

18 4. SOLVENCY. (A) THE COMMISSIONER, WITH REGARD TO FISCAL SOLVENCY,  
19 SHALL BE RESPONSIBLE FOR EVALUATING, APPROVING AND REGULATING ALL  
20 MATTERS RELATING TO FISCAL SOLVENCY, INCLUDING RESERVES, SURPLUS AND  
21 PROVIDER CONTRACTS. THE COMMISSIONER MAY PROMULGATE REGULATIONS TO  
22 IMPLEMENT THIS SECTION. THE COMMISSIONER, IN THE ADMINISTRATION OF THIS  
23 SUBDIVISION:

24 (I) SHALL BE GUIDED BY THE STANDARDS WHICH GOVERN THE FISCAL SOLVENCY  
25 OF A HEALTH MAINTENANCE ORGANIZATION, PROVIDED, HOWEVER, THAT THE  
26 COMMISSIONER SHALL RECOGNIZE THE SPECIFIC DELIVERY COMPONENTS, OPERA-  
27 TIONAL CAPACITY AND FINANCIAL CAPABILITY OF THE ELIGIBLE APPLICANT FOR A  
28 CERTIFICATE OF AUTHORITY;

29 (II) SHALL NOT APPLY FINANCIAL SOLVENCY STANDARDS THAT EXCEED THOSE  
30 REQUIRED FOR A HEALTH MAINTENANCE ORGANIZATION; AND

31 (III) SHALL ESTABLISH REASONABLE CAPITALIZATION AND CONTINGENT RESERVE  
32 REQUIREMENTS.

33 (B) STANDARDS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE  
34 ADEQUATE TO PROTECT THE INTERESTS OF ENROLLEES IN MANAGED LONG TERM CARE  
35 PLANS. THE COMMISSIONER SHALL BE SATISFIED THAT THE ELIGIBLE APPLICANT  
36 IS FINANCIALLY SOUND, AND HAS MADE ADEQUATE PROVISIONS TO PAY FOR  
37 SERVICES.

38 4-A. ROLE OF THE SUPERINTENDENT OF INSURANCE. (A) THE SUPERINTENDENT  
39 OF INSURANCE SHALL DETERMINE AND APPROVE PREMIUMS IN ACCORDANCE WITH THE  
40 INSURANCE LAW WHENEVER ANY POPULATION OF ENROLLEES NOT ELIGIBLE UNDER  
41 TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT IS TO BE COVERED. THE  
42 DETERMINATION AND APPROVAL OF THE SUPERINTENDENT OF INSURANCE SHALL  
43 RELATE TO PREMIUMS CHARGED TO THOSE ENROLLEES NOT ELIGIBLE UNDER TITLE  
44 XIX OF THE FEDERAL SOCIAL SECURITY ACT.

45 (B) THE SUPERINTENDENT OF INSURANCE SHALL EVALUATE AND APPROVE ANY  
46 ENROLLEE CONTRACTS WHENEVER THOSE ENROLLEE CONTRACTS ARE TO COVER ANY  
47 POPULATION OF ENROLLEES NOT ELIGIBLE UNDER TITLE XIX OF THE FEDERAL  
48 SOCIAL SECURITY ACT.

49 S 22-a. Subdivision 6 of section 4403-f of the public health law, as  
50 added by chapter 659 of the laws of 1997, paragraph (a) as added by  
51 section 16 and paragraph (d) as amended by section 17 of part C of chap-  
52 ter 58 of the laws of 2007, is amended to read as follows:

53 6. Approval authority. (a) An applicant shall be issued a certificate  
54 of authority as a managed long term care plan upon a determination by  
55 the commissioner[, subject to any applicable evaluations, approvals, and  
56 regulations of the superintendent of insurance as stated in this

1 section,] that the applicant complies with the operating requirements  
2 for a managed long term care plan under this section. The commissioner  
3 shall issue no more than fifty certificates of authority to managed long  
4 term care plans pursuant to this section. For purposes of issuance of no  
5 more than fifty certificates of authority, such certificates shall  
6 include those certificates issued pursuant to paragraphs (b) and (c) of  
7 this subdivision.

8 (b) An operating demonstration shall be issued a certificate of  
9 authority as a managed long term care plan upon a determination by the  
10 commissioner[, subject to the necessary evaluations, approvals and regu-  
11 lations of the superintendent of insurance as stated in this section,]  
12 that such demonstration complies with the operating requirements for a  
13 managed long term care plan under this section. Except as otherwise  
14 expressly provided in paragraphs (d) and (e) of subdivision seven of  
15 this section, nothing in this section shall be construed to affect the  
16 continued legal authority of an operating demonstration to operate its  
17 previously approved program.

18 (c) An approved managed long term care demonstration shall be issued a  
19 certificate of authority as a managed long term care plan upon a deter-  
20 mination by the commissioner[, subject to the necessary evaluations,  
21 approvals and regulations of the superintendent of insurance set forth  
22 in this section,] that such demonstration complies with the operating  
23 requirements for a managed long term care plan under this section.  
24 Notwithstanding any inconsistent provision of law to the contrary, all  
25 authority for the operation of approved managed long term care demon-  
26 strations which have not been issued a certificate of authority as a  
27 managed long term care plan, shall expire one year after the adoption of  
28 regulations implementing managed long term care plans.

29 (d) The majority leader of the senate and the speaker of the assembly  
30 may each designate in writing up to fifteen eligible applicants to apply  
31 to be approved managed long term care demonstrations or plans. The  
32 commissioner may designate in writing up to eleven eligible applicants  
33 to apply to be approved managed long term care demonstrations or plans.

34 S 22-b. Paragraph (f) of subdivision 7 of section 4403-f of the public  
35 health law, as added by chapter 659 of the laws of 1997 and as relet-  
36 tered by section 20 of part C of chapter 58 of the laws of 2007, is  
37 amended to read as follows:

38 (f) Continuation of a certificate of authority issued under this  
39 section[, subject to the necessary evaluations, approvals and regu-  
40 lations of the superintendent of insurance,] shall be contingent upon  
41 satisfactory performance by the managed long term care plan in the  
42 delivery, continuity, accessibility, cost effectiveness and quality of  
43 the services to enrolled members; compliance with applicable provisions  
44 of this section and rules and regulations promulgated thereunder; the  
45 continuing fiscal solvency of the organization; and, federal financial  
46 participation in payments on behalf [on] OF enrollees who are eligible  
47 to receive services under title XIX of the federal social security act.

48 S 22-c. Subdivision 9 of section 4403-f of the public health law, as  
49 added by chapter 659 of the laws of 1997, is amended to read as follows:

50 9. Reports. The department shall provide an interim report to the  
51 governor, temporary president of the senate and the speaker of the  
52 assembly on or before April first, two thousand three and a final report  
53 on or before April first, two thousand six on the results of the managed  
54 long term care plans under this section. Such results shall be based on  
55 data provided by the managed long term care plans and shall include but  
56 not be limited to the quality, accessibility and appropriateness of

1 services; consumer satisfaction; the mean and distribution of impairment  
2 measures of the enrollees by payor for each plan; the current method of  
3 calculating premiums and the cost of comparable health and long term  
4 care services provided on a fee-for-service basis for enrollees eligible  
5 for services under title XIX of the federal social security act; and the  
6 results of periodic reviews of enrollment levels and practices. [Such  
7 reports shall contain a section prepared by the superintendent of insur-  
8 ance as to the results of the plans approved in accordance with this  
9 section concerning the matters regulated by the superintendent of insur-  
10 ance.] Such reports shall [also] provide data on the demographic and  
11 clinical characteristics of enrollees, voluntary and involuntary disen-  
12 rollments from plans, utilization of services and shall examine the  
13 feasibility of increasing the number of plans that may be approved. Data  
14 collected pursuant to this section shall be available to the public in  
15 an aggregated format to protect individual confidentiality, however  
16 under no circumstance will data be released on items with cells with  
17 smaller than statistically acceptable standards.

18 S 23. The social services law is amended by adding a new section 367-w  
19 to read as follows:

20 S 367-W. REGIONAL LONG-TERM CARE ASSESSMENT CENTERS. 1. NOTWITHSTAND-  
21 ING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT OF HEALTH IS  
22 AUTHORIZED TO ESTABLISH LONG-TERM CARE ASSESSMENT CENTERS TO SERVE  
23 REGIONS OF THE STATE AS MAY BE ESTABLISHED BY THE DEPARTMENT OF HEALTH,  
24 INCLUDING THE CITY OF NEW YORK, FOR THE PURPOSE OF TRANSFERRING FROM THE  
25 SOCIAL SERVICES DISTRICT TO THE REGIONAL LONG-TERM CARE ASSESSMENT  
26 CENTERS RESPONSIBILITY FOR ACTIVITIES RELATED TO THE ASSESSMENT OF A  
27 PERSON'S NEED FOR, AND THE AUTHORIZATION OF, LONG-TERM CARE SERVICES AND  
28 PROGRAMS IDENTIFIED IN SUBDIVISIONS TWO, THREE AND FOUR OF THIS SECTION.  
29 THE DEPARTMENT IS AUTHORIZED TO CONTRACT WITH ONE OR MORE ENTITIES TO  
30 OPERATE REGIONAL LONG-TERM CARE ASSESSMENT CENTERS.

31 2. THE REGIONAL LONG-TERM CARE ASSESSMENT CENTER SHALL HAVE RESPONSI-  
32 BILITY FOR ASSESSMENT OF LONG-TERM CARE NEEDS OF AN APPLICANT FOR, OR  
33 RECIPIENT OF, MEDICAL ASSISTANCE AND FOR AUTHORIZATION OF SERVICES AND  
34 PARTICIPATION IN PROGRAMS INCLUDING: PERSONAL CARE SERVICES, INCLUDING  
35 PERSONAL EMERGENCY RESPONSE SERVICES, UNDER PARAGRAPH (E) OF SUBDIVISION  
36 TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE; CONSUMER-DI-  
37 RECTED PERSONAL ASSISTANCE SERVICES UNDER SECTION THREE HUNDRED  
38 SIXTY-FIVE-F OF THIS TITLE; THE CASH AND COUNSELING DEMONSTRATION  
39 PROGRAM UNDER SECTION THREE HUNDRED SIXTY-SEVEN-V OF THIS TITLE; THE  
40 ASSISTED LIVING PROGRAM UNDER SECTION FOUR HUNDRED SIXTY-ONE-L OF THIS  
41 CHAPTER; AND PARTICIPATION IN THE LONG-TERM HOME HEALTH CARE PROGRAM  
42 UNDER SECTION THREE HUNDRED SIXTY-SEVEN-C OF THIS TITLE AND SECTION  
43 THIRTY-SIX HUNDRED SIXTEEN OF THE PUBLIC HEALTH LAW, INCLUDING THE AIDS  
44 HOME CARE PROGRAM UNDER THE PROVISIONS OF SECTION THREE HUNDRED  
45 SIXTY-SEVEN-E OF THIS TITLE AND SECTION THIRTY-SIX HUNDRED TWENTY OF THE  
46 PUBLIC HEALTH LAW.

47 3. NOTWITHSTANDING ANY PROVISION OF SECTION FORTY-FOUR HUNDRED THREE-F  
48 OF THE PUBLIC HEALTH LAW TO THE CONTRARY, THE REGIONAL LONG-TERM CARE  
49 ASSESSMENT CENTER SHALL HAVE RESPONSIBILITY FOR REVIEWING ASSESSMENTS TO  
50 VERIFY THAT AN INDIVIDUAL REQUIRES A NURSING HOME LEVEL OF CARE AND,  
51 AFTER CONFIRMING THAT AN ENROLLMENT IS VOLUNTARY, FOR AUTHORIZING  
52 PARTICIPATION IN A MANAGED LONG-TERM CARE PLAN OR AN APPROVED MANAGED  
53 LONG-TERM CARE DEMONSTRATION UNDER PARAGRAPH (O) OF SUBDIVISION TWO OF  
54 SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

55 4. THE REGIONAL LONG-TERM CARE ASSESSMENT CENTER SHALL HAVE RESPONSI-  
56 BILITY FOR REVIEWING DOCUMENTATION FROM A PERSON'S PHYSICIAN AND A

1 CERTIFIED HOME HEALTH AGENCY AND FOR MAKING THE DETERMINATION AS TO THE  
2 CONTINUING NEED FOR HOME HEALTH SERVICES BEYOND SIXTY DAYS PROVIDED BY A  
3 CERTIFIED HOME HEALTH AGENCY UNDER PARAGRAPH (D) OF SUBDIVISION TWO OF  
4 SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

5 5. THIS SECTION SHALL APPLY TO THOSE CONSUMERS WHO APPLY FOR THE  
6 SERVICES SPECIFIED IN THIS SECTION ON AND AFTER THE LATER OF JANUARY  
7 FIRST, TWO THOUSAND TEN OR THE DATE SPECIFIED IN THE CONTRACT BETWEEN  
8 THE DEPARTMENT AND THE ENTITY SELECTED TO BE A REGIONAL LONG-TERM CARE  
9 ASSESSMENT CENTER, AND SHALL APPLY TO THOSE CONSUMERS WHO ARE IN RECEIPT  
10 OF SUCH SERVICES ON SUCH LATER DATE, AND WHOSE AUTHORIZATION FOR  
11 SERVICES IS UNINTERRUPTED AFTER SUCH LATER DATE, ON AND AFTER JANUARY  
12 FIRST, TWO THOUSAND TWELVE.

13 6. THE COMMISSIONER OF HEALTH SHALL SUBMIT A REPORT TO THE GOVERNOR,  
14 TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY NO LATER  
15 THAN JANUARY FIRST, TWO THOUSAND TWELVE, ON THE IMPLEMENTATION OF THIS  
16 SECTION. SUCH REPORT SHALL INCLUDE AN ASSESSMENT OF THE PROJECT, AN  
17 ANALYSIS OF THE LEVEL AND COSTS OF SERVICES MANAGED UNDER THE CONTRACTS,  
18 ANY RECOMMENDATIONS FOR CHANGES TO PERSONAL CARE SERVICES ASSESSMENT AND  
19 DELIVERY PROTOCOLS, ANY RECOMMENDATIONS FOR LEGISLATIVE ACTION, AND SUCH  
20 OTHER MATTERS AS MAY BE PERTINENT.

21 S 23-a. Section 3614 of the public health law is amended by adding a  
22 new subdivision 14 to read as follows:

23 14. (A) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY  
24 OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF  
25 FEDERAL FINANCIAL PARTICIPATION, FOR RATE PERIODS ON AND AFTER MARCH  
26 FIRST, TWO THOUSAND NINE, THE RATES OF PAYMENT PAID BY GOVERNMENTAL  
27 AGENCIES FOR HOME HEALTH CARE SERVICES TO EACH CERTIFIED HOME HEALTH  
28 AGENCY SHALL, AFTER APPLICATION OF ANY APPLICABLE ADJUSTMENTS TO THE  
29 TREND FACTORS AFFECTING SUCH RATES, BE SUBJECT TO A UNIFORM REDUCTION OF  
30 THREE AND ONE-HALF PERCENT.

31 (B) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY  
32 OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF  
33 FEDERAL FINANCIAL PARTICIPATION, FOR RATE PERIODS ON AND AFTER MARCH  
34 FIRST, TWO THOUSAND NINE, THE RATES OF PAYMENT PAID BY GOVERNMENTAL  
35 AGENCIES FOR HOME HEALTH CARE SERVICES TO EACH LONG TERM HOME HEALTH  
36 CARE PROGRAM AND EACH AIDS HOME CARE PROGRAM SHALL, AFTER APPLICATION OF  
37 ANY APPLICABLE ADJUSTMENTS TO THE TREND FACTORS AFFECTING SUCH RATES, BE  
38 SUBJECT TO A UNIFORM REDUCTION OF ONE AND ONE-HALF PERCENT.

39 (C) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION OR ANY  
40 OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF  
41 FEDERAL FINANCIAL PARTICIPATION, FOR RATE PERIODS ON AND AFTER MARCH  
42 FIRST, TWO THOUSAND NINE, THE RATES OF PAYMENT PAID BY GOVERNMENTAL  
43 AGENCIES FOR PERSONAL CARE SERVICES, INCLUDING PERSONAL CARE SERVICES  
44 PROVIDED IN THOSE SOCIAL SERVICE DISTRICTS WHOSE RATES OF PAYMENT FOR  
45 SUCH SERVICES ARE ESTABLISHED BY SUCH SOCIAL SERVICE DISTRICTS PURSUANT  
46 TO A RATE-SETTING EXEMPTION ISSUED BY THE COMMISSIONER TO SUCH SOCIAL  
47 SERVICE DISTRICTS IN ACCORDANCE WITH APPLICABLE REGULATIONS, SHALL,  
48 AFTER APPLICATION OF ANY APPLICABLE ADJUSTMENTS TO THE TREND FACTORS  
49 AFFECTING SUCH RATES, BE SUBJECT TO A UNIFORM REDUCTION OF ONE AND ONE-  
50 HALF PERCENT.

51 (D) UPON THE IMPLEMENTATION OF THE PROVISIONS OF SUBDIVISION TWELVE OF  
52 THIS SECTION ON JANUARY FIRST, TWO THOUSAND TEN, THE PROVISIONS OF PARA-  
53 GRAPH (A) OF THIS SUBDIVISION SHALL BE DEEMED NULL AND VOID FOR PERIODS  
54 ON AND AFTER JANUARY FIRST, TWO THOUSAND TEN.

55 S 24. Section 2808 of the public health law is amended by adding a new  
56 subdivision 25 to read as follows:



1 25. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH A QUALITY OF CARE  
2 INCENTIVE POOL FOR ELIGIBLE RESIDENTIAL HEALTH CARE FACILITIES AND  
3 INCREASE MEDICAID RATES OF PAYMENT FOR SUCH ELIGIBLE FACILITIES FROM  
4 THIS POOL. UP TO FIFTY MILLION DOLLARS IN SUCH INCREASED MEDICAID  
5 PAYMENTS WILL BE MADE AVAILABLE FOR DISTRIBUTION FOR THE STATE FISCAL  
6 YEAR BEGINNING APRIL FIRST, TWO THOUSAND NINE AND UP TO ONE HUNDRED  
7 TWENTY-FIVE MILLION DOLLARS WILL BE AVAILABLE FOR STATE FISCAL YEAR  
8 BEGINNING APRIL FIRST, TWO THOUSAND TEN. PAYMENTS WILL BE DETERMINED BY  
9 THE COMMISSIONER BY APPLYING CRITERIA, INCLUDING, BUT NOT LIMITED TO,  
10 THE QUALITY COMPONENTS OF THE MINIMUM DATA SET REQUIRED UNDER FEDERAL  
11 LAW, STAFFING AND SURVEY INFORMATION AND OTHER FACILITY DATA.

12 (B) FACILITIES THAT FALL WITHIN ONE OR MORE OF THE CATEGORIES BELOW  
13 DURING A REVIEW PERIOD WILL BE EXCLUDED FROM AWARD ELIGIBILITY:

14 (I) ANY RESIDENTIAL HEALTH CARE FACILITY THAT IS CURRENTLY DESIGNATED  
15 BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES AS A "SPECIAL FOCUS  
16 FACILITY";

17 (II) ANY RESIDENTIAL HEALTH CARE FACILITY FOR WHICH THE DEPARTMENT HAS  
18 ISSUED A FINDING OF IMMEDIATE JEOPARDY DURING THE MOST RECENTLY  
19 COMPLETED FEDERAL FISCAL YEAR;

20 (III) ANY RESIDENTIAL HEALTH CARE FACILITY THAT HAS RECEIVED A CITA-  
21 TION FOR SUBSTANDARD QUALITY OF CARE IN THE AREAS OF QUALITY OF LIFE,  
22 QUALITY OF CARE, RESIDENT BEHAVIOR, AND/OR FACILITY PRACTICES DURING THE  
23 MOST RECENTLY COMPLETED FEDERAL FISCAL YEAR;

24 (IV) ANY RESIDENTIAL HEALTH CARE FACILITY THAT IS PART OF A CONTINUING  
25 CARE RETIREMENT COMMUNITY;

26 (V) ANY RESIDENTIAL HEALTH CARE FACILITY THAT OPERATES AS A TRANSI-  
27 TIONAL CARE UNIT; AND

28 (VI) ANY OTHER EXCLUSIONS AS DEEMED APPROPRIATE BY THE COMMISSIONER.

29 (C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY LAW OR REGU-  
30 LATION TO THE CONTRARY, IN THE EVENT THAT THE TOTAL AMOUNT OF FUNDING  
31 ALLOCATED FOR A PARTICULAR FISCAL YEAR IS NOT DISTRIBUTED, FUNDS SHALL  
32 BE RESERVED AND ACCUMULATED FROM YEAR TO YEAR SO THAT ANY FUNDS REMAIN-  
33 ING AT THE END OF A PARTICULAR FISCAL YEAR WILL BE AVAILABLE FOR  
34 DISTRIBUTION DURING THE FOLLOWING FISCAL YEAR.

35 (D) THE COMMISSIONER MAY PROMULGATE ANY REGULATIONS, INCLUDING EMER-  
36 GENCY REGULATIONS, NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS  
37 SECTION.

38 S 25. Section 3614 of the public health law is amended by adding a new  
39 subdivision 13 to read as follows:

40 13. (A) SUBJECT TO THE AVAILABILITY OF FUNDS, THE COMMISSIONER SHALL  
41 ESTABLISH A QUALITY OF CARE INCENTIVE POOL OF UP TO TWENTY MILLION  
42 DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH MARCH  
43 THIRTY-FIRST, TWO THOUSAND TEN AND UP TO TWENTY MILLION DOLLARS FOR THE  
44 PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO  
45 THOUSAND ELEVEN FOR PAYMENTS TO ELIGIBLE CERTIFIED HOME HEALTH AGENCIES  
46 THAT MEET QUALITY MEASURES, AS ESTABLISHED BY THE COMMISSIONER. SUCH  
47 PAYMENTS SHALL BE MADE IN THE FORM OF ADJUSTMENTS TO MEDICAL ASSISTANCE  
48 RATES OF PAYMENT FOR SERVICES PROVIDED BY ELIGIBLE CERTIFIED HOME HEALTH  
49 AGENCIES MEETING SUCH QUALITY MEASURES.

50 (B) TO BE ELIGIBLE FOR SUCH RATE ADJUSTMENTS, A CERTIFIED HOME HEALTH  
51 AGENCY MUST HAVE, DURING A FIFTEEN MONTH PERIOD PRIOR TO PAYMENT,  
52 PROVIDED SERVICES TO MEDICAID RECIPIENTS, AS REPORTED ON THE AGENCY'S  
53 COST REPORTS; PROVIDED, HOWEVER, THAT AN AGENCY THAT HAS CHANGED OWNER-  
54 SHIP DURING THIS SAME PERIOD SHALL NOT BE ELIGIBLE. AN ELIGIBLE CERTI-  
55 FIED HOME HEALTH AGENCY MUST SUBMIT SUCH REPORTS AND DATA AS THE COMMIS-  
56 SIONER MAY REQUIRE AND MUST NOT HAVE RECEIVED A CONDITION LEVEL

DEFICIENCY OF NON-COMPLIANCE DURING THE MOST RECENTLY COMPLETED RECERTIFICATION SURVEY. THE COMMISSIONER MAY EXCLUDE ANY AGENCY FROM ELIGIBILITY FOR SUCH RATE ADJUSTMENTS ON SUCH OTHER BASIS AS THE COMMISSIONER DEEMS APPROPRIATE.

(C) THE COMMISSIONER MAY ADOPT REGULATIONS, INCLUDING EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

S 26. The public health law is amended by adding a new article 28-C-1 to read as follows:

ARTICLE 28-C-1

LONG-TERM CARE NURSING INITIATIVE DEMONSTRATION  
PROJECTS

SECTION 2893. LONG-TERM NURSING INITIATIVE DEMONSTRATION PROJECTS.

S 2893. LONG-TERM CARE NURSING INITIATIVE DEMONSTRATION PROJECTS. 1. SCHOLARSHIP DEMONSTRATION PROJECT. (A) ON OR AFTER APRIL FIRST, TWO THOUSAND NINE, THE COMMISSIONER, IN CONSULTATION WITH THE PRESIDENT OF THE HIGHER EDUCATION SERVICES CORPORATION, IS AUTHORIZED TO ESTABLISH SCHOLARSHIP AWARDS FOR THE PROFESSIONAL STUDY OF NURSING BY NEW YORK STATE RESIDENTS AT SCHOOLS APPROVED BY THE COMMISSIONER. EACH RECIPIENT OF A SCHOLARSHIP AWARD SHALL BE ENTITLED TO A YEARLY PAYMENT NOT TO EXCEED EIGHT THOUSAND DOLLARS OR THE ACTUAL COST OF TUITION AND OTHER RELATED EDUCATIONAL EXPENSES, WHICHEVER IS LOWER, FOR A MAXIMUM OF TWO YEARS, WHILE IN ATTENDANCE AT AN APPROVED NURSING SCHOOL. AWARDS SHALL BE CONDITIONED UPON THE AGREEMENT OF THE SCHOLARSHIP HOLDER TO PRACTICE NURSING IN THE FIELD OF LONG-TERM CARE IN NEW YORK FOR A PERIOD OF ONE YEAR FOR EACH YEAR AN AWARD IS RECEIVED, UP TO A MAXIMUM OF TWO YEARS. THE COMMISSIONER SHALL DEFINE ELIGIBILITY CRITERIA FOR THE AWARDS, INCLUDING BUT NOT LIMITED TO THE TYPE OF LONG-TERM CARE SERVICE REQUIRED.

(B) IF A RECIPIENT FAILS TO COMPLY FULLY WITH THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION, THE RECIPIENT SHALL BE RESPONSIBLE FOR REPAYMENT OF ONE HUNDRED PERCENT OF THE YEARLY PAYMENT RECEIVED FOR EACH YEAR OR PART THEREOF THAT THE RECIPIENT FAILS TO PRACTICE IN THE FIELD OF LONG-TERM CARE, PLUS INTEREST AT A RATE TO BE DETERMINED BY THE COMMISSIONER BUT NOT LESS THAN THE RATE OF INTEREST SET BY THE COMMISSIONER OF TAXATION AND FINANCE WITH RESPECT TO UNDERPAYMENTS OF PERSONAL INCOME TAX PURSUANT TO SECTION SIX HUNDRED EIGHTY-FOUR OF THE TAX LAW. ANY AMOUNT WHICH IS REQUIRED TO BE REPAID UNDER THIS SUBDIVISION SHALL BE PAID WITHIN THE FIVE-YEAR PERIOD BEGINNING ON THE DATE THAT THE RECIPIENT FAILS TO COMPLY WITH THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION. ANY REPAYMENT OBLIGATION SHALL BE CANCELED UPON THE DEATH OF THE RECIPIENT.

(C) THE COMMISSIONER MAY POSTPONE, CHANGE OR WAIVE THE SERVICE OBLIGATION AND REPAYMENT AMOUNTS SET FORTH IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION IN INDIVIDUAL CIRCUMSTANCES WHERE THERE IS COMPELLING NEED OR HARDSHIP.

(D) A RECIPIENT OF AN AWARD SHALL REPORT ANNUALLY, ON PRESCRIBED FORMS, AS TO THE PERFORMANCE OF THE REQUIRED SERVICES, COMMENCING WITH THE CALENDAR YEAR IN WHICH THE RECIPIENT BEGINS TO PRACTICE NURSING IN THE FIELD OF LONG-TERM CARE AND CONTINUING UNTIL THE RECIPIENT SHALL HAVE COMPLETED, OR UNTIL IT IS DETERMINED THAT HE OR SHE SHALL NOT BE OBLIGATED TO COMPLETE, THE REQUIRED SERVICES. IF THE RECIPIENT SHALL FAIL TO FILE ANY REPORT REQUIRED HEREUNDER WITHIN THIRTY DAYS OF WRITTEN NOTICE TO THE RECIPIENT, MAILED TO THE ADDRESS SHOWN ON THE LAST APPLICATION FOR AN AWARD OR LAST REPORT FILED, WHICHEVER IS LATER, A FINE OF UP TO ONE THOUSAND DOLLARS MAY BE IMPOSED. THE REPORTING REQUIREMENT MAY

1 BE WAIVED OR EXCUSED, AND/OR ANY FINE REDUCED OR WAIVED, FOR GOOD CAUSE  
2 SHOWN.

3 2. LOAN REPAYMENT DEMONSTRATION PROJECT. (A) ON OR AFTER APRIL FIRST,  
4 TWO THOUSAND NINE, THE COMMISSIONER, IN CONSULTATION WITH THE PRESIDENT  
5 OF THE HIGHER EDUCATION SERVICES CORPORATION, IS AUTHORIZED TO MAKE LOAN  
6 REPAYMENT AWARDS TO INDIVIDUALS WHO PRACTICE NURSING IN THE FIELD OF  
7 LONG-TERM CARE IN NEW YORK STATE. SUCH NURSES SHALL BE ELIGIBLE FOR A  
8 YEARLY LOAN REPAYMENT AWARD OF UP TO EIGHT THOUSAND DOLLARS FOR EACH  
9 YEAR OF PRACTICE IN THE FIELD OF LONG-TERM CARE, FOR A MAXIMUM OF TWO  
10 YEARS. THE COMMISSIONER SHALL DEFINE ELIGIBILITY CRITERIA FOR THE  
11 AWARDS, INCLUDING BUT NOT LIMITED TO THE TYPE OF LONG-TERM CARE SERVICE  
12 REQUIRED.

13 (B) LOAN REPAYMENT AWARDS MADE PURSUANT TO PARAGRAPH (A) OF THIS  
14 SUBDIVISION SHALL NOT EXCEED THE TOTAL QUALIFYING OUTSTANDING STUDENT  
15 LOAN DEBT OF THE NURSE FOR TUITION AND RELATED EDUCATIONAL EXPENSES  
16 INCURRED AT SCHOOLS APPROVED BY THE COMMISSIONER, MADE BY OR GUARANTEED  
17 BY THE FEDERAL OR STATE GOVERNMENT, OR MADE BY A LENDING OR EDUCATIONAL  
18 INSTITUTION APPROVED UNDER TITLE IV OF THE FEDERAL HIGHER EDUCATION ACT.  
19 LOAN REPAYMENT AWARDS SHALL BE USED SOLELY TO REPAY SUCH OUTSTANDING  
20 DEBT.

21 (C) A RECIPIENT OF AN AWARD SHALL REPORT ANNUALLY, ON PRESCRIBED  
22 FORMS, THE PERFORMANCE OF THE REQUIRED SERVICES, COMMENCING WITH THE  
23 CALENDAR YEAR IN WHICH THE RECIPIENT BEGINS TO PRACTICE NURSING IN THE  
24 FIELD OF LONG-TERM CARE UNTIL THE RECIPIENT SHALL HAVE COMPLETED, OR  
25 UNTIL IT IS DETERMINED THAT HE OR SHE SHALL NOT BE OBLIGATED TO  
26 COMPLETE, THE REQUIRED SERVICES. LOAN REPAYMENT AWARDS SHALL BE MADE  
27 YEARLY, AFTER THE RECIPIENT HAS COMPLETED EACH YEAR OF QUALIFYING PRAC-  
28 TICE AND FILED THE PERFORMANCE REPORT DESCRIBED HEREIN. THE REPORTING  
29 REQUIREMENT MAY BE WAIVED OR EXCUSED FOR GOOD CAUSE SHOWN.

30 S 27. The education law is amended by adding a new section 679-f to  
31 read as follows:

32 S 679-F. LONG-TERM CARE NURSING INITIATIVE DEMONSTRATION PROJECTS. 1.  
33 LONG-TERM CARE NURSING INITIATIVE SCHOLARSHIP AND LOAN-REPAYMENT AWARDS  
34 MAY BE MADE IN ACCORDANCE WITH THE STANDARDS ENUMERATED IN SECTION TWEN-  
35 TY-EIGHT HUNDRED NINETY-THREE OF THE PUBLIC HEALTH LAW.

36 2. THE PRESIDENT SHALL BE RESPONSIBLE FOR THE ADMINISTRATION OF THE  
37 AWARDS TO THE EXTENT DETERMINED IN CONSULTATION WITH THE COMMISSIONER OF  
38 HEALTH.

39 S 28. The social services law is amended by adding a new section 367-v  
40 to read as follows:

41 S 367-V. CASH AND COUNSELING DEMONSTRATION PROGRAM. 1. THE COMMISSION-  
42 ER IS AUTHORIZED TO ESTABLISH A CASH AND COUNSELING DEMONSTRATION  
43 PROGRAM FOR THE PROVISION TO UP TO ONE THOUSAND PERSONS OF SELF-DIRECTED  
44 PERSONAL ASSISTANCE SERVICES IN UP TO TEN COUNTIES CHOSEN BY THE COMMIS-  
45 SIONER BASED UPON THE DEMOGRAPHIC AND GEOGRAPHIC FEATURES OF SUCH COUN-  
46 TIES. FOR PURPOSES OF THIS SECTION, THE TERM "SELF-DIRECTED PERSONAL  
47 ASSISTANCE SERVICES" MEANS PERSONAL CARE AND RELATED SERVICES AS DEFINED  
48 IN THIS SECTION THAT ARE PROVIDED TO AN ELIGIBLE PERSON UNDER SUCH  
49 PROGRAM. THE PROGRAM PERMITS PARTICIPANTS RECEIVING SELF-DIRECTED  
50 PERSONAL ASSISTANCE SERVICES TO PLAN AND MANAGE THE SERVICES WITH COUN-  
51 SELING AND MANAGEMENT SUPPORT AND TO USE THE FUNDS IN HIS OR HER INDIV-  
52 IDUALIZED BUDGET TO ACQUIRE ITEMS THAT INCREASE INDEPENDENCE OR SUBSTI-  
53 TUTE FOR HUMAN ASSISTANCE WITH PERSONAL CARE. THE COMMISSIONER IS  
54 AUTHORIZED TO FILE SUCH STATE PLAN AMENDMENTS AND WAIVERS OF THE FEDERAL  
55 SOCIAL SECURITY ACT AS MAY BE NEEDED TO OBTAIN FEDERAL FINANCIAL PARTIC-  
56 IPATION IN THE COSTS OF SUCH PROGRAM.

1 2. (A) ALL ELIGIBLE PERSONS, RESIDING IN THE COUNTIES IDENTIFIED IN  
2 SUBDIVISION ONE OF THIS SECTION, RECEIVING PERSONAL CARE SHALL BE  
3 PROVIDED NOTICE OF THE AVAILABILITY OF THE PROGRAM AND SHALL HAVE THE  
4 OPPORTUNITY TO APPLY FOR PARTICIPATION IN THE PROGRAM. FOR PURPOSES OF  
5 THIS SECTION, AN "ELIGIBLE PERSON" IS A PERSON EIGHTEEN YEARS OF AGE OR  
6 OLDER WHO:

7 (I) IS ELIGIBLE FOR MEDICAL ASSISTANCE UNDER THIS TITLE;

8 (II) IS ELIGIBLE FOR PERSONAL CARE SERVICES UNDER THIS TITLE;

9 (III) IS DETERMINED BY THE SOCIAL SERVICES DISTRICT, PURSUANT TO AN  
10 ASSESSMENT, AS BEING SELF-DIRECTING IN REGARD TO PARTICIPATION IN COUN-  
11 SELING AND FISCAL MANAGEMENT OF THEIR PLAN AND BUDGET AND AS BEING CAPA-  
12 BLE TO EXERCISE CHOICE AND CONTROL OVER THE BUDGET, PLANNING AND  
13 PURCHASE OF SELF-DIRECTED PERSONAL ASSISTANCE SERVICES; AND

14 (IV) MEETS SUCH OTHER CRITERIA, AS MAY BE ESTABLISHED BY THE COMMIS-  
15 SIONER, WHICH THE COMMISSIONER DEEMS NECESSARY TO EFFECTIVELY IMPLEMENT  
16 THE OBJECTIVES OF THIS SECTION.

17 (B) A PERSON SHALL BE INELIGIBLE FOR PARTICIPATION IN THIS PROGRAM  
18 WHILE HE OR SHE IS RECEIVING PERSONAL CARE SERVICES, OTHER THAN PERSONAL  
19 EMERGENCY RESPONSE SERVICES, UNDER PARAGRAPH (E) OF SUBDIVISION TWO OF  
20 SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE; OR IS A PARTICIPANT IN  
21 EITHER THE CONSUMER-DIRECTED PERSONAL ASSISTANCE PROGRAM UNDER SECTION  
22 THREE HUNDRED SIXTY-FIVE-F OF THIS TITLE OR A HOME AND COMMUNITY-BASED  
23 WAIVER PROGRAM ESTABLISHED UNDER PARAGRAPH (C) OF SECTION NINETEEN  
24 HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT; OR IS AN ENROLLEE IN  
25 A MANAGED LONG-TERM CARE PLAN OR AN APPROVED MANAGED LONG-TERM CARE  
26 DEMONSTRATION UNDER PARAGRAPH (O) OF SUBDIVISION TWO OF SECTION THREE  
27 HUNDRED SIXTY-FIVE-A OF THIS TITLE.

28 3. THE DEPARTMENT IS AUTHORIZED TO CONTRACT WITH AN ENTITY TO PROVIDE  
29 PROGRAM PARTICIPANTS WITH ASSISTANCE IN DEVELOPING A SERVICE PLAN AND AN  
30 INDIVIDUALIZED BUDGET, AND TO ASSUME RESPONSIBILITY FOR ALL TASKS  
31 RELATED TO PROCESSING TIMESHEETS AND PAYROLL FUNCTIONS.

32 4. (A) THE LOCAL DEPARTMENTS OF SOCIAL SERVICES IN THE TEN COUNTIES  
33 CHOSEN BY THE COMMISSIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION  
34 SHALL INFORM EACH ELIGIBLE PERSON OF OTHER FEASIBLE ALTERNATIVES INCLUD-  
35 ING PERSONAL CARE UNDER PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION  
36 THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE OR THE CONSUMER-DIRECTED  
37 PERSONAL ASSISTANCE PROGRAM UNDER SECTION THREE HUNDRED SIXTY-FIVE-F OF  
38 THIS TITLE. THE RESPONSIBILITIES OF THE LOCAL DEPARTMENTS OF SOCIAL  
39 SERVICES SHALL INCLUDE, BUT ARE NOT LIMITED TO, DETERMINING WHETHER THE  
40 INDIVIDUAL IS AN ELIGIBLE PERSON; ASSESSING EACH ELIGIBLE PERSON'S FUNC-  
41 TIONAL NEEDS; APPROVING THE NUMBER OF HOURS OF PERSONAL CARE SERVICES;  
42 AND, UPON DISENROLLMENT OF A PARTICIPANT FROM THIS PROGRAM, ASSISTING  
43 WITH TRANSITION TO THE PERSONAL CARE SERVICES AVAILABLE UNDER PARAGRAPH  
44 (E) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS  
45 TITLE OR THE CONSUMER-DIRECTED PERSONAL ASSISTANCE PROGRAM UNDER SECTION  
46 THREE HUNDRED SIXTY-FIVE-F OF THIS TITLE IF THE PERSON IS DETERMINED TO  
47 CONTINUE TO NEED PERSONAL CARE SERVICES.

48 (B) THE ENTITY WITH WHICH THE DEPARTMENT HAS CONTRACTED FOR THE ADMIN-  
49 ISTRATION OF THIS PROGRAM SHALL BE RESPONSIBLE FOR THE PERFORMANCE OF  
50 CERTAIN ACTIVITIES SUPPORTING PROGRAM PARTICIPANTS WHICH MAY INCLUDE,  
51 BUT SHALL NOT BE LIMITED TO: ASSISTING THE ELIGIBLE PERSON WITH THE  
52 DEVELOPMENT OF HIS OR HER SERVICE PLAN; PROVIDING TRAINING AND ONGOING  
53 TECHNICAL SUPPORT TO THE ELIGIBLE PERSON WITH REGARD TO THE PERFORMANCE  
54 OF HIS OR HER RESPONSIBILITIES AS A PARTICIPANT IN THE PROGRAM; PROVID-  
55 ING RECORDKEEPING SERVICES; RETAINING THE FUNDS FOR THE INDIVIDUALIZED  
56 BUDGETS ESTABLISHED FOR EACH ELIGIBLE PERSON; PROCESSING EMPLOYMENT AND

1 TAX INFORMATION; REVIEWING RECORDS TO ENSURE CORRECTNESS; WRITING AND  
2 DELIVERING PAYCHECKS; AND ASSISTING ELIGIBLE PERSONS IN OBTAINING  
3 REQUIRED INSURANCE POLICIES.

4 (C) THE PARTICIPANT SHALL BE RESPONSIBLE FOR: DEVELOPING A SERVICE  
5 PLAN WITH THE ASSISTANCE OF A BUDGET COUNSELOR EMPLOYED BY THE ENTITY  
6 WITH WHICH THE DEPARTMENT HAS CONTRACTED TO ADMINISTER THIS PROGRAM,  
7 WHICH SERVICE PLAN SHALL BE SUBJECT TO THE APPROVAL OF THE BUDGET COUN-  
8 SELOR; DEVELOPING A JOB DESCRIPTION FOR HIS OR HER PROVIDERS; SELECTING  
9 AND EMPLOYING PROVIDERS; TRAINING PROVIDERS; ENDING THE EMPLOYMENT OF AN  
10 UNSATISFACTORY PROVIDER; AND SUBMITTING TO THE FISCAL AGENT EMPLOYED BY  
11 THE CONTRACTOR ANY INFORMATION NECESSARY FOR PROVIDER PAYMENTS, TAX  
12 REQUIREMENTS AND ANY BACKGROUND SCREENING THAT MAY BE REQUESTED BY THE  
13 PARTICIPANT. A PARTICIPANT MAY EMPLOY FAMILY MEMBERS, EXCEPT FOR A  
14 SPOUSE, PARENT OR STEP-PARENT, TO PROVIDE PERSONAL CARE OR RELATED  
15 SERVICES.

16 5. THIS SECTION SHALL BE EFFECTIVE IF, TO THE EXTENT THAT, AND AS LONG  
17 AS, FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE FOR EXPENDITURES  
18 INCURRED UNDER THIS SECTION.

19 S 29. Section 3614 of the public health law is amended by adding a new  
20 subdivision 1-a to read as follows:

21 1-A. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, ON AND AFTER  
22 JANUARY FIRST, TWO THOUSAND TEN, HOME HEALTH SERVICES UNDER SECTION  
23 THREE HUNDRED SIXTY-FIVE-A OF THE SOCIAL SERVICES LAW PROVIDED BY HOME  
24 HEALTH AIDES AS DEFINED IN SUBDIVISION FOUR OF SECTION THIRTY-SIX  
25 HUNDRED TWO OF THIS ARTICLE SHALL BE PROVIDED DIRECTLY BY THE CERTIFIED  
26 HOME HEALTH AGENCY PROVIDER, LONG-TERM HOME HEALTH CARE PROGRAM PROVIDER  
27 OR AIDS HOME CARE PROGRAM PROVIDER THROUGH SUCH PROVIDERS' EMPLOYEES.

28 S 30. Paragraph (a) of subdivision 1 of section 367-f of the social  
29 services law, as amended by section 51 of part C of chapter 58 of the  
30 laws of 2005, is amended to read as follows:

31 (a) "Medicaid extended coverage" shall mean eligibility for medical  
32 assistance (i) without regard to the resource requirements of section  
33 three hundred sixty-six of this title, or in the case of an individual  
34 covered under an insurance policy or certificate described in subdivi-  
35 sion two of this section that provided a residential health care facili-  
36 ty benefit less than three years in duration, without consideration of  
37 an amount of resources equivalent to the value of benefits received by  
38 the individual under such policy or certificate, as determined under the  
39 rules of the partnership for long-term care program[, and]; (ii) without  
40 regard to the recovery of medical assistance from the estates of indi-  
41 viduals and the imposition of liens on the homes of persons pursuant to  
42 section three hundred sixty-nine of this title, with respect to  
43 resources exempt from consideration pursuant to subparagraph (i) of this  
44 paragraph; provided, however, that nothing [herein] IN THIS SECTION  
45 shall prevent the imposition of a lien or recovery against property of  
46 an individual on account of medical assistance incorrectly paid; AND  
47 (III) BASED ON AN INCOME ELIGIBILITY STANDARD FOR MARRIED COUPLES EQUAL  
48 TO THE AMOUNT OF THE MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE DEFINED  
49 IN PARAGRAPH (H) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-SIX-C  
50 OF THIS TITLE, AND FOR SINGLE INDIVIDUALS EQUAL TO ONE-HALF OF SUCH  
51 AMOUNT; PROVIDED, HOWEVER, THAT THE COMMISSIONER OF HEALTH SHALL NOT BE  
52 REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SUBPARAGRAPH IF THE USE OF  
53 SUCH INCOME ELIGIBILITY STANDARDS WILL RESULT IN A LOSS OF FEDERAL  
54 FINANCIAL PARTICIPATION IN THE COSTS OF MEDICAID EXTENDED COVERAGE  
55 FURNISHED IN ACCORDANCE WITH SUBPARAGRAPHS (I) AND (II) OF THIS PARA-  
56 GRAPH.

1 S 31. Notwithstanding any inconsistent provision of law, rule or  
2 regulation, for purposes of implementing the provisions of the public  
3 health law and the social services law, references to titles XIX and XXI  
4 of the federal social security act in the public health law and the  
5 social services law shall be deemed to include and also to mean any  
6 successor titles thereto under the federal social security act.

7 S 32. Notwithstanding any inconsistent provision of law, rule or regu-  
8 lation, the effectiveness of subdivisions 4, 7, 7-a and 7-b of section  
9 2807 of the public health law and section 18 of chapter 2 of the laws of  
10 1988, as they relate to time frames for notice, approval or certif-  
11 ication of rates of payment, are hereby suspended and shall, for  
12 purposes of implementing the provisions of this act, be deemed to have  
13 been without any force or effect from and after November 1, 2007 for  
14 such rates effective for the period January 1, 2008 through December 31,  
15 2008.

16 S 33. Severability clause. If any clause, sentence, paragraph, subdi-  
17 vision, section or part of this act shall be adjudged by any court of  
18 competent jurisdiction to be invalid, such judgment shall not affect,  
19 impair or invalidate the remainder thereof, but shall be confined in its  
20 operation to the clause, sentence, paragraph, subdivision, section or  
21 part thereof directly involved in the controversy in which such judgment  
22 shall have been rendered. It is hereby declared to be the intent of the  
23 legislature that this act would have been enacted even if such invalid  
24 provisions had not been included herein.

25 S 34. This act shall take effect on March 1, 2009; provided, however,  
26 that:

27 1. section twenty-one of this act shall take effect October 1, 2009;

28 2. any rules or regulations necessary to implement the provisions of  
29 this act may be promulgated and any procedures, forms, or instructions  
30 necessary for such implementation may be adopted and issued on or after  
31 the date this act shall have become a law;

32 3. this act shall not be construed to alter, change, affect, impair or  
33 defeat any rights, obligations, duties or interests accrued, incurred or  
34 conferred prior to the effective date of this act;

35 4. the commissioner of health and the superintendent of insurance and  
36 any appropriate council may take any steps necessary to implement this  
37 act prior to its effective date;

38 5. notwithstanding any inconsistent provision of the state administra-  
39 tive procedure act or any other provision of law, rule or regulation,  
40 the commissioner of health and the superintendent of insurance and any  
41 appropriate council is authorized to adopt or amend or promulgate on an  
42 emergency basis any regulation he or she or such council determines  
43 necessary to implement any provision of this act on its effective date;

44 6. the provisions of this act shall become effective notwithstanding  
45 the failure of the commissioner of health or the superintendent of  
46 insurance or any council to adopt or amend or promulgate regulations  
47 implementing this act;

48 7. the amendments to section 4403-f of the public health law made by  
49 sections twenty-two, twenty-two-a, twenty-two-b and twenty-two-c of this  
50 act shall not affect the repeal of such section and shall expire and be  
51 deemed repealed therewith;

52 8. a. notwithstanding any contrary provision of law, in the event  
53 sections two and ten of this act are not enacted into law then the  
54 provisions of sections three through six, seven, eleven through four-  
55 teen, twenty-four, and twenty-six through twenty-eight of this act shall  
56 be deemed null and void and of no effect; and

b. notwithstanding any contrary provision of law, in the event sections seventeen, twenty-three and twenty-three-a of this act are not enacted into law then the provisions of sections twenty-five, and twenty-eight of this act shall be deemed null and void and of no effect;

9. the amendments to subdivision 5 of section 3614 of the public health law made by section eighteen of this act shall not affect the expiration of such subdivision and shall expire therewith;

10. the amendments to paragraph (k) of subdivision 2 of section 365-a of the social services law made by section twenty-one of this act shall not affect the expiration of such paragraph and shall expire therewith; and

11. article 28-C-1 of the public health law and section 679-f of the education law added by sections twenty-six and twenty-seven of this act shall expire April 1, 2012.

#### PART E

Section 1. Section 31 of part E of chapter 58 of the laws of 1998, relating to the determination of state aid for the long-term sheltered employment program, is amended to read as follows:

S 31. Notwithstanding any other provision of law to the contrary, for each state fiscal year commencing on or after April 1, 1998, up to one thousand dollars of income as determined by the commissioner of the office of mental retardation and developmental disabilities and approved by the director of the budget, provided through the long term sheltered employment program, pursuant to subdivision 2 of section 1004-a of the education law, on behalf of eligible clients, [shall] MAY be regarded as exempt income and not recognized or included in the determination of state aid granted to local governments, and the local government share of operating costs pursuant to article 41 of the mental hygiene law, PROVIDED THAT STATE FUNDING IS AVAILABLE FOR THIS PURPOSE AS CERTIFIED BY THE DIRECTOR OF THE BUDGET OR HIS OR HER DESIGNEE.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2009.

#### PART F

Section 1. Notwithstanding the provisions of subdivision (e) of section 7.17 or section 41.55 of the mental hygiene law, or any other law to the contrary, the office of mental health is authorized to implement measures designed to ensure the efficient operation of hospitals operated by the office of mental health which may include the closure of wards, and to develop one or more transitional placement programs to provide supervised housing, and necessary outpatient and support services to individuals with mental illness, who have been discharged from hospitals operated by the office of mental health, and who have been determined by the office of mental health to be able to be appropriately served in such less restrictive setting.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2009.

#### PART G

Section 1. Section 9 of chapter 420 of the laws of 2002 amending the education law relating to the profession of social work, as amended by chapter 433 of the laws of 2003, is amended to read as follows:

1 S 9. Nothing in this act shall prohibit or limit the activities or  
2 services on the part of any person in the employ of a program or service  
3 operated, regulated, funded, or approved by the department of mental  
4 hygiene or the office of children and family services, or a local  
5 [government] GOVERNMENTAL unit as that term is defined in article 41 of  
6 the mental hygiene law or a social services district as defined in  
7 section 61 of the social services law, provided, however, this section  
8 shall not authorize the use of any title authorized pursuant to article  
9 154 of the education law, except that this section shall be deemed  
10 repealed on [January 1, 2010] JANUARY 1, 2014.

11 S 2. Section 17-a of chapter 676 of the laws of 2002 amending the  
12 education law relating to defining the practice of psychology, as  
13 amended by chapter 419 of the laws of 2003, is amended to read as  
14 follows:

15 S 17-a. Nothing in this act shall prohibit or limit the activities or  
16 services on the part of any person in the employ of a program or service  
17 operated, regulated, funded, or approved by the department of mental  
18 hygiene or the office of children and family services, or a local  
19 [government] GOVERNMENTAL unit as that term is defined in article 41 of  
20 the mental hygiene law or a social services district as defined in  
21 section 61 of the social services law, provided, however, this section  
22 shall not authorize the use of any title authorized pursuant to article  
23 153 or 163 of the education law, except as otherwise provided by such  
24 articles, except that this section shall be deemed repealed on [January  
25 1, 2010] JANUARY 1, 2014.

26 S 3. This act shall take effect on March 1, 2009.

27

#### PART H

28 Section 1. Subdivision (k) of section 10.06 of the mental hygiene law,  
29 as added by chapter 7 of the laws of 2007, is amended to read as  
30 follows:

31 (k) At the conclusion of the hearing, the court shall determine wheth-  
32 er there is probable cause to believe that the respondent is a sex  
33 offender requiring civil management. If the court determines that proba-  
34 ble cause has not been established, the court shall issue an order  
35 dismissing the petition, and the respondent's release shall be in  
36 accordance with other applicable provisions of law. If the court deter-  
37 mines that probable cause has been established: (i) the court shall  
38 order that the respondent be committed to a secure treatment facility  
39 designated by the commissioner for care, treatment and control upon his  
40 or her release, PROVIDED, HOWEVER, THAT A RESPONDENT WHOSE RELEASE DATE  
41 HAS PASSED MAY CONSENT TO REMAIN IN AND BE CONFINED AT A FACILITY MAIN-  
42 TAINED BY THE DEPARTMENT OF CORRECTIONAL SERVICES PENDING THE OUTCOME OF  
43 THE PROCEEDINGS UNDER THIS ARTICLE, AND PROVIDED FURTHER THAT A RESPOND-  
44 ENT WHO IS UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AT THE TIME  
45 OF THE PROBABLE CAUSE DETERMINATION MAY, AT THE DISCRETION OF THE COURT,  
46 BE CONTINUED ON PAROLE SUPERVISION UNDER THE SAME OR MODIFIED CONDITIONS  
47 OF SUPERVISION; (ii) the court shall set a date for trial in accordance  
48 with subdivision (a) of section 10.07 of this article; [and] (iii) the  
49 respondent shall not be released FROM CUSTODY OR PAROLE SUPERVISION  
50 pending the completion of such trial; AND (IV) WHERE THE RESPONDENT HAS  
51 BEEN PLACED UNDER THE JURISDICTION OF THE DIVISION OF PAROLE, HE OR SHE  
52 MAY BE RETAKEN AND TEMPORARILY DETAINED IN ACCORDANCE WITH SUBDIVISION  
53 THREE OF SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW. WHERE A  
54 RESPONDENT IS RETAKEN AND TEMPORARILY DETAINED PURSUANT TO SUBDIVISION



THREE OF SECTION TWO HUNDRED FIFTY-NINE-I OF THE EXECUTIVE LAW AND SUCH RESPONDENT HAS SATISFIED THE FULL TERM OF HIS OR HER SENTENCE OR AGGREGATED SENTENCES, THE COURT MAY THEREAFTER DIRECT THAT THE RESPONDENT REMAIN IN LOCAL CUSTODY OR BE RETURNED TO THE JURISDICTION OF THE DIVISION OF PAROLE PENDING COMPLETION OF THE TRIAL. WHERE APPROPRIATE, THE COURT MAY ORDER THAT THE RESPONDENT BE COMMITTED TO A SECURE TREATMENT FACILITY DESIGNATED BY THE COMMISSIONER FOR CARE, TREATMENT AND CONTROL PENDING COMPLETION OF THE TRIAL.

S 2. Section 10.08 of the mental hygiene law is amended by adding a new subdivision (i) to read as follows:

(I) AT ANY PROCEEDING CONDUCTED PURSUANT TO THIS ARTICLE, THE RESPONDENT OR ANY WITNESS SHALL BE PERMITTED, UPON GOOD CAUSE SHOWN, TO MAKE AN ELECTRONIC APPEARANCE IN THE COURT BY MEANS OF AN INDEPENDENT AUDIO-VISUAL SYSTEM, AS THAT TERM IS DEFINED IN SUBDIVISION ONE OF SECTION 182.10 OF THE CRIMINAL PROCEDURE LAW, FOR PURPOSES OF A COURT APPEARANCE OR FOR GIVING TESTIMONY. GOOD CAUSE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FACT THAT A WITNESS IS CURRENTLY EMPLOYED BY THE STATE AT A SECURE TREATMENT FACILITY OR ANOTHER WORK LOCATION, UNLESS THERE ARE COMPELLING CIRCUMSTANCES REQUIRING THE WITNESS'S PERSONAL PRESENCE AT THE COURT PROCEEDING. FOR PURPOSES OF THIS SUBDIVISION, AN "ELECTRONIC APPEARANCE" MEANS AN APPEARANCE AT WHICH A PARTICIPANT IS NOT PRESENT IN THE COURT, BUT IN WHICH (I) ALL OF THE PARTICIPANTS ARE ABLE TO SEE AND HEAR THE SIMULTANEOUS REPRODUCTIONS OF THE VOICES AND IMAGES OF THE JUDGE, COUNSEL, RESPONDENT OR ANY OTHER APPROPRIATE PARTICIPANT, AND (II) COUNSEL IS PRESENT WITH THE RESPONDENT OR THE RESPONDENT AND COUNSEL ARE ABLE TO SEE AND HEAR EACH OTHER AND ENGAGE IN PRIVATE CONVERSATION. WHEN A RESPONDENT OR A WITNESS MAKES AN ELECTRONIC APPEARANCE, THE COURT STENOGRAPHER SHALL RECORD ANY STATEMENTS IN THE SAME MANNER AS IF THE RESPONDENT OR WITNESS HAD MADE A PERSONAL APPEARANCE.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2009.

## PART I

Section 1. Section 29.23 of the mental hygiene law is amended to read as follows:

S 29.23 Powers with respect to property of patients.

The commissioner may authorize the directors of department facilities, to receive or obtain funds or other personal property, excepting jewelry, due or belonging to a patient who has no [committee] GUARDIAN AUTHORIZED TO RECEIVE SUCH FUNDS OR PROPERTY, up to an amount or value not exceeding five thousand dollars EXCEPTING FEDERAL OR STATE BENEFITS PAID TO THE DIRECTOR AS REPRESENTATIVE PAYEE; and also from [a committee] SUCH GUARDIAN upon his discharge when the final order so provides where the balance remaining in the hands of such [committee] GUARDIAN does not exceed such amount. Such personal property, excepting jewelry, other than moneys shall be retained by the director for the benefit of the patient for whom received until sold as hereinafter provided. FEDERAL BENEFITS, INCLUDING BENEFITS FOR WHICH THERE IS A STATE SHARE, PAID TO THE DIRECTOR AS REPRESENTATIVE PAYEE, SHALL BE RETAINED BY THE DIRECTOR AND USED IN ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS. Such funds and the proceeds of the sale of other personal property so received shall be placed to the credit of the patient for whom received and disbursed on the order of the director, to provide, in the first instance, for luxuries, comforts, and necessities for such patient, including burial expenses, and, if funds are thereafter avail-

1 able, for the support of such patient. The commissioner may authorize  
2 directors, on behalf of any such patient, to give receipts, execute  
3 releases and other documents required by law or court order, to endorse  
4 checks and drafts, and to convert personal property excepting jewelry  
5 into money by sale for an adequate consideration, and to execute bills  
6 of sale or to permit such patient to do so, in order that the proceeds  
7 may be deposited to the credit of such patient in accordance with the  
8 provisions of this section.

9 Whenever, under the provisions of this section, the commissioner shall  
10 authorize the director of a facility in the department to receive moneys  
11 or other personal property excluding jewelry belonging to a patient  
12 which are on deposit in any bank or other institution or which are due  
13 to the person from any person or agency, such bank, institution, person,  
14 or agency shall, upon the written request of the director, forthwith  
15 turn over to such director from such moneys or personal property the  
16 amount or value hereinbefore specified. Any moneys received by the  
17 director of such facility shall be deposited by him in such bank or  
18 trust company as shall be designated by the comptroller, except that the  
19 commissioner may, in his discretion, invest so much thereof as he may  
20 deem advisable in bonds issued by the United States government or any of  
21 its agencies.

22 Moneys belonging to a patient received by the director of such facili-  
23 ty pursuant to law shall be received by him in his official capacity as  
24 such director and such receipt shall be deemed an exercise or perform-  
25 ance by him of a power and duty duly conferred by this section.

26 S 2. Subdivision (e) of section 33.07 of the mental hygiene law, as  
27 added by chapter 709 of the laws of 1986, is amended as follows:

28 (e) A mental hygiene facility which is a representative payee for a  
29 patient pursuant to designation by the social security administration or  
30 which assumes management responsibility over the funds of a patient,  
31 shall maintain such funds in [a fiduciary capacity to the patient]  
32 ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS. The commission-  
33 ers of mental health and mental retardation and developmental disabili-  
34 ties [shall] ARE AUTHORIZED TO develop standards regarding the manage-  
35 ment of patient funds.

36 S 3. This act shall take effect immediately, and shall be deemed to  
37 have been in full force and effect on and after January 1, 2002.

38 PART J

39 Section 1. Subdivision (b) of section 13.17 of the mental hygiene law,  
40 as amended by section 1 of part N of chapter 57 of the laws of 2000, is  
41 amended to read as follows:

42 (b) There shall be in the office the developmental disabilities  
43 services offices named below serving the areas either currently or  
44 previously served by a school, for the care and treatment of the mental-  
45 ly retarded and developmentally disabled and for research and teaching  
46 in the science and skills required for the care and treatment of such  
47 mentally retarded and developmentally disabled:

48 Bernard M. Fineson Developmental Disabilities Services Office  
49 Brooklyn Developmental Disabilities Services Office  
50 Broome Developmental Disabilities Services Office  
51 Capital District Developmental Disabilities Services Office  
52 Central New York Developmental Disabilities Services Office  
53 Finger Lakes Developmental Disabilities Services Office  
54 Institute for Basic Research in Developmental Disabilities

1 Hudson Valley Developmental Disabilities Services Office  
2 Metro New York Developmental Disabilities Services Office  
3 Long Island Developmental Disabilities Services Office  
4 Sunmount Developmental Disabilities Services Office  
5 Taconic Developmental Disabilities Services Office  
6 Western New York Developmental Disabilities Services Office  
7 Staten Island Developmental Disabilities Services Office  
8 [Valley Ridge Center for Intensive Treatment]

9 The New York State Institute for Basic Research in Developmental Disa-  
10 bilities is designated as an institute for the conduct of medical  
11 research and other scientific investigation directed towards furthering  
12 knowledge of the etiology, diagnosis, treatment and prevention of mental  
13 retardation and developmental disabilities.

14 S 2. Notwithstanding any other provision of law to the contrary, the  
15 head of the office of mental retardation and developmental disabilities  
16 is authorized to consolidate the Valley Ridge Center for Intensive  
17 Treatment and the Broome Developmental Disabilities Services Office. The  
18 consolidated entity shall be known as the Broome Developmental Disabili-  
19 ties Services Office.

20 S 3. This act shall take effect immediately and shall be deemed to  
21 have been in full force and effect on and after March 1, 2009.

22 PART K

23 Section 1. Subdivision (f) of section 19.17 of the mental hygiene law,  
24 as amended by section 3 of part E of chapter 405 of the laws of 1999, is  
25 amended to read as follows:

26 (f) There shall be in the office the facilities named below for the  
27 care, treatment and rehabilitation of the mentally disabled and for  
28 clinical research and teaching in the science and skills required for  
29 the care, treatment and rehabilitation of such mentally disabled.

30 R.E. Blaisdell Addiction Treatment Center  
31 Bronx Addiction Treatment Center  
32 C.K. Post Addiction Treatment Center  
33 Creedmoor Addiction Treatment Center  
34 Dick Van Dyke Addiction Treatment Center  
35 Kingsboro Addiction Treatment Center  
36 [Manhattan Addiction Treatment Center]  
37 McPike Addiction Treatment Center  
38 Richard C. Ward Addiction Treatment Center  
39 J.L. Norris Addiction Treatment Center  
40 South Beach Addiction Treatment Center  
41 St. Lawrence Addiction Treatment Center  
42 Stutzman Addiction Treatment Center

43 S 2. This act shall take effect immediately and shall be deemed to  
44 have been in full force and effect on and after March 1, 2009.

45 PART L

46 Section 1. Subdivision 3-b of section 1 of part C of chapter 57 of the  
47 laws of 2006, as added by section 2 of part I of chapter 58 of the laws  
48 of 2008, establishing a cost of living adjustment for designated human  
49 services programs, is amended and a new subdivision 3-b is added to read  
50 as follows:

51 3-B. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, BEGINNING  
52 APRIL 1, 2009 AND ENDING MARCH 31, 2010, THE COMMISSIONERS SHALL NOT

1 INCLUDE A COLA FOR THE PURPOSE OF ESTABLISHING RATES OF PAYMENTS,  
2 CONTRACTS OR ANY OTHER FORM OF REIMBURSEMENT.

3 [3-b] 3-C. Notwithstanding any inconsistent provision of law, begin-  
4 ning April 1, [2009] 2010 and ending March 31, [2012] 2013, the commis-  
5 sioners shall develop the COLA under this section using the actual U.S.  
6 consumer price index for all urban consumers (CPI-U) published by the  
7 United States department of labor, bureau of labor statistics for the  
8 twelve month period ending in July of the budget year prior to such  
9 state fiscal year, for the purpose of establishing rates of payments,  
10 contracts or any other form of reimbursement.

11 S 2. This act shall take effect immediately and shall be deemed to  
12 have been in full force and effect on and after April 1, 2009; provided,  
13 however, that the amendments to section 1 of part C of chapter 57 of the  
14 laws of 2006, made by section one of this act shall not affect the  
15 repeal of such section and shall be deemed repealed therewith.

16 PART M

17 Section 1. Section 1 of chapter 119 of the laws of 2007, relating to  
18 directing the commissioner of mental health to study, evaluate and  
19 report on the unmet mental health service needs of traditionally under-  
20 served populations, is amended to read as follows:

21 Section 1. The commissioner of mental health shall [study, evaluate  
22 and report on the unmet] IDENTIFY mental health service needs AND PROB-  
23 LEMS of traditionally underserved populations IN A MANNER CONSISTENT  
24 WITH THE REQUIREMENTS OF SUBDIVISION (B) OF SECTION 5.07 OF THE MENTAL  
25 HYGIENE LAW AND SHALL ALSO INCLUDE THE FOLLOWING:

26 A. IDENTIFYING NEEDS AND PROBLEMS WHICH MUST BE ADDRESSED DURING THE  
27 ENSUING FIVE YEARS;

28 B. RECOMMENDATIONS ON THE PROVISION OF STATE AND LOCAL MENTAL HEALTH  
29 SERVICES BASED ON THE DEVELOPMENT OF BEST PRACTICES BY PROGRAMS PROMOT-  
30 ING CULTURALLY AND LINGUISTICALLY COMPETENT MENTAL HEALTH SERVICES,  
31 INCLUDING SERVICES TO RACIAL AND ETHNIC MINORITIES;

32 C. REVIEW OF EFFORTS UNDERTAKEN BY THE OFFICE OF MENTAL HEALTH TO  
33 ADDRESS MENTAL HEALTH SERVICE NEEDS OF THESE POPULATIONS; AND

34 D. A DESCRIPTION OF THE INVOLVEMENT OF LOCAL GOVERNMENT MENTAL HEALTH  
35 AUTHORITIES IN PLANNING AND DEVELOPING MENTAL HEALTH SERVICES FOR THESE  
36 POPULATIONS.

37 [Such study and evaluation shall identify those populations with high  
38 rates of unmet mental health service needs, including but not limited  
39 to: racial and ethnic minorities, persons with limited English profi-  
40 ciency, persons with unmet housing needs, high-risk demographic popu-  
41 lations (children, adolescents, young adults and the elderly), persons  
42 with criminal justice contact, and those lacking sufficient mental  
43 health care coverage.] Such commissioner shall report, on or before  
44 October 1, 2010 AND ANNUALLY THEREAFTER, his or her findings and recom-  
45 mendations [to improve service delivery to these populations, including  
46 an analysis of promising practices that support cultural and linguistic  
47 competence in the provision of mental health services in the state. Such  
48 report shall be submitted] REQUIRED BY THIS ACT, to the governor, the  
49 temporary president of the senate, the speaker of the assembly, the  
50 chair of the senate committee on mental health and developmental disa-  
51 bilities and the chair of the assembly committee on mental health. SUCH  
52 REPORT SHALL BE CONSISTENT WITH THE REQUIREMENTS OF SUBDIVISION (B) OF  
53 SECTION 5.07 OF THE MENTAL HYGIENE LAW, EITHER AS A PART OF THE STATE-  
54 WIDE COMPREHENSIVE FIVE-YEAR PLAN FOR THE PROVISION OF STATE AND LOCAL

SERVICES FOR PERSONS WITH MENTAL ILLNESS, REQUIRED UNDER THAT SECTION, OR AS A SEPARATE DOCUMENT, AT THE DISCRETION OF THE COMMISSIONER.

S 2. Subdivision (e) of section 41.55 of the mental hygiene law, as amended by section 1 of part N-1 of chapter 63 of the laws of 2003, is amended to read as follows:

(e) The amount of community mental health support and workforce reinvestment funds for the office of mental health shall be determined in the annual budget and shall include the amount of actual state operations general fund appropriation reductions, including personal service savings and other than personal service savings directly attributed to each child and adult non-geriatric inpatient bed closure. For the purposes of this section a bed shall be considered to be closed upon the elimination of funding for such beds in the executive budget. The appropriation reductions as a result of inpatient bed closures shall be no less than seventy thousand dollars per bed on a full annual basis, as annually recommended by the commissioner, subject to the approval of the director of the budget, in the executive budget request prior to the fiscal year for which the executive budget is being submitted. [The commissioner shall report to the governor, the temporary president of the senate and the speaker of the assembly no later than October first, two thousand three, and annually thereafter, with an explanation of the methodologies used to calculate the per bed closure savings.] The methodologies shall be developed by the commissioner and the director of the budget. In no event shall the full annual value of community mental health support and workforce reinvestment programs attributable to beds closed as a result of net inpatient census decline exceed the twelve month value of the office of mental health state operations general fund reductions resulting from such census decline. Such reinvestment amount shall be made available in the same proportion by which the office of mental health's state operations general fund appropriations are reduced each year as a result of child and adult non-geriatric inpatient bed closures due to census decline.

S 3. Subdivisions (h) and (l) of section 41.55 of the mental hygiene law are REPEALED.

S 4. Section 20 of chapter 723 of the laws of 1989, amending the mental hygiene law and other laws relating to the establishment of comprehensive psychiatric emergency programs, is REPEALED.

S 5. Subdivision (c) of section 7.15 of the mental hygiene law is REPEALED.

S 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2009; provided, however, that the amendments to section 41.55 of the mental hygiene law, made by section two of this act, shall not affect the repeal of such section and shall be deemed repealed therewith.

#### PART N

Section 1. Section 3 of chapter 119 of the laws of 1997 authorizing the department of health to establish certain payments to general hospitals, as amended by section 1 of part H of chapter 57 of the laws of 2006, is amended to read as follows:

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1997. This act shall expire April 1, [2009] 2012.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009.

1

## PART O

2 Section 1. The commissioner of mental health and the city of New York  
3 are hereby authorized to extend for a period not exceeding fifty years  
4 the lease of certain portions of Ward's Island authorized by chapter 2  
5 of the laws of 1896, as amended by chapter 380 of the laws of 1900,  
6 chapter 139 of the laws of 1908, chapter 696 of the laws of 1913, chap-  
7 ter 101 of the laws of 1952, chapter 491 of the laws of 1952, and chap-  
8 ter 524 of the laws of 1962 for the purposes of the Manhattan psychiat-  
9 ric center, the Kirby forensic psychiatric center and the promotion of  
10 the public health, welfare and safety.

11 S 2. Section 18-130 of the administrative code of the city of New York  
12 is amended by adding a new subdivision g to read as follows:

13 G. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS B, C, D, E, AND F OF  
14 THIS SECTION, OR OF ANY OTHER LAW, GENERAL, SPECIAL, OR LOCAL, IN ORDER  
15 THAT THE STATE MAY RECONSTRUCT, MODERNIZE AND REBUILD SOME OR ALL OF THE  
16 BUILDINGS AND FACILITIES OF THE MANHATTAN PSYCHIATRIC CENTER AND THE  
17 KIRBY FORENSIC PSYCHIATRIC CENTER ON WARD'S ISLAND, AND CONTINUE TO  
18 MAINTAIN SAID HOSPITALS, SO AS TO FURNISH MODERN FACILITIES FOR TREAT-  
19 MENT AND CARE OF MENTAL PATIENTS OF THE METROPOLITAN DISTRICT AND TO  
20 BENEFIT THE HEALTH, WELFARE AND SAFETY OF ITS RESIDENTS, THE CITY OF NEW  
21 YORK, ACTING BY THE MAYOR ALONE, IS HEREBY AUTHORIZED TO ENTER INTO AN  
22 AGREEMENT FOR THE RENEWAL OR FURTHER EXTENSION OF THE LEASE EXECUTED  
23 BETWEEN THE CITY OF NEW YORK AND THE STATE OF NEW YORK PURSUANT TO THE  
24 PROVISIONS OF CHAPTER ONE HUNDRED ONE OF THE LAWS OF NINETEEN HUNDRED  
25 SIXTY-TWO, FOR A PERIOD NOT EXCEEDING FIFTY YEARS BEYOND ITS PRESENT  
26 TERMINATION DATE WITH RESPECT TO ANY OF THE LANDS NOW OCCUPIED BY OR  
27 USED IN CONNECTION WITH THE MANHATTAN PSYCHIATRIC CENTER, THE KIRBY  
28 FORENSIC PSYCHIATRIC CENTER AND RELATED PROGRAMS. NEITHER THE PROVISIONS  
29 OF SECTION ONE HUNDRED NINETY-SEVEN-C OF THE NEW YORK CITY CHARTER,  
30 RELATING TO A UNIFORM LAND USE PROCEDURE, NOR THE PROVISIONS OF ANY  
31 OTHER LOCAL LAW OF LIKE OR SIMILAR IMPORT SHALL APPLY TO THE RENEWAL OR  
32 EXTENSION OF SAID LEASE.

33 S 3. This act shall take effect immediately and shall be deemed to  
34 have been in full force and effect on and after March 1, 2009.

35

## PART P

36 Section 1. Section 19.07 of the mental hygiene law is amended by  
37 adding a new subdivision (h) to read as follows:

38 (H) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL DEVEL-  
39 OP AN ALCOHOL AND DRUG REHABILITATION PROGRAM, CONSISTENT WITH THE  
40 PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-SIX OF THE VEHICLE AND TRAF-  
41 FIC LAW FOR THE PROVISION OF CHEMICAL DEPENDENCY PREVENTION, EDUCATION,  
42 EVALUATION AND TREATMENT TO PERSONS REFERRED AS A RESULT OF A VIOLATION  
43 OF SECTIONS ELEVEN HUNDRED NINETY-TWO AND ELEVEN HUNDRED NINETY-TWO-A OF  
44 THE VEHICLE AND TRAFFIC LAW. THE COMMISSIONER OF THE OFFICE OF ALCOHOL-  
45 ISM AND SUBSTANCE ABUSE SERVICES SHALL ADOPT STANDARDS, RULES AND REGU-  
46 LATIONS, AND ESTABLISH FEES NECESSARY TO IMPLEMENT THE PROVISIONS OF  
47 THIS SUBDIVISION.

48 S 2. Subdivisions 1, 2, 3, 4 and 6 of section 1196 of the vehicle and  
49 traffic law, subdivisions 1, 2, 3 and 6 as added by chapter 47 of the  
50 laws of 1988, subdivision 4 as amended by chapter 196 of the laws of  
51 1996, are amended to read as follows:

52 1. Program establishment. There is hereby established an alcohol and  
53 drug rehabilitation program within the [department of motor vehicles]

1 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES. The commissioner OF  
2 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES shall establish,  
3 by regulation OR CONTRACT, the instructional and rehabilitative aspects  
4 of the program. Such program shall [consist of at least fifteen hours  
5 and] include, but need not be limited to, classroom instruction in areas  
6 deemed suitable by the commissioner OF THE OFFICE OF ALCOHOLISM AND  
7 SUBSTANCE ABUSE SERVICES. [No person shall be required to attend or  
8 participate in such program or any aspect thereof for a period exceeding  
9 eight months except upon the recommendation of the department of mental  
10 hygiene or appropriate health officials administering the program on  
11 behalf of a municipality.]

12 2. Curriculum. The form, content and method of presentation of the  
13 various aspects of such program shall be established by the commissioner  
14 OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES. In the devel-  
15 opment of the form, curriculum and content of such program, the commis-  
16 sioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES may  
17 consult with the commissioner of mental health, [the director of the  
18 division of alcoholism and alcohol abuse, the director of the division  
19 of substance abuse services] THE COMMISSIONER and any other state  
20 department or agency and request and receive assistance from them. The  
21 commissioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES is  
22 also authorized to develop more than one curriculum and course content  
23 for such program in order to meet the varying rehabilitative needs of  
24 the participants.

25 3. Where available. A course in such program shall be available in at  
26 least every county in the state, except where the commissioner OF THE  
27 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES determines that there  
28 is not a sufficient number of alcohol or drug-related traffic offenses  
29 in a county to mandate the establishment of said course, and that  
30 provisions be made for the residents of said county to attend a course  
31 in another county where a course exists.

32 4. Eligibility. Participation in the program shall be limited to those  
33 persons convicted of alcohol or drug-related traffic offenses or persons  
34 who have been adjudicated youthful offenders for alcohol or drug-related  
35 traffic offenses, or persons found to have been operating a motor vehi-  
36 cle after having consumed alcohol in violation of section eleven hundred  
37 ninety-two-a of this article, who choose to participate and who satisfy  
38 the criteria and meet the requirements for participation as established  
39 by this section and the regulations promulgated thereunder; provided,  
40 however, in the exercise of discretion, the judge imposing sentence may  
41 prohibit the defendant from enrolling in such program. The commissioner  
42 [or deputy] OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES may  
43 exercise discretion, to reject any person from participation referred to  
44 such program and nothing herein contained shall be construed as creating  
45 a right to be included in any course or program established under this  
46 section. In addition, no person shall be permitted to take part in such  
47 program if, during the five years immediately preceding commission of an  
48 alcohol or drug-related traffic offense or a finding of a violation of  
49 section eleven hundred ninety-two-a of this article, such person has  
50 participated in a program established pursuant to this article or been  
51 convicted of a violation of any subdivision of section eleven hundred  
52 ninety-two of this article other than a violation committed prior to  
53 November first, nineteen hundred eighty-eight, for which such person did  
54 not participate in such program. In the exercise of discretion, the  
55 commissioner [or a deputy] OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE  
56 ABUSE SERVICES shall have the right to expel any participant from the

1 program who fails to satisfy the requirements for participation in such  
2 program or who fails to satisfactorily participate in or attend any  
3 aspect of such program. Notwithstanding any contrary provisions of this  
4 chapter, satisfactory participation in and completion of a course in  
5 such program shall result in the termination of any sentence of impri-  
6 sonment that may have been imposed by reason of a conviction therefor;  
7 provided, however, that nothing contained in this section shall delay  
8 the commencement of such sentence.

9 6. Fees. The commissioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE  
10 ABUSE SERVICES shall establish a schedule of fees to be paid by or on  
11 behalf of each participant in the program, and may, from time to time,  
12 modify same. Such fees shall defray the ongoing expenses of the program.  
13 Provided, however, that pursuant to an agreement with the [department]  
14 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, a municipality,  
15 department thereof, or other agency may conduct a course in such program  
16 with all or part of the expense of such course and program being borne  
17 by such municipality, department or agency. In no event shall such fee  
18 be refundable, either for reasons of the participant's withdrawal or  
19 expulsion from such program or otherwise.

20 S 3. Paragraph (d) of subdivision 7 of section 1196 of the vehicle and  
21 traffic law, as amended by chapter 309 of the laws of 1996, is amended  
22 to read as follows:

23 (d) The commissioner shall require applicants for a conditional  
24 license to pay a fee of seventy-five dollars for processing costs. Such  
25 fees assessed under this subdivision shall be paid to the commissioner  
26 for deposit to the general fund and shall be in addition to any fees  
27 established by the commissioner OF ALCOHOLISM AND SUBSTANCE ABUSE  
28 SERVICES pursuant to subdivision six of this section to defray the costs  
29 of the alcohol and drug rehabilitation program.

30 S 4. Notwithstanding any other provision of this act, the commissioner  
31 of motor vehicles and the commissioner of the office of alcoholism and  
32 substance abuse services shall enter into an agreement whereby the  
33 department of motor vehicles will continue to operate the alcohol and  
34 drug rehabilitation program pursuant to section eleven hundred ninety-  
35 six of the vehicle and traffic law until October 1, 2009 whereupon the  
36 commissioner of alcoholism and substance abuse services shall have  
37 promulgated all rules and regulations necessary to implement the  
38 provisions of this act.

39 S 5. This act shall take effect immediately and shall be deemed to  
40 have been in full force and effect on and after March 1, 2009.

#### 41 PART Q

42 Section 1. Paragraph 2 of subdivision (a) of section 32.05 of the  
43 mental hygiene law, as added by chapter 558 of the laws of 1999, is  
44 amended to read as follows:

45 2. operation of a discrete unit of a hospital or other facility  
46 possessing an operating certificate pursuant to article twenty-eight of  
47 the public health law for the purpose of providing residential or non-  
48 residential chemical dependence services, OR THE PROVISION OF CHEMICAL  
49 DEPENDENCE CRISIS SERVICES IN AN AMOUNT THAT IS THE LESSER OF EITHER TWO  
50 THOUSAND PATIENT DAYS PER YEAR, OR AN AMOUNT GREATER THAN TEN PERCENT OF  
51 TOTAL PATIENT DAYS PER YEAR, AS DETERMINED BY THE COMMISSIONER, IN A  
52 HOSPITAL OR OTHER FACILITY POSSESSING AN OPERATING CERTIFICATE PURSUANT  
53 TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW; or



1 S 2. This act shall take effect immediately and shall be deemed to  
2 have been in full force and effect on and after March 1, 2009.

3 PART R

4 Section 1. Paragraph (d) of subdivision 5 of section 366-a of the  
5 social services law, as amended by section 49 of part C of chapter 58 of  
6 the laws of 2008, is amended to read as follows:

7 (d) In order to establish place of residence and income eligibility  
8 under this title at recertification, a recipient of assistance under  
9 this title shall attest to place of residence and to all information  
10 regarding the household's income that is necessary and sufficient to  
11 determine such eligibility; provided, however, that this paragraph shall  
12 not apply to persons described in subparagraph two of paragraph (a) of  
13 subdivision one of section three hundred sixty-six of this title, or to  
14 persons receiving long term care services, as defined in paragraph (b)  
15 of subdivision two of this section; and provided, further, that a non-  
16 applying legally responsible relative recertifying on behalf of a recip-  
17 ient of assistance who is under the age of twenty-one years shall be  
18 permitted to attest to household income under this paragraph only if the  
19 social security numbers of all legally responsible relatives are  
20 provided to the district. PROVIDED, HOWEVER, FOR PURPOSES OF RECERTIF-  
21 ICATION FOR ASSISTANCE UNDER THIS TITLE FOR A RECIPIENT OF MEDICAID  
22 WAIVER SERVICES PROVIDED OR AUTHORIZED BY THE OFFICE OF MENTAL RETARDA-  
23 TION AND DEVELOPMENTAL DISABILITIES, BEGINNING ON OR AFTER JANUARY  
24 FIRST, TWO THOUSAND TEN, SUCH RECIPIENT MAY BE PERMITTED, AS DETERMINED  
25 BY THE COMMISSIONER OF HEALTH, TO ATTEST TO PLACE OF RESIDENCE AND TO  
26 ALL INFORMATION REGARDING THE HOUSEHOLD'S INCOME AND/OR RESOURCES THAT  
27 ARE NECESSARY TO DETERMINE SUCH ELIGIBILITY.

28 S 2. This act shall take effect immediately, and be deemed to have  
29 been in full force and effect on and after March 1, 2009.

30 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
31 sion, section or part of this act shall be adjudged by any court of  
32 competent jurisdiction to be invalid, such judgment shall not affect,  
33 impair, or invalidate the remainder thereof, but shall be confined in  
34 its operation to the clause, sentence, paragraph, subdivision, section  
35 or part thereof directly involved in the controversy in which such judg-  
36 ment shall have been rendered. It is hereby declared to be the intent of  
37 the legislature that this act would have been enacted even if such  
38 invalid provisions had not been included herein.

39 S 3. This act shall take effect immediately provided, however, that  
40 the applicable effective date of Parts A through R of this act shall be  
41 as specifically set forth in the last section of such Parts.