

S. 6608

A. 9708

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

January 19, 2010

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

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

AN ACT to amend the public health law, the insurance law, the state finance law, the elder law and the county law, in relation to the early intervention program for infants and toddlers with disabilities and their families; to amend the public health law, in relation to requiring physicians to register and maintain an account with the department of health's health provider network; to amend the public health law and the state finance law, in relation to cardiac service information; to amend the public health law, in relation to the health information technology demonstration program; to amend part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to eligible programs; and to repeal certain provisions of the public health law, the state finance law, section 1 of chapter 462 of the laws of 1996, relating to establishing a quality incentive payment program, and the elder law relating thereto (Part A); to amend the public health law, in relation to the assessment of general hospitals, Medicaid rates of reimbursement general hospital indigent care pools, and preferred drug programs; 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 the social services law and the public health law, in relation to prescription drug coverage for needy persons; to amend the public health law, in relation to funds for tobacco control and insurance initiative pools, and health care initiatives pools; to amend the general business law and the social services law, in relation to authorizing moneys paid in advance for funeral merchandise or services for family members; to amend the social services law, in relation to authorizing the commissioner of health to assume responsibility for transportation costs; to amend the public health law, in relation to covering medically necessary ortho-

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

LBD12671-01-0

dontia, covering persons declaring to be a citizen for child health insurance; to amend the public health law, the social services law and the tax law, in relation to imposing parental fees in the early intervention program; to amend the public health law and the social services law, in relation to establishing express lane eligibility for child health insurance and co-payments for certain individuals enrolled in family health plus plans; to amend the public health law and the education law, in relation to interactions between pharmaceutical companies and health care professionals; to amend the public health law, in relation to general hospital reimbursement rate periods; to amend the public health law, in relation to a physician loan repayment program and in relation to transitional care units; to amend part B of chapter 58 of the laws of 2005, amending the public health law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, in relation to the expiration thereof; to amend the social services law, in relation to eligibility for medical assistance; to amend the public health law, in relation to general hospital reimbursement rate periods; to amend the social services law, in relation to coverage of certain treatment for individuals at risk of substance abuse; to amend section 17 of part C of chapter 58 of the laws of 2005 amending the public health law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, in relation to extending coverage for specialty outpatient services; to amend the public health law, in relation to violations of health laws or regulations, penalties and injunctions; to amend part C of chapter 58 of the laws of 2005 amending the tax law and other laws relating to implementing the state fiscal plan for the 2005-06 state fiscal year, in relation to Medicaid fraud and abuse; to amend the public health law, in relation to audits of service providers; to amend the public health law, in relation to hospital mortgage loan construction; to amend chapter 392 of the laws of 1973 constituting the New York medical care facilities finance agency act, in relation to special hospital project bonds and secured hospital projects reserve funds and appropriations; to amend the social services law, in relation to documentation and eligibility under the medical assistance program; permitting the commissioner of health to enter into contracts for the purpose of conducting audits of hospital costs; to amend the public health law, in relation to reimbursements to certain diagnostic and treatment and ambulatory care centers; to amend the social services law, in relation to providing smoking cessation counseling services to adolescents to the age of nineteen; to amend part A of chapter 57 of the laws of 2006 amending the social services law relating to medically fragile children, in relation to the effectiveness of provisions; to amend the social services law, in relation to participation in certain federal medical assistance programs; to amend chapter 33 of the laws of 1998 amending the social services law relating to authorizing payment of Medicare part B premiums for certain Medicaid recipients, in relation to making the provisions of such chapter permanent; to repeal paragraph (f) of subdivision 9 of section 367-a of the social services law relating to payment of prescription drugs; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend the public health law and the social services law, in relation to residential health care facilities; to amend chapter 58 of the laws of 2009, amending the public health law and other laws relating to Medicaid reimbursements to residential health care facilities inpatient

services, in relation to such reimbursements; to amend chapter 109 of the laws of 2006, amending the social services law and other laws relating to Medicaid reimbursement rate settings, in relation to such rate settings; to amend the social services law, in relation to personal care services and the nursing home transition and diversion program; to amend the social services law, in relation to creating the county long term care financing demonstration program; to amend the public health law, in relation to requiring a study of resident data, in relation to matters regarding fiscal solvency, in relation to certificates of authority, in relation to reporting requirements and in relation to the voluntary residential health care facility right-sizing demonstration program (Part C); to amend the insurance law, in relation to prior approval of health insurance premium rates (Part D); 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 E); to repeal chapter 119 of the laws of 2007, directing the commissioner of mental health to study, evaluate and report on the unmet mental health service needs of traditionally underserved populations (Part F); to amend the mental hygiene law, in relation to electronic court appearance in relation to article 10 of the mental hygiene law (Part G); in relation to authorizing the office of mental health to close patient wards and establish transitional placement programs, notwithstanding the provisions of section 7.17 or section 41.55 of the mental hygiene law; to amend chapter 62 of the laws of 2003 amending the mental hygiene law and the state finance law relating to the community mental health support and workforce reinvestment program, the membership of subcommittees for mental health of community services boards and the duties of such subcommittees and creating the community mental health and workforce reinvestment account, in relation to the effectiveness thereof; to amend the mental hygiene law, in relation to community mental health support and workforce reinvestment program; and repealing certain provisions of the mental hygiene law relating thereto (Part H); in relation to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs (Part I); to amend the mental hygiene law, in relation to payments made by the office of mental retardation and developmental disabilities and the office of mental health to operators of family care homes and to increasing the number of days that substitute caretakers may be provided to family care homes by the office of mental retardation and developmental disabilities and the office of mental health, and in relation to payments made to the operators of community residential facilities for the needs of persons with mental retardation or other developmental disabilities residing therein (Part J); to amend the mental hygiene law, in relation to discrete units of a hospital or other facility possessing an operating certificate for the purpose of providing residential or non-residential chemical dependence services (Part K); to amend the mental hygiene law and the vehicle and traffic law, in relation to the transfer of the alcohol and drug rehabilitation program from the department of motor vehicles to the office of alcoholism and substance abuse services (Part L); to amend the mental hygiene law, in relation to unified services; and repealing certain provisions of such law relating thereto (Part M); and to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in

relation to foregoing such adjustment during the 2010-2011 state fiscal year (Part N)

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 2010-2011
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through N. 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 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. Paragraph (a) of subdivision 3 of section 2559 of the
14 public health law, as amended by chapter 231 of the laws of 1993, is
15 amended to read as follows:

16 (a) [Providers of] PAYMENT FOR early intervention services and trans-
17 portation services shall in the first instance and where [applicable]
18 AVAILABLE, [seek payment] BE SOUGHT from all third party payors includ-
19 ing governmental agencies prior to claiming payment from a given munici-
20 pality for services rendered to eligible children[, provided that].
21 EXCEPT AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, for the
22 purpose of seeking payment from the medical assistance program or from
23 other third party payors, the municipality shall be deemed the provider
24 of such early intervention services to the extent that the provider has
25 promptly furnished to the municipality adequate and complete information
26 necessary to support the municipality billing, and provided further that
27 the obligation to seek payment shall not apply to a payment from a third
28 party payor who is not prohibited from applying such payment, and will
29 apply such payment, to an annual or lifetime limit specified in the
30 insured's policy.

31 (I) EARLY INTERVENTION PROGRAM PROVIDERS WHO RECEIVED PAYMENT OF FIVE
32 HUNDRED THOUSAND DOLLARS OR MORE AS DETERMINED PURSUANT TO SUBPARAGRAPH
33 (II) OF THIS PARAGRAPH FOR EARLY INTERVENTION SERVICES PROVIDED TO
34 ELIGIBLE CHILDREN THAT WERE COVERED SERVICES UNDER THE MEDICAL ASSIST-
35 ANCE PROGRAM, SHALL IN THE FIRST INSTANCE AND WHERE AVAILABLE, SEEK
36 PAYMENT FROM THE MEDICAL ASSISTANCE PROGRAM OR AN INSURANCE POLICY OR
37 PLAN FOR THOSE CHILDREN COVERED UNDER BOTH THE MEDICAL ASSISTANCE
38 PROGRAM AND AN INSURANCE POLICY OR PLAN, PRIOR TO CLAIMING PAYMENT FROM
39 A MUNICIPALITY FOR SERVICES RENDERED TO SUCH CHILDREN.

40 (II) THE COMMISSIONER SHALL DETERMINE WHICH PROVIDERS RECEIVED PAYMENT
41 OF FIVE HUNDRED THOUSAND DOLLARS OR MORE FOR EARLY INTERVENTION SERVICES
42 THAT WERE COVERED UNDER THE MEDICAL ASSISTANCE PROGRAM BASED UPON THE
43 MOST RECENT YEAR FOR WHICH COMPLETE INFORMATION EXISTS. THE COMMISSIONER
44 SHALL NOTIFY A PROVIDER AT LEAST THIRTY DAYS PRIOR TO THE DATE THE
45 PROVIDER SHALL BE REQUIRED TO BILL FOR SERVICES IN ACCORDANCE WITH
46 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

1 (III) PARENTS SHALL PROVIDE AND MUNICIPALITIES SHALL OBTAIN INFORMA-
2 TION ON ANY PLAN OF INSURANCE UNDER WHICH AN ELIGIBLE CHILD HAS COVER-
3 AGE.

4 S 2. Section 3235-a of the insurance law, as added by section 3 of
5 part C of chapter 1 of the laws of 2002, is amended to read as follows:

6 S 3235-a. Payment for early intervention services. (a) No policy of
7 accident and health insurance, including contracts issued pursuant to
8 article forty-three of this chapter, shall exclude coverage for other-
9 wise covered services [solely on the basis that the services constitute
10 early intervention program services] THAT ARE PROVIDED UNDER THE EARLY
11 INTERVENTION PROGRAM under title two-A of article twenty-five of the
12 public health law.

13 (b) Where a policy of accident and health insurance, including a
14 contract issued pursuant to article forty-three of this chapter,
15 provides coverage for [an] A SERVICE THAT IS PROVIDED TO AN INSURED
16 UNDER THE early intervention program [service], such coverage shall not
17 be applied against any maximum annual or lifetime monetary limits set
18 forth in such policy or contract. Visit limitations and other terms and
19 conditions of the policy will continue to apply to COVERED SERVICES
20 PROVIDED UNDER THE early intervention [services] PROGRAM. However, any
21 visits used for COVERED SERVICES PROVIDED UNDER THE early intervention
22 program [services] shall not reduce the number of visits otherwise
23 available under the policy or contract for such services. WHERE SUCH
24 POLICY OR CONTRACT PROVIDES COVERAGE FOR A SERVICE PROVIDED TO THE
25 INSURED UNDER THE EARLY INTERVENTION PROGRAM, THE INDIVIDUALIZED FAMILY
26 SERVICES PLAN AS DEFINED IN SECTION TWENTY-FIVE HUNDRED FORTY-ONE OF THE
27 PUBLIC HEALTH LAW AND CERTIFIED BY THE EARLY INTERVENTION OFFICIAL OR
28 SUCH OFFICIAL'S DESIGNEE, SHALL BE DEEMED TO MEET ANY PRECERTIFICATION,
29 PREAUTHORIZATION AND MEDICAL NECESSITY REQUIREMENTS IMPOSED ON BENEFITS
30 UNDER THE POLICY OR CONTRACT, PROVIDED, HOWEVER, THAT THE EARLY INTER-
31 VENTION OFFICIAL SHALL REMOVE OR REDACT ANY INFORMATION CONTAINED ON THE
32 INSURED'S INDIVIDUALIZED FAMILY SERVICE PLAN THAT IS NOT REQUIRED BY THE
33 INSURER FOR PAYMENT PURPOSES. PAYMENT FOR A SERVICE COVERED UNDER THE
34 POLICY OR CONTRACT THAT IS PROVIDED UNDER THE EARLY INTERVENTION PROGRAM
35 SHALL BE AT RATES ESTABLISHED BY THE COMMISSIONER OF HEALTH FOR SUCH
36 SERVICE PURSUANT TO REGULATIONS.

37 (C) NO INSURER, INCLUDING A HEALTH MAINTENANCE ORGANIZATION ISSUED A
38 CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH
39 LAW AND A CORPORATION ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAP-
40 TER SHALL DENY PAYMENT OF A CLAIM SUBMITTED FOR A SERVICE COVERED UNDER
41 THE INSURER'S POLICY OR CONTRACT AND PROVIDED UNDER THE EARLY INTER-
42 VENTION PROGRAM BASED UPON THE FOLLOWING:

43 (I) THE LOCATION WHERE SERVICES ARE PROVIDED;

44 (II) THE DURATION OF THE INSURED'S CONDITION AND/OR THAT THE INSURED'S
45 CONDITION IS NOT AMENABLE TO SIGNIFICANT IMPROVEMENT WITHIN A CERTAIN
46 PERIOD OF TIME AS SPECIFIED IN THE POLICY;

47 (III) THAT THE PROVIDER OF SERVICES IS NOT A PARTICIPATING PROVIDER IN
48 THE INSURER'S NETWORK; OR

49 (IV) THE ABSENCE OF A PRIMARY CARE REFERRAL.

50 [(c)] (D) Any right of subrogation to benefits which a municipality is
51 entitled in accordance with paragraph (d) of subdivision three of
52 section twenty-five hundred fifty-nine of the public health law shall be
53 valid and enforceable to the extent benefits are available under any
54 accident and health insurance policy. The right of subrogation does not
55 attach to insurance benefits paid or provided under any accident and
56 health insurance policy prior to receipt by the insurer of written

notice from the municipality. UPON THE INSURER'S RECEIPT OF WRITTEN NOTICE FROM THE MUNICIPALITY, THE INSURER SHALL PROVIDE THE MUNICIPALITY WITH INFORMATION ON THE EXTENT OF BENEFITS AVAILABLE TO AN INSURED UNDER THE POLICY OR CONTRACT.

[(d)] (E) No insurer, including a health maintenance organization issued a certificate of authority under article forty-four of the public health law and a corporation organized under article forty-three of this chapter, shall refuse to issue an accident and health insurance policy or contract or refuse to renew an accident and health insurance policy or contract solely because the applicant or insured is receiving services under the early intervention program.

S 3. The public health law is amended by adding a new section 2557-a to read as follows:

S 2557-A. PARENTAL PARTICIPATION IN PAYMENT FOR EARLY INTERVENTION SERVICES. 1. PARENTAL PARTICIPATION IN THE PAYMENT FOR EARLY INTERVENTION SERVICES SHALL BE ESTABLISHED ANNUALLY ON A PROSPECTIVE BASIS BASED ON A SLIDING SCHEDULE OF FEES AS SET FORTH IN SUBDIVISION THREE OF THIS SECTION. THE FEE SHALL BE PAID PROSPECTIVELY ON A QUARTERLY BASIS TO THE COMMISSIONER AND SHALL BE DEPOSITED INTO THE EARLY INTERVENTION PROGRAM ACCOUNT ESTABLISHED IN SECTION NINETY-NINE-T OF THE STATE FINANCE LAW. AFTER PAYING THE COSTS OF THE STATE'S ADMINISTRATION OF PARENTAL PARTICIPATION, THE COMMISSIONER SHALL PAY EACH MUNICIPALITY A PORTION OF THE PARENTAL FEES COLLECTED IN ACCORDANCE WITH THIS SECTION FROM PARENTS OF ELIGIBLE CHILDREN FOR WHICH THE MUNICIPALITY HAS FINANCIAL RESPONSIBILITY IN AN AMOUNT EQUAL TO THE MUNICIPALITY'S PROPORTIONAL SHARE OF COSTS OF EARLY INTERVENTION SERVICES. NO PARENTAL FEES MAY BE CHARGED FOR IMPLEMENTING CHILD FIND, EVALUATION AND ASSESSMENT, SERVICE COORDINATION, DEVELOPMENT, REVIEW, AND EVALUATION OF INDIVIDUALIZED FAMILY SERVICES PLANS, OR THE IMPLEMENTATION OF PROCEDURAL SAFEGUARDS AND OTHER ADMINISTRATIVE COMPONENTS OF THE EARLY INTERVENTION SYSTEM.

2. PARENTS SHALL PAY A QUARTERLY FEE DETERMINED PURSUANT TO THE SCHEDULE OF FEES SET FORTH IN SUBDIVISION THREE OF THIS SECTION FOR EACH CHILD IN THE FAMILY RECEIVING EARLY INTERVENTION SERVICES. IF A PARENT HAS MORE THAN THREE CHILDREN RECEIVING SERVICES IN THE EARLY INTERVENTION PROGRAM, THE PARENTAL FEE SHALL BE LIMITED TO THE QUARTERLY FEE CHARGED FOR PARENTS WHO HAVE THREE CHILDREN RECEIVING SERVICES IN THE EARLY INTERVENTION PROGRAM. PARENTAL FEES SHALL APPLY WITHOUT REGARD TO WHETHER PAYMENT FOR SERVICES IS AVAILABLE THROUGH THIRD PARTY INSURANCE.

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

GROSS HOUSEHOLD INCOME	PARENTAL FEE PER CHILD /PER QUARTER
251% OF FEDERAL POVERTY LEVEL (FPL) TO 400% FPL	\$45.00
401% FPL TO 600% FPL	\$90.00
601% FPL TO 700% FPL	\$180.00
701% FPL TO 800% FPL	\$270.00
801% FPL TO 900% FPL	\$360.00
901% FPL TO 1000% FPL	\$450.00
1001% FPL AND ABOVE	\$540.00

4. A PARENT SHALL PROVIDE DOCUMENTATION AS SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION, AS NECESSARY AND SUFFICIENT TO DETERMINE THE PARENTAL FEE UNDER THIS SECTION. IF A PARENT FAILS TO PROVIDE DOCUMENTATION SUFFICIENT TO DETERMINE THE GROSS HOUSEHOLD INCOME, IT SHALL BE PRESUMED THAT THE PARENT FALLS WITHIN THE HIGHEST GROSS HOUSEHOLD INCOME BRACKET FOR THE PURPOSES OF ESTABLISHING THE PARENTAL FEE OBLIGATION.

1 THE COMMISSIONER MAY VERIFY THE ACCURACY OF SUCH INCOME INFORMATION
2 PROVIDED BY THE PARENT BY MATCHING IT AGAINST INCOME INFORMATION
3 CONTAINED IN DATABASES TO WHICH THE COMMISSIONER HAS ACCESS, INCLUDING
4 THE STATE'S WAGE REPORTING SYSTEM PURSUANT TO SUBDIVISION FIVE OF
5 SECTION ONE HUNDRED SEVENTY-ONE-A OF THE TAX LAW AND BY MEANS OF AN
6 INCOME VERIFICATION PERFORMED PURSUANT TO A COOPERATIVE AGREEMENT WITH
7 THE DEPARTMENT OF TAXATION AND FINANCE.

8 (A) INCOME DOCUMENTATION SHALL INCLUDE, BUT NOT BE LIMITED TO, ONE OR
9 MORE OF THE FOLLOWING FOR EACH PARENT AND LEGALLY RESPONSIBLE ADULT WHO
10 IS A MEMBER OF THE HOUSEHOLD AND WHOSE INCOME IS AVAILABLE TO THE CHILD
11 AND FAMILY:

12 (I) CURRENT ANNUAL INCOME TAX RETURNS;

13 (II) PAYCHECK STUBS;

14 (III) WRITTEN DOCUMENTATION OF INCOME FROM ALL EMPLOYERS; AND

15 (IV) OTHER DOCUMENTATION OF INCOME (EARNED OR UNEARNED) AS DETERMINED
16 BY THE COMMISSIONER, PROVIDED, HOWEVER, SUCH DOCUMENTATION SHALL SET
17 FORTH THE SOURCE OF SUCH INCOME.

18 (B) ANY INCOME VERIFICATION RESPONSE BY THE DEPARTMENT OF TAXATION AND
19 FINANCE PURSUANT TO THIS SUBDIVISION SHALL NOT BE A PUBLIC RECORD AND
20 SHALL NOT BE RELEASED BY THE COMMISSIONER. INFORMATION DISCLOSED PURSU-
21 ANT TO THIS SUBDIVISION SHALL BE LIMITED TO INFORMATION NECESSARY FOR
22 VERIFICATION. INFORMATION SO DISCLOSED SHALL BE KEPT CONFIDENTIAL.

23 5. AT THE WRITTEN REQUEST OF THE PARENT, THE PARENTAL FEE OBLIGATION
24 MAY BE ADJUSTED PROSPECTIVELY AT ANY POINT DURING THE YEAR UPON PROOF OF
25 A CHANGE IN HOUSEHOLD GROSS INCOME. AT THE WRITTEN REQUEST OF THE
26 PARENT, WHEN THE CHILD IS NO LONGER ELIGIBLE TO RECEIVE SERVICES UNDER
27 THE EARLY INTERVENTION PROGRAM, THE DEPARTMENT SHALL RECONCILE THE
28 PARENTAL FEE AND, IF APPLICABLE, RETURN A PRO-RATA PORTION OF THE FEE
29 FOR THE FINAL QUARTER IN WHICH THE CHILD RECEIVED SERVICES.

30 6. (A) PARENT PARTICIPATION FEES SHALL BE DUE ON THE FIRST DAY OF EACH
31 QUARTER. THE COMMISSIONER SHALL PROVIDE A BILL TO THE PARENT FOR THE
32 PARENT PARTICIPATION FEE THIRTY DAYS PRIOR TO THE FIRST DAY OF THE QUAR-
33 TER IN WHICH THE FEE IS DUE. THE BILL SHALL SET FORTH THE AMOUNT OF THE
34 FEE AND ITS DUE DATE. PROVIDED, HOWEVER, UPON AN ELIGIBLE CHILD'S
35 ENTRANCE INTO THE PROGRAM, THE FEE SHALL BE DUE THIRTY DAYS AFTER ISSU-
36 ANCE OF THE INITIAL BILL, AND THE AMOUNT OF THE FEE SHALL BE ADJUSTED ON
37 A PRO-RATA BASIS TO REFLECT THE DATE OF THE INITIAL INDIVIDUALIZED FAMI-
38 LY SERVICE PLAN MEETING.

39 (B) IF PAYMENT HAS NOT BEEN RECEIVED WITHIN FIFTEEN DAYS OF ITS DUE
40 DATE, THE COMMISSIONER SHALL PROVIDE A NOTICE TO THE PARENT REQUESTING
41 PAYMENT BE MADE. THE NOTICE SHALL ALSO STATE THAT FAILURE TO PAY THE
42 FEE WITHIN FIFTEEN DAYS FROM ISSUANCE OF THE NOTICE SHALL RESULT IN THE
43 LOSS OF SERVICES AND ELIGIBILITY FOR THE PROGRAM.

44 (C) IF PAYMENT HAS NOT BEEN RECEIVED WITHIN THIRTY DAYS OF ITS DUE
45 DATE OR AN AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSIONER AND
46 THE PARENT IN RELATION TO THE PARENT'S PAYMENT OF THE PAST DUE FEE, THE
47 CHILD'S ELIGIBILITY FOR THE PROGRAM SHALL CEASE, EXCEPT FOR THOSE
48 SERVICES SET FORTH IN SUBDIVISION ONE OF THIS SECTION FOR WHICH NO
49 PARENTAL FEE MAY BE CHARGED. THE COMMISSIONER SHALL NOTIFY THE MUNICI-
50 PALITY THAT THE CHILD AND FAMILY ARE NO LONGER ELIGIBLE AND THAT
51 SERVICES SHOULD CEASE WITHIN FIFTEEN DAYS OF SUCH NOTICE TO THE MUNICI-
52 PALITY. THE MUNICIPALITY SHALL NOTIFY ALL PROVIDERS CURRENTLY PROVIDING
53 SERVICES TO THE CHILD THAT THE CHILD IS NO LONGER AUTHORIZED TO RECEIVE
54 SERVICES.

55 7. THE INABILITY OF THE PARENT OF AN ELIGIBLE CHILD TO PAY PARENTAL
56 FEES DUE TO CATASTROPHIC CIRCUMSTANCES OR EXTRAORDINARY EXPENSES SHALL

NOT RESULT IN THE DENIAL OF SERVICES TO THE CHILD OR THE CHILD'S FAMILY. IN SUCH A CIRCUMSTANCE:

(A) A PARENT MUST SUBMIT TO THE COMMISSIONER DOCUMENTATION OF THE PARENT'S EXTRAORDINARY EXPENSES OR OTHER CATASTROPHIC CIRCUMSTANCES. THE PARENT SHALL SUBMIT DOCUMENTATION OF ONE OF THE FOLLOWING:

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

(II) OTHER EXTRAORDINARY EXPENSES OR CATASTROPHIC CIRCUMSTANCES CAUSING DIRECT OUT-OF-POCKET LOSSES IN EXCESS OF FIFTEEN PERCENT OF GROSS INCOME.

(B) THE COMMISSIONER SHALL DETERMINE WHETHER THE PARENTAL FEE OBLIGATION SHALL BE REDUCED, FORGIVEN, OR SUSPENDED WITHIN TEN BUSINESS DAYS AFTER RECEIPT OF THE PARENT'S REQUEST AND SUPPORTING DOCUMENTATION.

(C) A PARENT WHO DISAGREES WITH THE DETERMINATION SHALL HAVE THE RIGHT TO CONTEST SUCH DETERMINATION IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED FORTY-NINE OF THIS TITLE. IF A PARENT SUBMITS A WRITTEN REQUEST FOR A MEDIATION OR HEARING TO CONTEST THE COMMISSIONER'S DETERMINATION, EARLY INTERVENTION SERVICES SHALL NOT BE SUSPENDED FOR NONPAYMENT OF THE PARENTAL FEE PENDING RESOLUTION OF THE DUE PROCESS PROCEEDING.

S 4. The state finance law is amended by adding a new section 99-t to read as follows:

S 99-T. EARLY INTERVENTION PROGRAM ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF THE DEPARTMENT OF TAXATION AND FINANCE AN ACCOUNT IN THE MISCELLANEOUS SPECIAL REVENUE FUND TO BE KNOWN AS THE "EARLY INTERVENTION PROGRAM ACCOUNT".

2. SUCH ACCOUNT SHALL CONSIST OF MONIES RECEIVED FROM EARLY INTERVENTION FEES.

3. MONIES OF THE ACCOUNT, WHEN ALLOCATED, SHALL BE AVAILABLE TO THE DEPARTMENT OF HEALTH FOR EARLY INTERVENTION PROGRAM ADMINISTRATIVE COSTS FOR THE STATE SHARE FOR REIMBURSEMENT OF EARLY INTERVENTION SERVICES, AND FOR PAYMENT OF A MUNICIPALITY'S SHARE OF PARENTAL FEES IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION TWENTY-FIVE HUNDRED FIFTY-SEVEN-A OF THE PUBLIC HEALTH LAW.

S 5. The title heading of title 1-A of article 24 of the public health law, as amended by chapter 300 of the laws of 1995, is amended to read as follows:

[BREAST] CANCER DETECTION AND EDUCATION PROGRAM[; OVARIAN CANCER INFORMATION PROGRAM]

S 6. Section 2405 of the public health law, as added by chapter 328 of the laws of 1989, subdivision 1 as amended by chapter 554 of the laws of 2002 and paragraphs (a) and (d) of subdivision 2 as amended by chapter 515 of the laws of 2003, is amended to read as follows:

S 2405. [Breast cancer] CANCER detection and education program; establishment. 1. There is hereby created within the department the [breast] cancer detection and education program, also known as the [healthy women partnership] CANCER SERVICES PROGRAM. This program is established to promote screening and detection of [breast] cancer among unserved or underserved populations, to educate the public regarding [breast] cancer and the benefits of early detection, and to provide counseling and referral services. For purposes of this section, "unserved or underserved populations" shall mean persons having inadequate access and financial resources to obtain [breast] cancer screening and detection services, including persons who lack health insurance or whose health insurance coverage is inadequate or who cannot meet their deductible

obligations for purposes of accessing coverage under their health insurance.

2. The program shall include:

(a) establishment of a statewide public education and outreach campaign to publicize [breast] EVIDENCE BASED cancer detection and education services, such campaign shall include: general community education, outreach to specific underserved populations, EVIDENCE BASED clinical [breast] cancer screening services [and follow-up care, information on the extent of coverage for such services by health insurance, the medical assistance program and other public and private programs], and an informational summary that shall include an explanation of the importance of clinical [breast] examinations[, breast-self-examinations and mammography,] AND what to expect during [a] clinical [breast examination] EXAMINATIONS and [mammography, and how to perform breast-self-examinations] CANCER SCREENING SERVICES;

(b) provision of grants to approved organizations under section twenty-four hundred six of this title;

(c) compilation of data concerning the [breast] cancer detection and education program and dissemination of the data to the public; and

(d) development of professional education programs including the benefits of early detection of [breast] cancer[, AND clinical [breast] examinations [and breast-self-examinations], the recommended frequency of clinical [breast] examinations[, breast-self-examinations,] and [mammography] CANCER SCREENING SERVICES, and professionally recognized best practices guidelines.

S 7. Subdivisions 2 and 3 of section 2406 of the public health law are REPEALED.

S 8. Section 2409 of the public health law, as added by chapter 275 of the laws of 1995, is REPEALED.

S 9. Subdivisions 2 and 3 of section 95-a of the state finance law, as added by chapter 275 of the laws of 1995, are amended to read as follows:

2. Such fund shall consist of all monies appropriated [for the purpose of] TO such fund and any grant, gift or bequest made to the [breast cancer detection and education program advisory council] FUND.

3. Monies of the fund shall be available [to the breast cancer detection and education program advisory council] for the purposes of the [New York state innovation in breast] cancer [early] detection and [research awards] EDUCATION program, pursuant to section twenty-four hundred [nine] FIVE of the public health law.

S 9-a. Subdivision 3-a of section 2407 of the public health law is REPEALED.

S 10. Subdivisions 1, 4, 5 and 6 of section 2406 of the public health law, subdivision 1 as amended by chapter 176 of the laws of 2006, subdivision 4 as amended and subdivision 5 as renumbered by chapter 334 of the laws of 1990, subdivision 5 as added by chapter 328 of the laws of 1989, and subdivision 6 as added by chapter 323 of the laws of 1995, are amended to read as follows:

1. The commissioner[, in consultation with the breast cancer detection and education program advisory council established pursuant to section twenty-four hundred seven of this title,] shall make grants within the amounts appropriated to approved organizations[, as defined in subdivision three of this section,] for the provision of services relating to the EVIDENCE BASED screening and detection of [breast] cancer as part of this program. Such services shall include but not be limited to:

1 (a) promotion and provision of early detection of [breast] cancer,
2 including [mammography,] clinical [examination, and breast self-examina-
3 tion] EXAMINATIONS AND CANCER SCREENING SERVICES;

4 (b) provision of counseling and information on treatment options and
5 referral for appropriate medical treatment;

6 (c) dissemination of information to unserved and underserved popu-
7 lations, to the general public and to health care professionals concern-
8 ing [breast] cancer, the benefits of early detection and treatment, and
9 the availability of [breast] cancer screening services;

10 (d) identification of local [breast] cancer screening services within
11 the approved organization's region;

12 (e) provision of information, counseling and referral services to
13 individuals diagnosed with [breast] cancer; and

14 (f) provision of information regarding the availability of medical
15 assistance, including medical assistance under paragraph (v) of subdivi-
16 sion four of section three hundred sixty-six of the social services law,
17 to an individual who requires treatment for [breast, cervical, colon or
18 prostate] cancer.

19 [4.] 2. The commissioner[, in consultation with the breast cancer
20 detection and education program advisory council,] shall give notice and
21 provide opportunity [for organizations described in subdivision three of
22 this section] to submit applications to provide [breast] cancer
23 detection and education programs. In order to be considered for a grant
24 to provide [breast] cancer detection and education programs, applicants
25 must show evidence of the following:

26 (a) ability to provide and to ensure consistent and quality [breast]
27 cancer detection services;

28 (b) expertise in [breast] cancer detection and treatment;

29 (c) capacity to coordinate services with physicians, hospitals and
30 other appropriate local institutions or agencies;

31 (d) ability to provide [breast] cancer detection and education
32 services to unserved or underserved populations; and

33 (e) ability to implement a [breast] cancer detection and education
34 program in accordance with the standards specified in subdivision [five]
35 THREE of this section.

36 Applications shall be made on forms provided by the commissioner. [The
37 breast cancer detection and education program advisory council shall
38 review and evaluate applications and make recommendations to the commis-
39 sioner for approval of grants to organizations to provide breast cancer
40 detection and education programs.]

41 [5.] 3. The commissioner[, in consultation with the breast cancer
42 detection and education program advisory council,] shall develop stand-
43 ards for the implementation of [breast] cancer detection and education
44 programs by approved organizations which shall ensure the following:

45 (a) integration of the approved organization with existing health care
46 providers;

47 (b) maximizing third party reimbursement;

48 (c) provision of services to unserved or underserved populations.

49 [6.] 4. Within the amounts of state or federal funds appropriated for
50 [cervical] cancer early detection and diagnosis, approved organizations
51 may be authorized by the department to provide such services for popu-
52 lations served pursuant to this title. Early detection services shall
53 include, but not be limited to, complete [pelvic] examinations, [pap
54 smears,] EVIDENCE BASED SCREENING, patient education, counseling,
55 follow-up and referral.

1 S 11. Section 2406-a of the public health law, as added by chapter
2 623 of the laws of 2007, is amended to read as follows:

3 S 2406-a. Grants to community-based organizations. 1. The commission-
4 er[, in consultation with the breast and cervical cancer detection and
5 education program advisory council established pursuant to section twen-
6 ty-four hundred seven of this title,] shall make grants within any such
7 amount as may be appropriated specifically for community-based organiza-
8 tions for the provision of counseling, education and outreach programs
9 for persons diagnosed with breast cancer.

10 2. For the purposes of this section, "community-based organizations"
11 shall mean grass roots, free-standing organizations in which breast
12 cancer survivors hold significant decision-making responsibility, and
13 which offer a broad range of breast cancer education and support
14 services free of charge.

15 3. The commissioner[, in consultations with the breast and cervical
16 cancer detection and education program advisory council,] shall provide
17 notice and opportunity for community-based organizations to submit
18 applications to provide post-diagnosis breast cancer counseling, educa-
19 tion and outreach programs. Such applications shall be on forms estab-
20 lished by the commissioner. [The breast and cervical cancer detection
21 and education program advisory council shall review and evaluate appli-
22 cations submitted pursuant to this subdivision and shall make recommen-
23 dations thereon to the commissioner for approval of grants to communi-
24 ty-based organizations for the provision of post-diagnosis breast cancer
25 counseling, education and outreach programs.]

26 S 12. Section 1 of chapter 462 of the laws of 1996, relating to estab-
27 lishing a quality incentive payment program, is REPEALED.

28 S 13. Paragraph (bbb) of subdivision 1 of section 2807-v of the public
29 health law, as amended by section 5 of part B of chapter 58 of the laws
30 of 2008, is amended to read as follows:

31 (bbb) Funds shall be reserved and accumulated from year to year and
32 shall be available, including income from invested funds, for purposes
33 of awarding grants to operators of adult homes, enriched housing
34 programs and residences through the enhancing abilities and life experi-
35 ence (EnAbLe) program to provide for the installation, operation and
36 maintenance of air conditioning in resident rooms, consistent with this
37 paragraph, in an amount up to two million dollars for the period April
38 first, two thousand six through March thirty-first, two thousand seven,
39 up to three million eight hundred thousand dollars for the period April
40 first, two thousand seven through March thirty-first, two thousand
41 eight, up to three million eight hundred thousand dollars for the period
42 April first, two thousand eight through March thirty-first, two thousand
43 nine, AND up to three million eight hundred thousand dollars for the
44 period April first, two thousand nine through March thirty-first, two
45 thousand ten[, and up to three million eight hundred thousand dollars
46 for the period April first, two thousand ten through March thirty-first,
47 two thousand eleven]. Residents shall not be charged utility cost for
48 the use of air conditioners supplied under the EnAbLe program. All such
49 air conditioners must be operated in occupied resident rooms consistent
50 with requirements applicable to common areas.

51 S 13-a. Subdivision 1 of section 2807-v of the public health law is
52 amended by adding a new paragraph (iii) to read as follows:

53 (III) FUNDS SHALL BE RESERVED AND ACCUMULATED FROM YEAR TO YEAR AND
54 SHALL BE AVAILABLE, INCLUDING INCOME FROM INVESTED FUNDS, FOR PURPOSES
55 OF AWARDING GRANTS TO OPERATORS OF ADULT HOMES, ENRICHED HOUSING
56 PROGRAMS AND RESIDENCES FOR QUALITY IMPROVEMENTS IN ADULT HOMES,

1 ENRICHED HOUSING PROGRAMS AND RESIDENCES, IN AN AMOUNT UP TO FOUR
2 MILLION THREE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED DOLLARS FOR THE
3 PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO
4 THOUSAND ELEVEN.

5 S 14. Section 217 of the elder law is REPEALED.

6 S 14-a. Subparagraph 1 of paragraph (a) of subdivision 2 of section
7 214 of the elder law is amended to read as follows:

8 (1) a statement of goals and objectives for addressing the needs of
9 elderly persons in the county, an assessment of the needs of elderly
10 persons residing in the county, a description of public and private
11 resources that currently provide community services to elderly persons
12 within the county, a description of intended actions to consolidate and
13 coordinate existing community services administered by county govern-
14 ment, [a description of the intended actions to coordinate congregate
15 services programs for the elderly operated within the county pursuant to
16 section two hundred seventeen of this title with other community
17 services for the elderly,] a description of the means to coordinate
18 other community services for elderly persons in the county with those
19 administered by county government, and a statement of the priorities for
20 the provision of community services during the program period covered by
21 such plan;

22 S 15. Section 2799-f of the public health law, as added by chapter 114
23 of the laws of 2004, is amended to read as follows:

24 S 2799-f. Comprehensive care centers for eating disorders; estab-
25 lished. [1.] The commissioner shall [facilitate the development, and]
26 provide for the public identification[, of comprehensive care centers
27 for persons with eating disorders[. The development and identification
28 of such centers shall be] for the purposes of:

29 [(a)] 1. Promoting the [development and] operation of a continuum of
30 comprehensive, coordinated care for persons with eating disorders;

31 [(b)] 2. Promoting ready access to information, referral and treatment
32 services on eating disorders for consumers, health practitioners,
33 providers and insurers, with access in every region of the state;

34 [(c)] 3. Promoting community education, prevention and patient entry
35 into care; and

36 [(d)] 4. Promoting and coordinating regional and statewide research
37 efforts into effective methods of education, prevention and treatment,
38 including research on the various models of care.

39 [2. In order to identify such comprehensive care centers, the commis-
40 sioner shall issue a request for applications ("hereinafter referred to
41 in this section as RFA"). The form and content of such RFA shall be
42 prepared with input from individuals and organizations who at a minimum
43 are representative of health care practitioners and providers with
44 expertise in the care of persons with eating disorders as well as from
45 persons and families with experience in the diagnosis and treatment of
46 these disorders. Such RFA shall be issued not later than one hundred
47 twenty days following the effective date of this article.]

48 S 16. Paragraph (d) of subdivision 1 of section 2799-g of the public
49 health law, as added by chapter 114 of the laws of 2004, is amended to
50 read as follows:

51 (d) The applicant meets such additional criteria as [is specified in
52 the RFA] ARE ESTABLISHED BY THE COMMISSIONER.

53 S 17. Subdivision 2 of section 2799-h of the public health law, as
54 added by chapter 114 of the laws of 2004, is amended to read as follows:

55 2. The commissioner's [written notice to applicants, which shall be
56 provided no later than ninety days following the receipt of a satisfac-

tory application, shall identify the applicant as a state-identified] IDENTIFICATION OF A comprehensive care center for eating disorders under this article[, provided however that such notice] shall be valid for not more than a two year period from the date of issuance. The commissioner may reissue such [written notices] IDENTIFICATIONS for subsequent periods of up to two years, provided that the comprehensive care center has notified the commissioner of any material changes in structure or operation based on its original [RFA submission] APPLICATION, or since its last written notice by the commissioner, and that the commissioner is satisfied that the center continues to meet the criteria required pursuant to this article.

S 18. Sections 2799-j and 2799-l of the public health law are REPEALED.

S 19. Section 95-e of the state finance law, as added by chapter 114 of the laws of 2004, is REPEALED.

S 20. Intentionally omitted.

S 21. Intentionally omitted.

S 22. Intentionally omitted.

S 23. Intentionally omitted.

S 24. Intentionally omitted.

S 25. Intentionally omitted.

S 26. Section 207 of the public health law, as added by chapter 414 of the laws of 2005, subdivision 1 as amended by chapter 471 of the laws of 2007, paragraph (f) of subdivision 1 as added by chapter 570 of the laws of 2008 and paragraph (f) of subdivision 1 as added by chapter 573 of the laws of 2008, is amended to read as follows:

S 207. Health care and wellness education and outreach program. 1. There is hereby created within the department the health care and wellness education and outreach program. The department [shall] MAY conduct education and outreach programs for consumers, patients, and health care providers relating to any health care matters the commissioner deems appropriate and:

(a) Various health conditions, diseases and health care procedures and treatment options, INCLUDING BUT NOT LIMITED TO THOSE FOR BREAST, CERVICAL, COLORECTAL, PROSTATE, TESTICULAR, SKIN, AND OVARIAN CANCER, SHAKEN BABY SYNDROME, AND REFLEX SYMPATHETIC DYSTROPHY.

(b) Recommended preventative and wellness practices and services, including EVIDENCE BASED age and gender appropriate testing and screening exams and immunization schedules.

(c) Lymphedema, an abnormal swelling of the extremities including the causes and symptoms of lymphedema, the value of early detection, possible options for treatment including their benefits and risks, and other relevant information and the recommendation that hospitals treating breast cancer patients implement a lymphedema alert program by placing a bright pink wristband on the patient's affected arm.

(d) The need and importance of organ and tissue donation, including information about being registered as an organ and tissue donor and executing documents of gift under article forty-three of this chapter.

(e) The need and importance for consumers and patients to have an advance directive, particularly a health care proxy, and the need and importance for health care providers to play a leadership role in discussing end-of-life care preferences and values with patients and to provide patients with health care proxy forms.

(f) Uterine fibroids, an abnormal growth that occurs in the uterus, including the causes and symptoms of uterine fibroids, the value of early detection, possible options for treatment including their benefits

1 and risks, information on the elevated risk for minority women and other
2 relevant information.

3 [(f)] (G) Improving birth outcomes, including the importance of
4 preconceptional care, early prenatal care, considerations of health
5 risks during pregnancy, considerations of benefits and risks of labor
6 and delivery options including, but not limited to, vaginal and cesarean
7 section delivery, elective or repeat cesarean sections, and appropriate
8 use of drugs during delivery.

9 2. Programs under this section, dealing with one or more subjects, may
10 include but not be limited to any of the following elements:

11 (a) educational and informational materials in print, audio, visual,
12 electronic or other media;

13 (b) public service announcements and advertisements; and

14 (c) establishment of toll-free telephone hotlines and electronic
15 services to provide information.

16 3. The department [shall] MAY produce, make available to others for
17 reproduction, or contract with others to develop such materials
18 mentioned in this section as the commissioner deems appropriate. These
19 materials shall be made available to the public free of charge as appro-
20 priate or for a fee under certain circumstances. The commissioner may
21 require where appropriate any health care provider to make these materi-
22 als available to patients.

23 4. In exercising any of his or her powers under this section, the
24 commissioner [shall] MAY consult with appropriate health care profes-
25 sionals, providers, consumers, and patients or organizations represent-
26 ing them.

27 5. The commissioner [shall] MAY ensure that all information and mate-
28 rials produced pursuant to this section are maintained and updated to
29 reflect best practice recommendations.

30 6. The commissioner may appoint as appropriate advisory councils
31 relating to various matters that are or are proposed to be the subjects
32 of programs under this section. All such councils shall include repre-
33 sentation of health care professionals, providers, consumers, patients
34 and other appropriate interests. The members of the councils shall
35 receive no compensation for their services, but shall be allowed their
36 actual and necessary expenses incurred in performance of their duties.

37 7. In addition to state funds appropriated for programs under this
38 section, the commissioner may accept grants from public or private
39 sources for these programs. The commissioner, in administering this
40 section, shall seek to coordinate the department's programs with other
41 public and private programs, and may undertake joint or cooperative
42 programs with other public or private entities.

43 8. The commissioner may make rules and regulations necessary and
44 appropriate for implementation of this section.

45 S 27. Paragraph (m) of subdivision 1 of section 201 of the public
46 health law, as amended by section 3 of part A of chapter 58 of the laws
47 of 2009, is amended to read as follows:

48 (m) supervise and regulate the sanitary aspects of camps, hotels,
49 boarding houses, public eating and drinking establishments, swimming
50 pools, bathing establishments and other businesses and activities
51 affecting public health and [where inspections otherwise occur under the
52 state uniform fire prevention and building code, respond to complaints
53 relating], IN RELATION to hotels, boarding houses and temporary resi-
54 dences as defined in the state sanitary code [and], inspect such facili-
55 ties (I) WHERE INSPECTIONS DO NOT OTHERWISE OCCUR UNDER THE STATE

1 UNIFORM FIRE PREVENTION AND BUILDING CODE, (II) TO RESPOND TO
2 COMPLAINTS, OR (III) when otherwise necessary;

3 S 28. Article 43-C of the public health law is REPEALED.

4 S 29. Section 2745 of the public health law is REPEALED.

5 S 30. Paragraph (c) of subdivision 3 of section 242 of the elder law,
6 as amended by section 4 of part A of chapter 58 of the laws of 2005, is
7 amended to read as follows:

8 (c) The fact that some of an individual's prescription drug expenses
9 are paid or reimbursable under the provisions of the medicare program
10 shall not disqualify an individual, if he or she is otherwise eligible,
11 from receiving assistance under this title. [In such cases, the state
12 shall pay the portion of the cost of those prescriptions for qualified
13 drugs for which no payment or reimbursement is made by the medicare
14 program or any federally funded prescription drug benefit, less the
15 participant's co-payment required on the amount not paid by the medicare
16 program. In addition, the participant registration fee charged to eligi-
17 ble program participants for comprehensive coverage pursuant to section
18 two hundred forty-seven of this title shall be waived for the portion of
19 the annual coverage period that the participant is also enrolled as a
20 transitional assistance beneficiary in the medicare prescription drug
21 discount card program, authorized pursuant to title XVIII of the federal
22 social security act, provided that: (i) any sponsor of such drug
23 discount card program has signed an agreement to complete coordination
24 of benefit functions with EPIC, and has been endorsed by the EPIC panel;
25 or (ii) any exclusive sponsor of such drug discount card program author-
26 ized pursuant to title XVIII of the federal social security act that
27 limits the participants to the medicare prescription drug discount card
28 program sponsored by such exclusive sponsor, shall coordinate benefits
29 available under such discount card program with EPIC.] HOWEVER, EXCEPT
30 FOR DRUGS EXCLUDED FROM MEDICARE COVERAGE IN ACCORDANCE WITH SECTION
31 1860D-2 OF THE FEDERAL SOCIAL SECURITY ACT, SUCH ASSISTANCE SHALL BE
32 LIMITED TO PRESCRIPTION DRUGS COVERED BY THE INDIVIDUAL'S MEDICARE PLAN.
33 IN SUCH CASES, THE STATE SHALL COVER THE AMOUNT THAT IS THE RESPONSIBIL-
34 ITY OF THE INDIVIDUAL UNDER THE MEDICARE PLAN BENEFIT, SUBJECT TO THE
35 INDIVIDUAL'S COST-SHARING RESPONSIBILITY UNDER SECTIONS TWO HUNDRED
36 FORTY-SEVEN OR TWO HUNDRED FORTY-EIGHT OF THIS TITLE ON SUCH AMOUNT. The
37 participant registration fee charged to eligible program participants
38 for comprehensive coverage pursuant to section two hundred forty-seven
39 of this title shall be waived for the portion of the annual coverage
40 period that the participant is also enrolled as a full subsidy individ-
41 ual in a prescription drug or MA-PD plan under Part D of title XVIII of
42 the federal social security act.

43 S 31. Paragraphs (f), (g) and (h) of subdivision 3 of section 242 of
44 the elder law, as added by section 3 of part B of chapter 58 of the laws
45 of 2007, are amended to read as follows:

46 (f) As a condition of [continued] eligibility for benefits under this
47 title, if a program participant is eligible for Medicare part D drug
48 coverage under section 1860D of the federal social security act, the
49 participant is required to enroll in Medicare part D at the first avail-
50 able enrollment period and to maintain such enrollment. This requirement
51 shall be waived if such enrollment would [result in significant addi-
52 tional financial liability by the participant, including, but not limit-
53 ed to, individuals in a Medicare advantage plan whose cost sharing would
54 be increased, or if such enrollment would] result in the loss of any
55 health coverage through a union or employer plan for the participant,
56 the 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 (i) for participants with comprehensive coverage under section two
4 hundred forty-seven of this title, the elderly pharmaceutical insurance
5 coverage program shall pay for the portion of the part D monthly premium
6 that is the responsibility of the participant. Such payment shall be
7 limited to the low-income benchmark premium amount established by the
8 federal centers for Medicare and Medicaid services and any other amount
9 which such agency establishes under its de minimus premium policy[,
10 except that such payments made on behalf of participants enrolled in a
11 Medicare advantage plan may exceed the low-income benchmark premium
12 amount if determined to be cost effective to the program].

13 (ii) for participants with catastrophic coverage under section two
14 hundred forty-eight of this title, the elderly pharmaceutical insurance
15 coverage program shall credit the participant's annual personal covered
16 drug expenditure amount required under this title by an amount equal to
17 the annual low-income benchmark premium amount established by the
18 centers for Medicare and Medicaid services, prorated for the remaining
19 portion of the participant's elderly pharmaceutical insurance coverage
20 program coverage period. The elderly pharmaceutical insurance coverage
21 program shall, at appropriate times, notify participants with
22 catastrophic coverage under section two hundred forty-seven of this
23 title of their right to coordinate the annual coverage period with that
24 of Medicare part D, along with the possible advantages and disadvantages
25 of doing so.

26 (g) The elderly pharmaceutical insurance coverage program is author-
27 ized and directed to conduct an enrollment program to facilitate, in as
28 prompt and streamlined a fashion as possible, the enrollment into Medi-
29 care part D of program participants who are required by the provisions
30 of this section to enroll in part D. [Provided, however, that a partic-
31 ipant shall not be prevented from receiving his or her drugs immediately
32 at the pharmacy under the elderly pharmaceutical insurance coverage
33 program as a result of such participant's enrollment in Medicare part
34 D.]

35 (h) In order to maximize prescription drug coverage under Medicare
36 part D, the elderly pharmaceutical insurance coverage program is author-
37 ized to represent program participants under this title in the pursuit
38 of such coverage. Such representation [shall not result in any addi-
39 tional financial liability on behalf of such program participants and]
40 shall include, but not be limited to, the following actions:

41 (i) application for the premium and cost-sharing subsidies on behalf
42 of eligible program participants;

43 (ii) enrollment in a prescription drug plan or MA-PD plan; the elderly
44 pharmaceutical insurance coverage program shall provide program partic-
45 ipants with prior written notice of, and the opportunity to decline such
46 facilitated enrollment subject, however, to the provisions of paragraph
47 (f) of this subdivision;

48 (iii) pursuit of appeals, grievances, or coverage determinations.

49 S 32. Subdivision 6 of section 250 of the elder law is REPEALED.

50 S 33. Subparagraph 5 of paragraph (b) of subdivision 3 of section 602
51 of the public health law, as added by chapter 901 of the laws of 1986,
52 is amended to read as follows:

53 (5) environmental health, which shall include activities that promote
54 health and prevent illness by ensuring sanitary conditions in water
55 supplies, food service establishments, and other permit sites, and by

1 [abating] ASSURING THE ABATEMENT OF public health nuisances BY RESPONSI-
2 BLE PARTIES.

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

11 S 34. Section 677 of the county law is amended by adding a new subdi-
12 vision 9 to read as follows:

13 9. WHEN REQUIRED FOR OFFICIAL PURPOSES OF THE STATE DEPARTMENT OF
14 HEALTH, THE STATE COMMISSIONER OF HEALTH OR HIS OR HER DESIGNEE MAY
15 REQUEST COPIES OF ALL REPORTS AND RECORDS RELATED TO A DEATH, INCLUDING
16 BUT NOT LIMITED TO AUTOPSY REPORTS AND TOXICOLOGY REPORTS. UPON RECEIPT
17 OF THE WRITTEN REQUEST OF THE STATE COMMISSIONER OF HEALTH OR HIS OR HER
18 DESIGNEE, A CORONER, CORONER'S PHYSICIAN OR MEDICAL EXAMINER, SHALL,
19 WITHIN THREE BUSINESS DAYS OF THEIR COMPLETION, PROVIDE TO SUCH COMMIS-
20 SIONER OR HIS OR HER DESIGNEE A COPY OF ALL REPORTS AND RECORDS, INCLUD-
21 ING BUT NOT LIMITED TO AUTOPSY REPORTS AND TOXICOLOGY REPORTS, RELATED
22 TO THE DEATH.

23 S 35. Article 27-I of the public health law is REPEALED.

24 S 36. Paragraph (a) of subdivision 5 of section 2819 of the public
25 health law, as amended by chapter 239 of the laws of 2005, is amended to
26 read as follows:

27 (a) Subject to paragraph (c) of this subdivision, on or before [May]
28 SEPTEMBER first of each year the commissioner shall submit a report to
29 the governor and the legislature, which shall simultaneously be
30 published in its entirety on the department's web site, that includes,
31 but is not limited to, hospital acquired infection rates adjusted for
32 the potential differences in risk factors for each reporting hospital,
33 an analysis of trends in the prevention and control of hospital acquired
34 infection rates in hospitals across the state, regional and, if avail-
35 able, national comparisons for the purpose of comparing individual
36 hospital performance, and a narrative describing lessons for safety and
37 quality improvement that can be learned from leadership hospitals and
38 programs.

39 S 37. Section 2995-a of the public health law is amended by adding a
40 new subdivision 1-a to read as follows:

41 1-A. EACH PHYSICIAN LICENSED AND REGISTERED TO PRACTICE IN THIS STATE
42 SHALL WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS
43 SUBDIVISION AND UPON ENTERING OR UPDATING HIS OR HER PROFILE INFORMA-
44 TION:

45 (A) REGISTER AND MAINTAIN AN ACCOUNT WITH THE DEPARTMENT'S HEALTH
46 PROVIDER NETWORK AND ANY SUCCESSOR ELECTRONIC SYSTEM ESTABLISHED TO
47 FACILITATE COMMUNICATIONS BETWEEN THE DEPARTMENT AND LICENSED HEALTH
48 CARE PROVIDERS; OR

49 (B) PROVIDE AN E-MAIL ADDRESS TO THE DEPARTMENT WHICH SHALL BE USED BY
50 THE DEPARTMENT TO COMMUNICATE WITH THE PHYSICIAN. LICENSEES SHALL
51 PROVIDE NOTICE TO THE DEPARTMENT OF CHANGED E-MAIL ADDRESSES WITHIN
52 THIRTY DAYS OF THE CHANGE. LICENSEE E-MAIL ADDRESSES SHALL BE CONFIDEN-
53 TIAL AND SHALL NOT BE PUBLISHED AS PART OF THE LICENSEE'S PROFILE. THE
54 E-MAIL ADDRESSES MAY BE USED FOR DEPARTMENT PURPOSES ONLY.

55 S 38. The public health law is amended by adding a new section 2816-a
56 to read as follows:

1 S 2816-A. CARDIAC SERVICES INFORMATION. 1. DEFINITIONS. FOR THE
2 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
3 MEANINGS:

4 (A) "CARDIAC SERVICES INFORMATION" SHALL MEAN THE DEMOGRAPHIC, CLIN-
5 ICAL, PROCEDURAL AND OUTCOME INFORMATION COLLECTED FROM HOSPITALS AND
6 MAINTAINED BY THE DEPARTMENT REGARDING PATIENTS WHO HAVE BEEN DIAGNOSED
7 OR TREATED FOR CARDIAC DISEASE OR CONDITIONS.

8 (B) "CARDIAC DATA SET" SHALL MEAN A SUBSET OF CARDIAC SERVICES INFOR-
9 MATION CONSISTING OF DATA ELEMENTS RELEVANT TO A RESEARCH PROJECT.

10 2. NOTWITHSTANDING ARTICLES SIX AND SIX-A OF THE PUBLIC OFFICERS LAW,
11 THE COMMISSIONER MAY COLLECT AND MAINTAIN CARDIAC SERVICES INFORMATION
12 AND PREPARE AND RELEASE CARDIAC DATA SETS FOR USE IN RESEARCH PROJECTS
13 AS SET FORTH IN THIS SUBDIVISION. ANY CARDIAC DATA SET RELEASED SHALL
14 CONTAIN THE MINIMUM AMOUNT OF PERSONALLY IDENTIFIABLE INFORMATION WHICH
15 THE COMMISSIONER DETERMINES IS NECESSARY TO CONDUCT THE RESEARCH PROJECT
16 PROVIDED, HOWEVER, THAT NO CARDIAC DATA SET SHALL BE RELEASED THAT
17 CONTAINS PATIENT NAMES, SOCIAL SECURITY NUMBERS, OR OTHER DATA ELEMENTS
18 THAT DIRECTLY IDENTIFY ANY PATIENT.

19 3. THE COMMISSIONER MAY RELEASE CARDIAC DATA SETS FOR RESEARCH
20 PROJECTS BASED ON THE FOLLOWING FACTORS:

21 (A) THE RESEARCH PROJECT'S POTENTIAL CONTRIBUTION TO IMPROVING THE
22 QUALITY OF CARE AND OUTCOMES EXPERIENCED BY PATIENTS RECEIVING CARDIAC
23 SERVICES, THE APPROPRIATENESS OF CARDIAC SERVICES, ACCESS TO CARDIAC
24 SERVICES, AND/OR THE COST EFFECTIVENESS OF CARDIAC SERVICES;

25 (B) THE TECHNICAL FEASIBILITY OF PREPARING THE CARDIAC DATA SET
26 REQUESTED;

27 (C) THE SCIENTIFIC MERIT OF THE RESEARCH PROJECT;

28 (D) THE EXPERIENCE AND QUALIFICATIONS OF THE RESEARCHERS;

29 (E) THE RESEARCH PROJECT'S FEASIBILITY;

30 (F) THE APPLICANT'S CAPACITY AND AGREEMENT TO PROTECT THE CONFIDEN-
31 TIALITY OF THE DATA;

32 (G) THE RESEARCH PROJECT'S COMPLIANCE WITH APPLICABLE STATE AND FEDER-
33 AL LAWS, POLICIES AND REGULATIONS GOVERNING THE PROTECTION OF HUMAN
34 SUBJECTS; AND

35 (H) SUCH OTHER CRITERIA AS THE COMMISSIONER DEVELOPS IN CONSULTATION
36 WITH EXPERTS IN CARDIAC SERVICES.

37 4. ANY RESEARCHER AUTHORIZED BY THE COMMISSIONER TO ACCESS A CARDIAC
38 DATA SET SHALL:

39 (A) MAINTAIN THE SECURITY AND CONFIDENTIALITY OF THE INFORMATION;

40 (B) NOT DISCLOSE THE CARDIAC DATA SET, OR ANY PORTION THEREOF, UNLESS
41 SPECIFICALLY PERMITTED TO DO SO BY THE COMMISSIONER;

42 (C) RESTRICT THE USE OF THE DATA TO THE SPECIFIC RESEARCH PROJECT
43 APPROVED BY THE COMMISSIONER;

44 (D) DESTROY, AND DOCUMENT THE DESTRUCTION OF, THE DATA WITHIN A TIME
45 PERIOD SPECIFIED BY THE COMMISSIONER; AND

46 (E) EXECUTE AND COMPLY WITH A CARDIAC SERVICES DATA USE AGREEMENT,
47 WHICH INCLUDES BUT IS NOT LIMITED TO PROVISIONS RESTRICTING THE USE AND
48 DISCLOSURE OF THE DATA.

49 5. THE COMMISSIONER SHALL CHARGE A FEE FOR EACH CARDIAC DATA SET
50 RELEASED. SUCH FEE SHALL BE PAYABLE TO THE DEPARTMENT, PRIOR TO THE
51 RELEASE OF ANY CARDIAC DATA SET, FOR DEPOSIT INTO THE GENERAL FUND.

52 6. THE COMMISSIONER MAY PROMULGATE AND ENFORCE SUCH RULES AND REGU-
53 LATIONS AS HE OR SHE DEEMS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS
54 SECTION.

55 S 39. Paragraph (iv) of subdivision 4 of section 1 of part C of chap-
56 ter 57 of the laws of 2006, relating to establishing a cost of living

adjustment for designated human services programs, as amended by section 7 of part F of chapter 497 of the laws of 2008, is amended to read as follows:

(iv) Programs eligible for the cost of living adjustments under the auspice of the department of health include: [HIV/AIDS adolescent services/ACT for youth; HIV/AIDS adolescent service/general; HIV/AIDS adolescent services/schools; HIV/AIDS clinical education; HIV/AIDS clinical guidelines development; HIV/AIDS clinical scholars; HIV/AIDS clinical trials experimental treatment; HIV/AIDS community development initiative; HIV/AIDS community HIV prevention and primary care; HIV/AIDS community services programs; HIV/AIDS criminal justice; HIV/AIDS education and training; HIV/AIDS evaluation and research; HIV/AIDS expanded syringe access program; HIV/AIDS families in transition; HIV/AIDS family centered care; HIV/AIDS harm reduction/general; HIV/AIDS harm reduction/syringe exchange; HIV/AIDS HIV health care and support services for women and kids; HIV/AIDS HIV prevention/primary care/support services for substance abusers; HIV/AIDS homeless shelters; HIV/AIDS legal services and advocacy; HIV/AIDS lesbian, gay, bisexual, transgender/adolescent; HIV/AIDS lesbian, gay, bisexual, transgender/general; HIV/AIDS lesbian, gay, bisexual, transgender/substance use; HIV/AIDS multiple service agency; HIV/AIDS nutritional services; HIV/AIDS pediatric centers of excellence; HIV/AIDS permanency planning; HIV/AIDS racial and ethnic minority; HIV/AIDS social day care; HIV/AIDS specialized care centers for youth; HIV/AIDS specialty; HIV/AIDS supportive housing; HIV/AIDS treatment adherence; HIV/AIDS women's services/general; HIV/AIDS women's services/peer; HIV/AIDS women's services/supportive services; HIV/AIDS youth access program,] REGIONAL AND TARGETED HIV, STD AND HEPATITIS C SERVICES; HIV, STD AND HEPATITIS C PREVENTION; HIV HEALTH CARE AND SUPPORTIVE SERVICES; HEPATITIS C PROGRAMS; HIV, STD AND HEPATITIS C CLINICAL AND PROVIDER EDUCATION PROGRAMS; office of minority health; center for community health program; red cross emergency preparedness; nutrition outreach and education; obesity prevention AND DIABETES RELATED PROGRAMS; women, infants, and children; hunger prevention and nutrition assistance; Indian health; asthma; prenatal care assistance program; rape crisis; [health and human services sexuality related; maternity/early childhood foundation;] comprehensive adolescent pregnancy prevention; family planning; school health; sudden infant death syndrome; childhood lead poisoning prevention; [enhanced services for kids; act for youth;] children with special health care needs; regional perinatal [data] centers; migrant health; dental services; osteoporosis prevention; [eating disorders;] cancer services PROGRAMS; [cancer registry;] healthy heart; alzheimer's disease assistance centers; alzheimer's disease - research and education; [diabetes screening, education and prevention;] tobacco control; rabies; tick-borne DISEASE; immunization; universal prenatal and postpartum home visitation public health campaign; sexually transmitted disease; and tuberculosis control.

S 40. Subdivision 18-a of section 206 of the public health law, as added by section 74 of part B of chapter 58 of the laws of 2005, is amended to read as follows:

18-a. (A) Health information technology demonstration program. [1.] (I) The commissioner is authorized to issue grant funding to one or more organizations broadly representative of physicians licensed in this state, from funds made available for the purpose of funding research and demonstration projects under [subdivision two of this section] SUBPARAGRAPH (II) OF THIS PARAGRAPH designed to promote the development of

1 electronic health information exchange technologies in order to facili-
2 tate the adoption of interoperable health records.

3 [2.] (II) Project funding shall be disbursed to projects pursuant to a
4 request for proposals based on criteria relating to promoting the effi-
5 cient and effective delivery of quality physician services. Demon-
6 stration projects eligible for funding under this [section] PARAGRAPH
7 shall include, but not be limited to:

8 [(a)] (A) efforts to incentivize electronic health record adoption;

9 [(b)] (B) interconnection of physicians through regional collab-
10 orations;

11 [(c)] (C) efforts to promote personalized health care and consumer
12 choice;

13 [(d)] (D) efforts to enhance health care outcomes and health status
14 generally through interoperable public health surveillance systems and
15 streamlined quality monitoring.

16 [3.] (III) The department shall issue a report to the governor, the
17 temporary president of the senate and the speaker of the assembly within
18 one year following the issuance of the grants. Such report shall
19 contain, at a minimum, the following information: the demonstration
20 projects implemented pursuant to this [section] PARAGRAPH, their date of
21 implementation, their costs and the appropriateness of a broader appli-
22 cation of the health information technology program to increase the
23 quality and efficiency of health care across the state.

24 (B) THE COMMISSIONER SHALL MAKE SUCH RULES AND REGULATIONS AS MAY BE
25 NECESSARY TO IMPLEMENT FEDERAL POLICIES AND DISBURSE FUNDS AS REQUIRED
26 BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND TO PROMOTE THE
27 DEVELOPMENT OF A STATEWIDE HEALTH INFORMATION NETWORK OF NEW YORK
28 (SHIN-NY) TO ENABLE WIDESPREAD INTEROPERABILITY AMONG DISPARATE HEALTH
29 INFORMATION SYSTEMS, INCLUDING ELECTRONIC HEALTH RECORDS, PERSONAL
30 HEALTH RECORDS AND PUBLIC HEALTH INFORMATION SYSTEMS, WHILE PROTECTING
31 PRIVACY AND SECURITY. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT
32 BE LIMITED TO, REQUIREMENTS FOR ORGANIZATIONS COVERED BY 42 U.S.C. 17938
33 OR ANY OTHER ORGANIZATIONS THAT EXCHANGE HEALTH INFORMATION THROUGH THE
34 SHIN-NY.

35 S 41. This act shall take effect April 1, 2010, provided however that:

36 (a) section three of this act shall take effect March 1, 2011;

37 (b) sections thirty, thirty-two and thirty-seven of this act and the
38 amendments to paragraph (g) of subdivision 3 of section 242 of the elder
39 law made by section thirty-one of this act shall take effect July 1,
40 2010;

41 (c) the amendments to paragraphs (f) and (h) of subdivision 3 of
42 section 242 of the elder law made by section thirty-one of this act
43 shall take effect January 1, 2011;

44 (d) section thirty-eight of this act shall take effect on the one
45 hundred eightieth day after it shall have become a law; and

46 (e) the amendments to section 1 of part C of chapter 57 of the laws of
47 2006 made by section thirty-nine of this act shall not affect the repeal
48 of such section and shall be deemed repealed therewith.

49 PART B

50 Section 1. 1. Notwithstanding paragraph (c) of subdivision 10 of
51 section 2807-c of the public health law, subdivision 2-b of section 2808
52 of the public health law, section 21 of chapter 1 of the laws of 1999,
53 and any other contrary provision of law, in determining rates of
54 payments by state governmental agencies effective for services provided

1 on and after April 1, 2010, for inpatient and outpatient services
2 provided by general hospitals, for inpatient services and adult day
3 health care outpatient services provided by residential health care
4 facilities pursuant to article 28 of the public health law, except for
5 residential health care facilities that provide extensive nursing,
6 medical, psychological and counseling support services to children, for
7 home health care services provided pursuant to article 36 of the public
8 health law by certified home health agencies, long term home health care
9 programs and AIDS home care programs, and for personal care services
10 provided pursuant to section 365-a of the social services law, the
11 commissioner of health shall apply zero trend factor projections attrib-
12 utable to the 2010 calendar year in accordance with paragraph (c) of
13 subdivision 10 of section 2807-c of the public health law, provided,
14 however, that such zero trend factor projections for such 2010 calendar
15 year shall also be applied to rates of payment for personal care
16 services provided in those local social services districts, including
17 New York city, whose rates of payment for such services are established
18 by such local social services districts pursuant to a rate-setting
19 exemption issued by the commissioner of health to such local social
20 services districts in accordance with applicable regulations, and
21 provided further, however, that for rates of payment for assisted living
22 program services provided on and after April 1, 2010, trend factor
23 projections attributable to the 2010 calendar year shall be established
24 at zero percent.

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

28 S 2. Subparagraph (vi) of paragraph (a) of subdivision 2 of section
29 2807-d of the public health law, as added by section 49 of part B of
30 chapter 58 of the laws of 2009, is amended to read as follows:

31 (vi) Notwithstanding any contrary provisions of this paragraph or any
32 other provision of law or regulation, for general hospitals the assess-
33 ment shall be thirty-five hundredths of one percent of each general
34 hospital's gross receipts received from all patient care services and
35 other operating income on a cash basis for periods on and after April
36 first, two thousand nine, for hospital or health-related services,
37 including, but not limited to inpatient services, outpatient services,
38 emergency services, referred ambulatory services and ambulatory surgical
39 services, but not including residential health care facilities services
40 or home health care services, PROVIDED, HOWEVER, THAT FOR PERIODS ON AND
41 AFTER APRIL FIRST, TWO THOUSAND TEN, SUCH ASSESSMENT FOR SUCH SERVICES
42 SHALL BE SEVENTY-FIVE HUNDREDTHS OF ONE PERCENT OF EACH SUCH GENERAL
43 HOSPITAL'S GROSS RECEIPTS, PROVIDED FURTHER, HOWEVER, THAT AMOUNTS IN
44 EXCESS OF THIRTY-FIVE HUNDREDTHS OF ONE PERCENT SHALL BE ASSESSED ONLY
45 WITH REGARD TO GROSS RECEIPTS FOR INPATIENT CARE SERVICES AND OTHER
46 OPERATING INCOME ON A CASH BASIS AND SHALL NOT BE ASSESSED WITH REGARD
47 TO GROSS RECEIPTS FOR OUTPATIENT SERVICES.

48 S 3. Subparagraph (v) of paragraph (b) of subdivision 35 of section
49 2807-c of the public health law, as added by section 2 of part C of
50 chapter 58 of the laws of 2009, is amended to read as follows:

51 (v) Such regulations [may] SHALL incorporate quality related measures
52 pertaining to potentially preventable complications and re-admissions;
53 PROVIDED THAT RATE ADJUSTMENTS MADE IN ACCORDANCE WITH A METHODOLOGY
54 SPECIFIED IN SUCH REGULATIONS SHALL RESULT IN AN AGGREGATE REDUCTION IN
55 MEDICAID PAYMENTS OF NO LESS THAN FORTY-NINE MILLION DOLLARS FOR THE
56 PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO

THOUSAND ELEVEN AND NO LESS THAN ONE HUNDRED EIGHT MILLION DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, NET OF ANY REINVESTMENT FOR HOSPITALS WITH IMPROVED OR CONTINUED HIGH PERFORMANCE IN RELATION TO THE ESTABLISHED READMISSION BENCHMARKS AND INITIATIVES FOR BEHAVIORAL HEALTH ADMISSION DIVERSION AND POST-DISCHARGE LINKAGE PAYMENTS;

S 4. Subparagraph (xi) of paragraph (b) of subdivision 35 of section 2807-c of the public health law, as added by section 2 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(xi) Rates for teaching general hospitals shall include reimbursement for direct and indirect graduate medical education as defined and calculated pursuant to such regulations; PROVIDED THAT FOR THE PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN, SUCH REGULATIONS SHALL SPECIFY A ONE PERCENTAGE POINT PER YEAR REDUCTION IN THE INDIRECT GRADUATE MEDICAL EDUCATION PAYMENT PER DISCHARGE AND THE AMOUNT OF INDIRECT GRADUATE MEDICAL EDUCATION EXCLUDED FROM THE STATEWIDE BASE PRICE CALCULATED FOR THE PERIOD DECEMBER FIRST, TWO THOUSAND NINE THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TEN. In addition, such regulations shall specify the reports and information required by the commissioner to assess the cost, quality and health system needs for medical education provided.

S 5. Subdivision 35 of section 2807-c of the public health law is amended by adding a new paragraph (i) to read as follows:

(I) FOR DISCHARGES OCCURRING ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, MEDICAID RATES FOR INPATIENT SERVICES FOR GENERAL HOSPITALS WHOSE RATES ARE OTHERWISE SUBJECT TO THIS SUBDIVISION SHALL BE ADJUSTED IN ACCORDANCE WITH THE FOLLOWING IN ORDER TO PROVIDE ADDITIONAL FUNDING FOR OBSTETRICAL ACCESS AND QUALITY:

(I) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH STATE FISCAL YEAR THEREAFTER, SUCH RATES FOR ELIGIBLE GENERAL HOSPITALS SHALL BE ADJUSTED BY AN AGGREGATE ANNUAL AMOUNT OF UP TO SEVENTY-TWO MILLION DOLLARS;

(II) SUCH ADJUSTMENTS SHALL BE MADE PROPORTIONATELY TO EACH ELIGIBLE GENERAL HOSPITAL, WITH FIFTY PERCENT OF SUCH ADJUSTMENTS BASED ON EACH SUCH HOSPITAL'S NUMBER OF REPORTED TWO THOUSAND SEVEN MEDICAID AND MEDICAID MANAGED CARE CASE-MIX ADJUSTED OBSTETRICAL AND NEO-NATAL DISCHARGES, AND FIFTY PERCENT OF SUCH ADJUSTMENTS BASED ON THE REGIONAL COST PER DISCHARGE FOR SUCH CASES BASED UPON COST DATA AS REPORTED ON LINE TWENTY-FIVE OF EXHIBIT EIGHTEEN OF THE TWO THOUSAND SIX COST REPORT FILED PRIOR TO JANUARY FIRST, TWO THOUSAND NINE;

(III) PAYMENT OF SUCH ADJUSTMENTS FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN SHALL BE CONTINGENT UPON AN OTHERWISE ELIGIBLE GENERAL HOSPITAL'S CERTIFICATION TO THE COMMISSIONER THAT IT HAS IMPLEMENTED OR HAS A DOCUMENTED PLAN, INCLUDING TIME-LINES, FOR IMPLEMENTING A COMPREHENSIVE AND SYSTEMATIC PERINATAL PATIENT SAFETY PROGRAM WHICH IS IN CONFORMITY WITH PUBLISHED DEPARTMENT GUIDELINES, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, SIMULATOR TRAINING, CREW RESOURCE MANAGEMENT TRAINING, ELECTRONIC FETAL MONITORING EDUCATION, PEER REVIEW, PARTICIPATION IN REGIONAL PERINATAL NETWORKS, FULL-TIME AVAILABILITY OF MATERNAL FETAL MEDICINE SPECIALISTS, FULL-TIME AVAILABILITY OF INHOUSE OBSTETRICIANS FOR LABOR AND DELIVERY, FULL PARTICIPATION IN THE DEPARTMENT'S MATERNAL MORTALITY REVIEW PROGRAM, ESTABLISHMENT OF A MATERNAL HEMORRHAGE EMERGENCY TEAM WITH PROTOCOLS AND DRILLS, A PROGRAM TO CONVERT TO ELECTRONIC MEDICAL RECORDS WITHIN TWO YEARS, CURRENT ACTIVE BOARD CERTIFICATION FOR STAFF OBSTETRICIANS ON STAFF FOR MORE THAN ONE

1 YEAR, AN ONGOING PROGRAM TO IMPLEMENT A FULLY INTEGRATED LONGITUDINAL
2 COMPUTERIZED PATIENT TRACKING SYSTEM FOR OBSTETRICAL PATIENTS AT BOTH
3 THE HOSPITAL AND AT THE PRIVATE OFFICES OF ATTENDING OBSTETRICIANS, AND
4 A PROGRAM TO REVIEW AND IMPROVE PATIENT SAFETY STANDARDS ON AN ONGOING
5 BASIS.

6 S 6. Notwithstanding any contrary provision of law, in the event the
7 amendment to subparagraph (xi) of paragraph (b) of subdivision 35 of
8 section 2807-c of the public health law, reducing indirect graduate
9 medical education payments per discharge to teaching hospitals, is not
10 enacted into law by a chapter of the laws of 2010, then the provision of
11 this act amending subdivision 35 of section 2807-c of the public health
12 law by adding a new paragraph (i), and the provisions of this act amend-
13 ing paragraphs (d) and (e) of subdivision 5-a of section 2807-m of the
14 public health law, shall be null and void and of no effect, provided,
15 however, that funds made available by the provisions of the amendment to
16 subparagraph (xi) of paragraph (b) of subdivision 35 of section 2807-c
17 of the public health law which are not otherwise made available in
18 connection with the implementation of amendments described herein to
19 sections 2807-m and paragraph (i) of subdivision 35 of section
20 2807-c(35)(i) of the public health law, shall be made available for the
21 statewide base price amounts computed pursuant to subdivision 35 of
22 section 2807-c of the public health law.

23 S 7. Section 2807-k of the public health law is amended by adding a
24 new subdivision 5-c to read as follows:

25 5-C. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION,
26 SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE OR ANY OTHER
27 CONTRARY PROVISION OF LAW, AND SUBJECT TO THE PROVISIONS OF PARAGRAPH
28 (D) OF SUBDIVISION FIVE-A OF THIS SECTION AND TO THE AVAILABILITY OF
29 FEDERAL FINANCIAL PARTICIPATION, FOR PERIODS ON AND AFTER JANUARY FIRST,
30 TWO THOUSAND TEN, ALL FUNDS AVAILABLE FOR DISTRIBUTION PURSUANT TO THIS
31 SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE, AND AS
32 HEREINAFTER DESCRIBED SHALL BE RESERVED AND SET ASIDE AND DISTRIBUTED IN
33 ACCORDANCE WITH THE FOLLOWING:

34 (A) FOR THE PERIOD JANUARY FIRST, TWO THOUSAND TEN THROUGH MARCH THIR-
35 TY-FIRST, TWO THOUSAND TEN, PAYMENTS PURSUANT TO THIS SECTION SHALL BE
36 MADE IN AMOUNTS REFLECTING TWENTY-FIVE PERCENT OF THE DISTRIBUTIONS
37 OTHERWISE AUTHORIZED PURSUANT TO THE PROVISIONS OF THIS SECTION, OTHER
38 THAN THIS SUBDIVISION, AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS
39 ARTICLE.

40 (B) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH DECEMBER
41 THIRTY-FIRST, TWO THOUSAND TEN, PAYMENTS TOTALING SEVEN HUNDRED
42 FORTY-SEVEN MILLION DOLLARS SHALL BE MADE AS FOLLOWS:

43 (I) MEDICAID DSH PAYMENTS TO MAJOR PUBLIC GENERAL HOSPITALS, INCLUDING
44 HOSPITALS OPERATED BY PUBLIC BENEFIT CORPORATIONS, SHALL BE MADE IN
45 AMOUNTS REFLECTING SEVENTY-FIVE PERCENT OF THE PROJECTED DISTRIBUTIONS
46 OTHERWISE AUTHORIZED FOR SUCH FACILITIES PURSUANT TO THE PROVISIONS OF
47 THIS SECTION, OTHER THAN THIS SUBDIVISION.

48 (II) EIGHTEEN MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS SHALL BE
49 DISTRIBUTED AS MEDICAID DSH PAYMENTS TO HOSPITALS ELIGIBLE FOR PAYMENTS
50 MADE PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION
51 FIVE-B OF THIS SECTION BASED UPON EACH FACILITY'S PROPORTION OF UNIN-
52 SURED LOSSES, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION FIVE-A OF THIS
53 SECTION, TO SUCH LOSSES FOR ALL HOSPITALS ELIGIBLE FOR SUCH PAYMENTS.

54 (III) TWELVE MILLION DOLLARS SHALL BE DISTRIBUTED IN ACCORDANCE WITH
55 THE PROVISIONS OF SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION
56 FIVE-B OF THIS SECTION.

(IV) EIGHTEEN MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION FIVE-B OF THIS SECTION.

(V) THE BALANCE OF THE FUNDS IN THE POOL NOT OTHERWISE ALLOCATED PURSUANT TO SUBPARAGRAPHS (I), (II), (III), (IV) AND (VI) OF THIS PARAGRAPH SHALL BE DISTRIBUTED PROPORTIONALLY AS MEDICAID DSH PAYMENTS TO ELIGIBLE GENERAL HOSPITALS, OTHER THAN MAJOR PUBLIC GENERAL HOSPITALS, ON THE BASIS OF EACH FACILITY'S UNCOMPENSATED CARE NEED SHARE, AS DETERMINED IN ACCORDANCE WITH THE SCALE SET FORTH IN SUBPARAGRAPH (VII) OF THIS PARAGRAPH.

(VI) SEVENTY-FIVE MILLION DOLLARS SHALL BE DISTRIBUTED AS MEDICAID DSH PAYMENTS TO ELIGIBLE GENERAL HOSPITALS, OTHER THAN MAJOR PUBLIC GENERAL HOSPITALS, PURSUANT TO A FORMULA SUCH THAT, TO THE EXTENT OF FUNDS AVAILABLE, NO ELIGIBLE GENERAL HOSPITAL'S REDUCTION IN PAYMENTS AS A RESULT OF THE APPLICATION OF THE PROVISIONS OF THIS SUBDIVISION EXCEEDS, ON AN ANNUALIZED BASIS, A PERCENTAGE REDUCTION, AS DETERMINED BY THE COMMISSIONER, FROM THE PROJECTED DISTRIBUTIONS SUCH HOSPITAL WOULD HAVE RECEIVED PURSUANT TO THIS SECTION, OTHER THAN THIS SUBDIVISION, AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE FOR THE TWO THOUSAND TEN CALENDAR YEAR. SUCH PAYMENTS SHALL BE DISTRIBUTED TO ELIGIBLE GENERAL HOSPITALS ON A PROPORTIONAL BASIS, BASED ON THE DEGREE OF EACH SUCH GENERAL HOSPITAL'S PROJECTED REDUCTION IN DISTRIBUTION.

(VII) THE SCALE UTILIZED FOR DEVELOPMENT OF EACH ELIGIBLE GENERAL HOSPITAL'S UNCOMPENSATED CARE NEED SHARE PAYMENT AMOUNT, AS COMPUTED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION FIVE-A OF THIS SECTION, SHALL BE AS FOLLOWS, PROVIDED, HOWEVER, THAT THE REDUCTION DESCRIBED IN SUBPARAGRAPH (III) OF PARAGRAPH (C) OF SUBDIVISION FIVE-A OF THIS SECTION SHALL BE COMPUTED AS TEN PERCENT:

PERCENTAGE OF REIMBURSEMENT ATTRIBUTABLE TO THAT PORTION	
UNCOMPENSATED CARE NEED PERCENTAGE	OF UNCOMPENSATED CARE NEED
0 - 4%	70%
4 - 6%	80%
6+%	90%

(C) FOR THE TWO THOUSAND ELEVEN CALENDAR YEAR AND EACH CALENDAR YEAR THEREAFTER, PAYMENTS TOTALING NINE HUNDRED NINETY-SIX MILLION DOLLARS SHALL BE MADE AS FOLLOWS:

(I) MEDICAID DSH PAYMENTS TO MAJOR PUBLIC GENERAL HOSPITALS, INCLUDING HOSPITALS OPERATED BY PUBLIC BENEFIT CORPORATIONS, SHALL BE MADE IN AMOUNTS EQUAL TO THE PROJECTED DISTRIBUTIONS THAT WOULD HAVE BEEN MADE TO SUCH FACILITIES PURSUANT TO THE PROVISIONS OF THIS SECTION, OTHER THAN THIS SUBDIVISION, FOR THE TWO THOUSAND TEN CALENDAR YEAR.

(II) TWENTY-FIVE MILLION DOLLARS SHALL BE DISTRIBUTED AS MEDICAID DSH PAYMENTS TO HOSPITALS ELIGIBLE FOR PAYMENTS MADE PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION FIVE-B OF THIS SECTION BASED UPON EACH FACILITY'S PROPORTION OF UNINSURED LOSSES, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION FIVE-A OF THIS SECTION, TO SUCH LOSSES FOR ALL HOSPITALS ELIGIBLE FOR SUCH PAYMENTS.

(III) SIXTEEN MILLION DOLLARS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION FIVE-B OF THIS SECTION.

(IV) TWENTY-FIVE MILLION DOLLARS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION FIVE-B OF THIS SECTION.

(V) THE BALANCE OF THE FUNDS NOT OTHERWISE ALLOCATED BY SUBPARAGRAPHS (I), (II), (III), (IV) AND (VI) OF THIS PARAGRAPH, SHALL BE DISTRIBUTED

1 PROPORTIONALLY AS MEDICAID DSH PAYMENTS TO ELIGIBLE GENERAL HOSPITALS,
2 OTHER THAN MAJOR PUBLIC GENERAL HOSPITALS, ON THE BASIS OF EACH FACILI-
3 TY'S UNCOMPENSATED CARE NEED SHARE, AS DETERMINED IN ACCORDANCE WITH THE
4 SCALE SET FORTH IN SUBPARAGRAPH (VII) OF PARAGRAPH (B) OF THIS SUBDIVI-
5 SION.

6 (VI) FIFTY MILLION DOLLARS SHALL BE DISTRIBUTED AS MEDICAID DSH
7 PAYMENTS TO ELIGIBLE GENERAL HOSPITALS, OTHER THAN MAJOR PUBLIC GENERAL
8 HOSPITALS, IN ACCORDANCE WITH THE METHODOLOGY SET FORTH IN SUBPARAGRAPH
9 (VI) OF PARAGRAPH (B) OF THIS SUBDIVISION, PROVIDED, HOWEVER, THAT FOR
10 THE TWO THOUSAND TWELVE CALENDAR YEAR SUCH PAYMENTS SHALL BE TWENTY-FIVE
11 MILLION DOLLARS, AND PROVIDED FURTHER, HOWEVER, THAT FOR THE TWO THOU-
12 SAND THIRTEEN CALENDAR YEAR AND EACH CALENDAR YEAR THEREAFTER SUCH
13 PAYMENTS SHALL BE ZERO.

14 S 8. Intentionally omitted.

15 S 9. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
16 the laws of 1996, amending the education law and other laws relating to
17 rates for residential health care facilities, as amended by section 12
18 of part B of chapter 58 of the laws of 2009, is amended to read as
19 follows:

20 (a) Notwithstanding any inconsistent provision of law or regulation to
21 the contrary, effective beginning August 1, 1996, for the period April
22 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
23 1998 through March 31, 1999, August 1, 1999, for the period April 1,
24 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
25 through March 31, 2001, April 1, 2001, for the period April 1, 2001
26 through March 31, 2002, April 1, 2002, for the period April 1, 2002
27 through March 31, 2003, and for the state fiscal year beginning April 1,
28 2005 through March 31, 2006, and for the state fiscal year beginning
29 April 1, 2006 through March 31, 2007, and for the state fiscal year
30 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
31 year beginning April 1, 2008 through March 31, 2009, and for the state
32 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
33 state fiscal year beginning April 1, 2010 through March 31, 2011, the
34 department of health is authorized to pay public general hospitals, as
35 defined in subdivision 10 of section 2801 of the public health law,
36 operated by the state of New York or by the state university of New York
37 or by a county, which shall not include a city with a population of over
38 one million, of the state of New York, and those public general hospi-
39 tals located in the county of Westchester, the county of Erie or the
40 county of Nassau, additional payments for inpatient hospital services as
41 medical assistance payments pursuant to title 11 of article 5 of the
42 social services law for patients eligible for federal financial partic-
43 ipation under title XIX of the federal social security act in medical
44 assistance pursuant to the federal laws and regulations governing
45 disproportionate share payments to hospitals up to one hundred percent
46 of each such public general hospital's medical assistance and uninsured
47 patient losses after all other medical assistance, including dispropor-
48 tionate share payments to such public general hospital for 1996, 1997,
49 1998, and 1999, based initially for 1996 on reported 1994 reconciled
50 data as further reconciled to actual reported 1996 reconciled data, and
51 for 1997 based initially on reported 1995 reconciled data as further
52 reconciled to actual reported 1997 reconciled data, for 1998 based
53 initially on reported 1995 reconciled data as further reconciled to
54 actual reported 1998 reconciled data, for 1999 based initially on
55 reported 1995 reconciled data as further reconciled to actual reported
56 1999 reconciled data, for 2000 based initially on reported 1995 recon-

1 ciled data as further reconciled to actual reported 2000 data, for 2001
2 based initially on reported 1995 reconciled data as further reconciled
3 to actual reported 2001 data, for 2002 based initially on reported 2000
4 reconciled data as further reconciled to actual reported 2002 data, and
5 for state fiscal years beginning on April 1, 2005, based initially on
6 reported 2000 reconciled data as further reconciled to actual reported
7 data for 2005, and for state fiscal years beginning on April 1, 2006,
8 based initially on reported 2000 reconciled data as further reconciled
9 to actual reported data for 2006, for state fiscal years beginning on
10 and after April 1, 2007 through March 31, 2009, based initially on
11 reported 2000 reconciled data as further reconciled to actual reported
12 data for 2007 AND 2008, RESPECTIVELY, for state fiscal years beginning
13 on and after April 1, 2009, based initially on reported 2007 reconciled
14 data, adjusted for authorized Medicaid rate changes applicable to the
15 state fiscal year, and as further reconciled to actual reported data for
16 2009, FOR STATE FISCAL YEARS BEGINNING ON AND AFTER APRIL 1, 2010, BASED
17 INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR
18 TO THE PAYMENT YEAR, ADJUSTED FOR AUTHORIZED MEDICAID RATE CHANGES
19 APPLICABLE TO THE STATE FISCAL YEAR, AND FURTHER RECONCILED TO ACTUAL
20 REPORTED DATA FROM SUCH PAYMENT YEAR, and to actual reported data for
21 each respective succeeding year. The payments may be added to rates of
22 payment or made as aggregate payments to an eligible public general
23 hospital.

24 S 10. Paragraph (b) of subdivision 1 of section 211 of chapter 474 of
25 the laws of 1996, amending the education law and other laws relating to
26 rates for residential health care facilities, as amended by section 13
27 of part B of chapter 58 of the laws of 2009, is amended to read as
28 follows:

29 (b) Notwithstanding any inconsistent provision of law or regulation to
30 the contrary, effective beginning April 1, 2000, the department of
31 health is authorized to pay public general hospitals, other than those
32 operated by the state of New York or the state university of New York,
33 as defined in subdivision 10 of section 2801 of the public health law,
34 located in a city with a population of over 1 million, additional
35 initial payments for inpatient hospital services of \$120 million during
36 each state fiscal year until March 31, 2003, and up to \$120 million
37 during the state fiscal year beginning April 1, 2005 through March 31,
38 2006 and during the state fiscal year beginning April 1, 2006 through
39 March 31, 2007 and during the state fiscal year beginning April 1, 2007
40 through March 31, 2008 and during the state fiscal year beginning April
41 1, 2008 through March 31, 2009, and up to four hundred twenty million
42 dollars [annually for the state fiscal year beginning April 1, 2009
43 through March 31, 2010, and] FOR THE STATE FISCAL YEAR BEGINNING APRIL
44 1, 2009 THROUGH MARCH 31, 2010, AND FOUR HUNDRED TWENTY MILLION DOLLARS,
45 AS FURTHER INCREASED BY UP TO THE MAXIMUM PAYMENT AMOUNTS PERMITTED
46 UNDER SECTIONS 1923(F) AND 1923(G) OF THE FEDERAL SOCIAL SECURITY ACT,
47 AS DETERMINED BY THE COMMISSIONER OF HEALTH AFTER APPLICATION OF ALL
48 OTHER DISPROPORTIONATE SHARE HOSPITAL PAYMENTS AUTHORIZED BY STATE LAW,
49 for the state fiscal year beginning April 1, 2010 through March 31, 2011
50 and up to one hundred twenty million dollars, AS FURTHER INCREASED BY UP
51 TO THE MAXIMUM PAYMENT AMOUNTS PERMITTED UNDER SECTIONS 1923(F) AND
52 1923(G) OF THE FEDERAL SOCIAL SECURITY ACT, AS DETERMINED BY THE COMMIS-
53 SIONER OF HEALTH AFTER APPLICATION OF ALL OTHER DISPROPORTIONATE SHARE
54 HOSPITAL PAYMENTS AUTHORIZED BY STATE LAW, annually for the state fiscal
55 year beginning April 1, 2011, and annually thereafter, as medical
56 assistance payments pursuant to title 11 of article 5 of the social

1 services law for patients eligible for federal financial participation
2 under title XIX of the federal social security act in medical assistance
3 pursuant to the federal laws and regulations governing disproportionate
4 share payments to hospitals based on the relative share of each such
5 non-state operated public general hospital of medical assistance and
6 uninsured patient losses after all other medical assistance, including
7 disproportionate share payments to such public general hospitals for
8 payments made during the state fiscal year ending March 31, 2001, based
9 initially on reported 1995 reconciled data as further reconciled to
10 actual reported 2000 or 2001 data, for payments made during the state
11 fiscal year ending March 31, 2002, based initially on reported 1995
12 reconciled data as further reconciled to actual reported 2001 or 2002
13 data, for payments made during the state fiscal year ending March 31,
14 2003, based initially on reported 2000 reconciled data as further recon-
15 ciled to actual reported 2002 or 2003 data, for payments made during the
16 state fiscal year ending on [and after] March 31, 2006, based initially
17 on reported 2000 reconciled data as further reconciled to actual
18 reported 2005 or 2006 data, for payments made during the state fiscal
19 year ending on [and after] March 31, 2007, based initially on reported
20 2000 reconciled data as further reconciled to actual reported 2006 or
21 2007 data, for payments made during the state fiscal years ending on
22 [and after] March 31, 2008, based initially on reported 2000 reconciled
23 data as further reconciled to actual reported 2007 or 2008 data, AND
24 ACTUAL REPORTED 2008 OR 2009 DATA, RESPECTIVELY, for payments made
25 during the state fiscal year ending on and after March 31, 2010, based
26 initially on reported 2007 reconciled data, adjusted for authorized
27 Medicaid rate changes applicable to the state fiscal year, and as
28 further reconciled to actual reported 2009 OR 2010 data, FOR PAYMENTS
29 MADE DURING THE STATE FISCAL YEAR ENDING ON MARCH 31, 2011, BASED
30 INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR
31 TO THE PAYMENT YEAR, ADJUSTED FOR AUTHORIZED MEDICAID RATE CHANGES
32 APPLICABLE TO THE STATE FISCAL YEAR, AND AS FURTHER RECONCILED TO ACTUAL
33 REPORTED DATA FROM SUCH PAYMENT YEAR, and to actual reported data for
34 each respective succeeding year. The payments may be added to rates of
35 payment or made as aggregate payments to an eligible public general
36 hospital.

37 S 11. Subdivision 8 of section 272 of the public health law, as added
38 by section 10 of part C of chapter 58 of the laws of 2005, is amended to
39 read as follows:

40 8. The commissioner shall provide notice of any recommendations devel-
41 oped by the committee regarding the preferred drug program, at least
42 [thirty] FIVE days before any final determination by the commissioner,
43 by making such information available on the department's website. Such
44 public notice shall include: a summary of the deliberations of the
45 committee; a summary of the positions of those making public comments at
46 meetings of the committee; the response of the committee to those
47 comments, if any; and the findings and recommendations of the committee.

48 S 12. Paragraph (g) of subdivision 4 of section 365-a of the social
49 services law, as amended by section 61 of part C of chapter 58 of the
50 laws of 2007, is amended to read as follows:

51 (g) for eligible persons who are also beneficiaries under part D of
52 title XVIII of the federal social security act, drugs which are denomi-
53 nated as "covered part D drugs" under section 1860D-2(e) of such act[;
54 provided however that, for purposes of this paragraph, "covered part D
55 drugs" shall not mean atypical anti-psychotics, anti-depressants, anti-

retrovirals used in the treatment of HIV/AIDS, or anti-rejection drugs used for the treatment of organ and tissue transplants].

S 13. Subparagraph (ii) of paragraph (b) of subdivision 9 of section 367-a of the social services law, as amended by section 4 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(ii) if the drug dispensed is a multiple source prescription drug or a brand-name prescription drug for which no specific upper limit has been set by such federal agency, the lower of the estimated acquisition cost of such drug to pharmacies, or the dispensing pharmacy's usual and customary price charged to the general public. For sole and multiple source brand name drugs, estimated acquisition cost means the average wholesale price of a prescription drug based upon the package size dispensed from, as reported by the prescription drug pricing service used by the department, less sixteen and twenty-five one hundredths percent thereof, and updated monthly by the department[; or, for a specialized HIV pharmacy, as defined in paragraph (f) of this subdivision, acquisition cost means the average wholesale price of a prescription drug based upon the package size dispensed from, as reported by the prescription drug pricing service used by the department, less twelve percent thereof, and updated monthly by the department]. For multiple source generic drugs, estimated acquisition cost means the lower of the average wholesale price of a prescription drug based on the package size dispensed from, as reported by the prescription drug pricing service used by the department, less twenty-five percent thereof, or the maximum acquisition cost, if any, established pursuant to paragraph (e) of this subdivision[; or, for a specialized HIV pharmacy, as defined in paragraph (f) of this subdivision, acquisition cost means the lower of the average wholesale price of a prescription drug based on the package size dispensed from, as reported by the prescription drug pricing service used by the department, less twelve percent thereof, or the maximum acquisition cost, if any, established pursuant to paragraph (e) of this subdivision].

S 14. Paragraph (f) of subdivision 9 of section 367-a of the social services law is REPEALED.

S 15. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (v) to read as follows:

(V) ADMINISTRATION OF VACCINATIONS IN A PHARMACY BY A CERTIFIED PHARMACIST WITHIN HIS OR HER SCOPE OF PRACTICE.

S 16. Section 2807-j of the public health law is amended by adding a new subdivision 13 to read as follows:

13. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW, FOR PERIODS ON AND AFTER OCTOBER FIRST, TWO THOUSAND TEN, EACH THIRD PARTY PAYOR WHICH HAS ENTERED INTO AN ELECTION AGREEMENT WITH THE COMMISSIONER PURSUANT TO SUBDIVISION FIVE OF THIS SECTION SHALL, AS A CONDITION OF SUCH ELECTION, PAY TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE, A PERCENTAGE SURCHARGE EQUAL TO THE SURCHARGE PERCENT SET FORTH IN PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION FOR THE SAME PERIOD AND APPLIED TO ALL PAYMENTS MADE BY SUCH THIRD PARTY PAYORS FOR PATIENT CARE SERVICES PROVIDED WITHIN THE STATE OF NEW YORK BY PHYSICIANS IN PHYSICIAN OFFICES OR IN URGENT CARE FACILITIES THAT ARE NOT OTHERWISE LICENSED PURSUANT TO THIS ARTICLE AND WHICH ARE BILLED AS SURGERY OR RADIOLOGY SERVICES IN ACCORDANCE WITH THE CURRENT PROCEDURE TERMINOLOGY, FOURTH EDITION, AS PUBLISHED BY THE AMERICAN MEDICAL ASSOCIATION.

(B) SUCH PAYMENTS SHALL BE MADE AND REPORTED AT THE SAME TIME AND IN THE SAME MANNER AS THE PAYMENTS AND REPORTS WHICH ARE OTHERWISE SUBMIT-

TED BY EACH THIRD PARTY PAYOR TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE IN ACCORDANCE WITH THIS SECTION. SUCH PAYMENTS SHALL BE SUBJECT TO AUDIT BY THE COMMISSIONER IN THE SAME MANNER AS THE OTHER PAYMENTS OTHERWISE SUBMITTED AND REPORTED PURSUANT TO THIS SECTION. THE COMMISSIONER MAY TAKE ALL MEASURES TO COLLECT DELINQUENT PAYMENTS DUE PURSUANT TO THIS SUBDIVISION AS ARE OTHERWISE PERMITTED WITH REGARD TO DELINQUENT PAYMENTS DUE PURSUANT TO OTHER SUBDIVISIONS OF THIS SECTION.

(C) SURCHARGES PURSUANT TO THIS SUBDIVISION SHALL NOT APPLY TO PAYMENTS MADE BY THIRD PARTY PAYORS FOR SERVICES PROVIDED TO PATIENTS INSURED BY MEDICAID OR BY THE CHILD HEALTH PLUS PROGRAM OR TO ANY PATIENT IN A CATEGORY THAT IS EXEMPT FROM SURCHARGE OBLIGATIONS ASSESSED PURSUANT TO SUBDIVISIONS ONE THROUGH TWELVE OF THIS SECTION.

S 17. Subparagraphs (vii) and (viii) of paragraph (uu) of subdivision 1 of section 2807-v of the public health law, as amended by section 120 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(vii) [seven] ONE million [five] EIGHT hundred SEVENTY-FIVE thousand dollars for the period January first, two thousand ten through [December] MARCH thirty-first, two thousand ten shall be available for disease management demonstration programs; and

(viii) one million eight hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven shall be available for disease management demonstration programs].

S 18. Intentionally omitted.

S 19. Intentionally omitted.

S 20. Intentionally omitted.

S 21. Paragraph (jj) 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:

(jj) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purposes of a grant program to improve access to infertility services, treatments and procedures, from the tobacco control and insurance initiatives pool established for the period January first, two thousand two through December thirty-first, two thousand two in the amount of nine million one hundred seventy-five thousand dollars, for the period April first, two thousand six through March thirty-first, two thousand seven in the amount of five million dollars, for the period April first, two thousand seven through March thirty-first, two thousand eight in the amount of five million dollars, for the period April first, two thousand eight through March thirty-first, two thousand nine in the amount of five million dollars, AND for the period April first, two thousand nine through March thirty-first, two thousand ten in the amount of five million dollars, and for the period April first, two thousand ten through March thirty-first, two thousand eleven in the amount of [five] TWO million TWO HUNDRED THOUSAND dollars.

S 22. Subparagraphs (vii) and (viii) of paragraph (qq) 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, are amended to read as follows:

(vii) up to [five million] FOUR HUNDRED EIGHTY-EIGHT THOUSAND dollars for the period January first, two thousand ten through [December] MARCH thirty-first, two thousand ten; of such funds [one million nine] FOUR hundred [fifty] EIGHTY-EIGHT thousand dollars shall be made available to the department for the purpose of developing, implementing and adminis-

1 tering the long-term care insurance education and outreach program [and
2 three million fifty thousand dollars shall be made available to the
3 office for the aging for the purpose of providing the long-term care
4 insurance resource centers with the necessary resources to carry out
5 their operations; and

6 (viii) up to one million two hundred fifty thousand dollars for the
7 period January first, two thousand eleven through March thirty-first,
8 two thousand eleven; of such funds four hundred eighty-seven thousand
9 five hundred dollars shall be made available to the department for the
10 purpose of developing, implementing and administering the long-term care
11 insurance education and outreach program and seven hundred sixty-two
12 thousand five hundred dollars shall be made available to the office for
13 the aging for the purpose of providing the long-term care insurance
14 resource centers with the necessary resources to carry out their oper-
15 ations].

16 S 23. Subparagraphs (xi) and (xii) of paragraph (j) of subdivision 1
17 of section 2807-v of the public health law, as amended by section 5 of
18 part B of chapter 58 of the laws of 2008, are amended to read as
19 follows:

20 (xi) up to [ninety-four] EIGHTY-THREE million [one] TWO hundred
21 [fifty] SEVENTY-FIVE thousand dollars for the period January first, two
22 thousand ten through December thirty-first, two thousand ten; and

23 (xii) up to [twenty-three] NINETEEN million [five] NINE hundred [thir-
24 ty-seven] TWELVE thousand dollars for the period January first, two
25 thousand eleven through March thirty-first, two thousand eleven.

26 S 24. Subparagraph (iv) of paragraph (c) of subdivision 1 of section
27 2807-1 of the public health law, as amended by section 4 of part B of
28 chapter 58 of the laws of 2008, is amended to read as follows:

29 (iv) distributions by the commissioner related to poison control
30 centers pursuant to subdivision seven of section twenty-five hundred-d
31 of this chapter, up to five million dollars for the period January
32 first, nineteen hundred ninety-seven through December thirty-first,
33 nineteen hundred ninety-seven, up to three million dollars on an annual-
34 ized basis for the periods during the period January first, nineteen
35 hundred ninety-eight through December thirty-first, nineteen hundred
36 ninety-nine, up to five million dollars annually for the periods January
37 first, two thousand through December thirty-first, two thousand two, up
38 to four million six hundred thousand dollars annually for the periods
39 January first, two thousand three through December thirty-first, two
40 thousand four, up to five million one hundred thousand dollars for the
41 period January first, two thousand five through December thirty-first,
42 two thousand six annually, up to five million one hundred thousand
43 dollars annually for the period January first, two thousand seven
44 through December thirty-first, two thousand [ten,] NINE, UP TO THREE
45 MILLION SIX HUNDRED THOUSAND DOLLARS FOR THE PERIOD JANUARY FIRST, TWO
46 THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, and up to
47 [one million two] SEVEN hundred seventy-five thousand dollars for the
48 period January first, two thousand eleven through March thirty-first,
49 two thousand eleven; and

50 S 25. Clause (B) of subparagraph (i) of paragraph (b) of subdivision 2
51 of section 369 of the social services law, as amended by chapter 170 of
52 the laws of 1994, is amended to read as follows:

53 (B) from the estate of [an individual] A DECEDENT who was fifty-five
54 years of age or older when he or she received such assistance, OR FROM
55 THE RECIPIENT OF THE PROPERTY OF SUCH DECEDENT BY DISTRIBUTION OR BY
56 SURVIVAL.

1 S 25-a. Subdivision 6 of section 369 of the social services law, as
2 added by chapter 170 of the laws of 1994, is amended to read as follows:

3 6. For purposes of this section, the term "estate" means all OF AN
4 INDIVIDUAL'S real and personal property and other assets [included with-
5 in the individual's estate and] passing under the terms of a valid will
6 or by intestacy, AND ANY OTHER PROPERTY IN WHICH THE INDIVIDUAL HAD ANY
7 LEGAL TITLE OR INTEREST AT THE TIME OF DEATH, INCLUDING JOINTLY HELD
8 PROPERTY, RETAINED LIFE ESTATES, AND INTERESTS IN TRUSTS, TO THE EXTENT
9 OF SUCH INTERESTS.

10 S 26. Paragraph (d) of subdivision 1 of section 453 of the general
11 business law, as amended by chapter 557 of the laws of 2001, is amended
12 to read as follows:

13 (d) Moneys paid for such an agreement for an applicant or recipient of
14 supplemental security income benefits under section two hundred nine of
15 the social services law or of medical assistance under section three
16 hundred sixty-six of such law, OR MONEYS PAID BY SUCH AN APPLICANT OR
17 RECIPIENT FOR SUCH AN AGREEMENT FOR HIS OR HER FAMILY MEMBER, shall be
18 placed into a trust which shall be irrevocable but under which such
19 applicant/recipient reserves the right to select any funeral firm,
20 funeral director, undertaker, cemetery or any other person, firm or
21 corporation to whom such payment is made and to change such selection
22 any time to any type of funeral or any funeral firm, funeral director,
23 cemetery or any other person, firm or corporation to whom such payment
24 is made, located in the state of New York or any other state. Any such
25 change must be carried out within ten business days following receipt of
26 a request by the purchaser to the funeral firm, funeral director, ceme-
27 tery or any other person, firm or corporation to whom such payment is
28 made, with which such trust was established. This requirement is subject
29 to any limits set forth in federal law or regulation pertaining to
30 disregarded resources or income.

31 S 27. Paragraph (f) of subdivision 3 of section 453 of the general
32 business law, as added by chapter 660 of the laws of 1996, is amended to
33 read as follows:

34 (f) With respect to an agreement for an irrevocable trust fund pursu-
35 ant to section two hundred nine of the social services law OR PARAGRAPH
36 (D) OF SUBDIVISION ONE OF THIS SECTION, include the following statement
37 in the agreement in conspicuous print of at least twelve point type:

38 DISCLOSURE

39 NEW YORK LAW REQUIRES THIS AGREEMENT TO BE IRREVOCABLE FOR APPLICANTS
40 FOR [RECEIPT] AND RECIPIENTS OF SUPPLEMENTAL SECURITY BENEFITS UNDER
41 SECTION TWO HUNDRED NINE OF THE SOCIAL SERVICES LAW OR OF MEDICAL
42 ASSISTANCE UNDER SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES
43 LAW, AND FOR THE MONEYS PUT INTO A TRUST UNDER THIS AGREEMENT TO BE USED
44 ONLY FOR FUNERAL AND BURIAL EXPENSES. WHETHER THE AGREEMENT IS FOR YOUR
45 FUNERAL AND BURIAL EXPENSES OR FOR THOSE OF A FAMILY MEMBER, IF ANY
46 MONEY IS LEFT OVER AFTER YOUR FUNERAL AND BURIAL EXPENSES HAVE BEEN
47 PAID, IT WILL GO TO THE COUNTY. YOU MAY CHANGE YOUR CHOICE OF FUNERAL
48 HOME AT ANY TIME. IF THIS AGREEMENT IS FOR THE FUNERAL AND BURIAL
49 EXPENSES OF A FAMILY MEMBER, AFTER YOUR DEATH SUCH FAMILY MEMBER MAY
50 CHANGE THE CHOICE OF FUNERAL HOME AT ANY TIME.

51 S 28. Subdivision 6 of section 209 of the social services law, as
52 amended by chapter 660 of the laws of 1996, paragraphs (a) and (b) as
53 amended by chapter 317 of the laws of 2002, is amended to read as
54 follows:

55 6. (a) As applicable federal law, rules and regulations so provide, a
56 recipient of supplemental security income benefits or medical assistance

1 in the state of New York or any other state may establish an irrevocable
2 trust fund for the exclusive purpose of their OR A FAMILY MEMBER'S
3 funeral and burial. Such trust fund and any accumulated interest not
4 withdrawn by the recipient shall remain the responsibility of the funer-
5 al firm, funeral director, undertaker, cemetery or any other person,
6 firm or corporation to whom such payment is made to administer for
7 funeral and burial expenses of the recipient. Those persons who estab-
8 lish such a trust fund shall be given the opportunity to select the
9 funeral firm, funeral director, undertaker, cemetery or any other
10 person, firm or corporation to whom such payment is made of their choice
11 to provide for their OR A FAMILY MEMBER'S burial arrangements and to
12 change such selection at any time to any funeral firm, funeral director,
13 undertaker, cemetery or any other person, firm or corporation to whom
14 such payment is made, located either in the state of New York or any
15 other state. Any such change of funeral firm, funeral director, under-
16 taker, cemetery, or any other person, firm or corporation to whom such
17 payment is made, must be carried out within ten business days following
18 receipt of a request by the purchaser to the funeral firm, funeral
19 director, undertaker, cemetery, or any other person, firm or corporation
20 to whom such payment is made with which the current trust fund was
21 established. Funds in such trust fund shall be placed in an interest
22 bearing account pursuant to section four hundred fifty-three of the
23 general business law. Accumulated interest from such account shall not
24 be reported as "countable income" pursuant to section two hundred eight
25 of this title.

26 (b) An applicant for or a recipient of medical assistance in the state
27 of New York or any other state who enters into an agreement pursuant to
28 section four hundred fifty-three of the general business law FOR THEIR
29 OWN BENEFIT OR FOR THE BENEFIT OF A FAMILY MEMBER shall establish a
30 single irrevocable trust fund FOR EACH SUCH BENEFICIARY pursuant to
31 paragraph (a) of this subdivision.

32 (c) A funeral firm, funeral director, undertaker, cemetery, or any
33 other person, firm or corporation which makes an agreement for and
34 accepts payment for such an irrevocable trust fund, shall comply with
35 the provisions of section four hundred fifty-three of the general busi-
36 ness law, and shall include the following statement in any such agree-
37 ment in conspicuous print of at least twelve point type:

38 DISCLOSURE

39 NEW YORK LAW REQUIRES THIS AGREEMENT TO BE IRREVOCABLE FOR APPLICANTS
40 FOR [RECEIPT] AND RECIPIENTS OF SUPPLEMENTAL SECURITY BENEFITS UNDER
41 SECTION TWO HUNDRED NINE OF THE SOCIAL SERVICES LAW OR OF MEDICAL
42 ASSISTANCE UNDER SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES
43 LAW, AND FOR THE MONEYS PUT INTO A TRUST UNDER THIS AGREEMENT TO BE USED
44 ONLY FOR FUNERAL AND BURIAL EXPENSES. WHETHER THIS AGREEMENT IS FOR YOUR
45 FUNERAL AND BURIAL EXPENSES OR FOR THOSE OF A FAMILY MEMBER, IF ANY
46 MONEY IS LEFT OVER AFTER YOUR FUNERAL AND BURIAL EXPENSES HAVE BEEN
47 PAID, IT WILL GO TO THE COUNTY. YOU MAY CHANGE YOUR CHOICE OF FUNERAL
48 HOME AT ANY TIME. IF THIS AGREEMENT IS FOR THE FUNERAL AND BURIAL
49 EXPENSES OF A FAMILY MEMBER, AFTER YOUR DEATH SUCH FAMILY MEMBER MAY
50 CHANGE THE CHOICE OF FUNERAL HOME AT ANY TIME.

51 (d) Any promotional literature prepared after January first, nineteen
52 hundred ninety-seven by a funeral firm, funeral director, undertaker,
53 cemetery, or any other person, firm or corporation for prearranged
54 funeral and burial services must contain language disclosing the irrev-
55 ocable nature of burial trusts established BY OR for an applicant or

1 recipient of supplemental security income benefits or medical assist-
2 ance.

3 S 29. Paragraph (g) of subdivision 3 of section 453 of the general
4 business law, as added by chapter 660 of the laws of 1996, is amended to
5 read as follows:

6 (g) Any promotional literature prepared after January first, nineteen
7 hundred ninety-seven by a funeral firm, funeral director, undertaker,
8 cemetery, or any other person, firm or corporation for prearranged
9 funeral and burial services must contain language disclosing the irrev-
10 ocable nature of burial trusts established BY OR for an applicant or
11 recipient of supplemental security income benefits or medical assist-
12 ance.

13 S 30. Subdivision 6 of section 141 of the social services law, as
14 added by chapter 660 of the laws of 1996, is amended to read as follows:

15 6. If an applicant for or a recipient of public assistance or care or
16 of medical assistance under section two hundred nine or three hundred
17 sixty-six of this chapter [dies having established] ESTABLISHES an irre-
18 vocable trust for the payment of his or her funeral expenses, OR THOSE
19 OF A FAMILY MEMBER, under section four hundred fifty-three of the gener-
20 al business law, any funds remaining in such trust after the payment of
21 all funeral expenses must be paid over to the social services official
22 responsible for arranging for burials under this section in the local
23 government subdivision where the decedent resided.

24 S 31. Section 365-h of the social services law, as added by chapter
25 81 of the laws of 1995, subdivision 3 as amended by section 26 of part B
26 of chapter 1 of the laws of 2002, is amended to read as follows:

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

35 2. In exercising this responsibility, the local social services offi-
36 cial AND, AS APPROPRIATE, THE COMMISSIONER OF HEALTH shall:

37 (a) make appropriate and economical use of transportation resources
38 available in the district in meeting the anticipated demand for trans-
39 portation within the district, including, but not limited to: transpor-
40 tation generally available free-of-charge to the general public or
41 specific segments of the general public, public transportation,
42 promotion of group rides, county vehicles, coordinated transportation,
43 and direct purchase of services; and

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

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

54 4. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ASSUME RESPONSIBILITY
55 FROM A LOCAL SOCIAL SERVICES OFFICIAL FOR THE PROVISION AND REIMBURSE-
56 MENT OF TRANSPORTATION COSTS UNDER THIS SECTION. IF THE COMMISSIONER

1 ELECTS TO ASSUME SUCH RESPONSIBILITY, THE COMMISSIONER SHALL NOTIFY THE
2 LOCAL SOCIAL SERVICES OFFICIAL IN WRITING AS TO THE ELECTION, THE DATE
3 UPON WHICH THE ELECTION SHALL BE EFFECTIVE, AND SUCH INFORMATION AS TO
4 TRANSITION OF RESPONSIBILITIES AS THE COMMISSIONER DEEMS PRUDENT. THE
5 COMMISSIONER IS AUTHORIZED TO CONTRACT WITH A TRANSPORTATION MANAGER OR
6 MANAGERS THAT HAVE EXPERIENCE IN COORDINATING TRANSPORTATION SERVICES IN
7 NEW YORK STATE TO MANAGE THE PROVISION OF SERVICES UNDER THIS SECTION.
8 SUCH A CONTRACT OR CONTRACTS MAY INCLUDE, WITHOUT LIMITATION, RESPONSI-
9 BILITY FOR: REVIEW, APPROVAL AND PROCESSING OF TRANSPORTATION ORDERS;
10 MANAGEMENT OF THE APPROPRIATE LEVEL OF TRANSPORTATION BASED ON DOCU-
11 MENTED PATIENT MEDICAL NEED; AND DEVELOPMENT OF NEW TECHNOLOGIES AND
12 APPROACHES LEADING TO EFFICIENT TRANSPORTATION SERVICES. NOTWITHSTANDING
13 ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE
14 HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED
15 FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMIS-
16 SIONER IS AUTHORIZED TO ENTER INTO A CONTRACT UNDER THIS SUBDIVISION
17 WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

18 S 32. Subdivision 7 of section 2510 of the public health law, as
19 amended by chapter 645 of the laws of 2005, is amended to read as
20 follows:

21 7. "Covered health care services" means: the services of physicians,
22 optometrists, nurses, nurse practitioners, midwives and other related
23 professional personnel which are provided on an outpatient basis,
24 including routine well-child visits; diagnosis and treatment of illness
25 and injury; inpatient health care services; laboratory tests; diagnostic
26 x-rays; prescription and non-prescription drugs and durable medical
27 equipment; radiation therapy; chemotherapy; hemodialysis; emergency room
28 services; hospice services; emergency, preventive and routine dental
29 care, [except orthodontia and] INCLUDING MEDICALLY NECESSARY ORTHODONTIA
30 BUT EXCLUDING cosmetic surgery; emergency, preventive and routine vision
31 care, including eyeglasses; speech and hearing services; and, inpatient
32 and outpatient mental health, alcohol and substance abuse services as
33 defined by the commissioner in consultation with the superintendent.
34 "Covered health care services" shall not include drugs, procedures and
35 supplies for the treatment of erectile dysfunction when provided to, or
36 prescribed for use by, a person who is required to register as a sex
37 offender pursuant to article six-C of the correction law, provided that
38 any denial of coverage of such drugs, procedures or supplies shall
39 provide the patient with the means of obtaining additional information
40 concerning both the denial and the means of challenging such denial.

41 S 33. Section 2511 of the public health law is amended by adding a new
42 subdivision 2-b to read as follows:

43 2-B. (A) EFFECTIVE JULY FIRST, TWO THOUSAND TEN, FOR PURPOSES OF
44 CLAIMING FEDERAL FINANCIAL PARTICIPATION UNDER PARAGRAPH NINE OF
45 SUBSECTION (C) OF SECTION TWENTY-ONE HUNDRED FIVE OF THE FEDERAL SOCIAL
46 SECURITY ACT, FOR INDIVIDUALS DECLARING TO BE CITIZENS AT INITIAL APPLI-
47 CATION, A HOUSEHOLD SHALL PROVIDE:

48 (I) THE SOCIAL SECURITY NUMBER FOR THE APPLICANT TO BE VERIFIED BY THE
49 COMMISSIONER IN ACCORDANCE WITH A PROCESS ESTABLISHED BY THE SOCIAL
50 SECURITY ADMINISTRATION PURSUANT TO FEDERAL LAW, OR

51 (II) DOCUMENTATION OF CITIZENSHIP AND IDENTITY OF THE APPLICANT
52 CONSISTENT WITH REQUIREMENTS UNDER THE MEDICAL ASSISTANCE PROGRAM, AS
53 SPECIFIED BY THE COMMISSIONER ON THE INITIAL APPLICATION.

54 (B) PENDING RECEIPT OF THE INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF
55 PARAGRAPH (A) OF THIS SUBDIVISION, AN INITIAL APPLICATION SHALL CONTINUE
56 TO BE PROCESSED BY AN APPROVED ORGANIZATION OR ENROLLMENT FACILITATOR

1 AND A CHILD SHALL BE PRESUMPTIVELY ENROLLED IN THE PROGRAM IN ACCORDANCE
2 WITH PROCEDURES AND TIMEFRAMES CURRENTLY SPECIFIED IN CONTRACTS.

3 (C) THE COMMISSIONER IS AUTHORIZED TO IMPOSE THE SAME INFORMATION AND
4 DOCUMENTATION REQUIREMENTS AT ANNUAL RECERTIFICATION OF ENROLLEES ONLY
5 IF CLAIMING FEDERAL FINANCIAL PARTICIPATION FOR SUCH ENROLLEES BECOMES
6 CONTINGENT ON MEETING SUCH REQUIREMENTS.

7 S 34. Subparagraphs (i) and (ii) of paragraph (f) of subdivision 2 of
8 section 2511 of the public health law, subparagraph (i) as amended by
9 section 4 and subparagraph (ii) as amended by section 5 of part 00 of
10 chapter 57 of the laws of 2008, are amended to read as follows:

11 (i) In order to establish income eligibility under this subdivision at
12 initial application, a household shall provide such documentation speci-
13 fied in subparagraph (iii) of this paragraph, as necessary and suffi-
14 cient to determine a child's financial eligibility for a subsidy payment
15 under this title. The commissioner may verify the accuracy of such
16 income information provided by the household by matching it against
17 income information contained in databases to which the commissioner has
18 access, including the state's wage reporting system pursuant to subdivi-
19 sion five of section one hundred seventy-one-a of the tax law and by
20 means of an income verification performed [by] PURSUANT TO A COOPERATIVE
21 AGREEMENT WITH the department of taxation and finance [pursuant to
22 subdivision four of section one hundred seventy-one-b of the tax law].

23 (ii) In order to establish income eligibility under this subdivision
24 at recertification, a household shall attest to all information regard-
25 ing the household's income that is necessary and sufficient to determine
26 a child's financial eligibility for a subsidy payment under this title
27 and shall provide the social security numbers for each parent and legal-
28 ly responsible adult who is a member of the household and whose income
29 is available to the child, subject to subparagraph (v) of this para-
30 graph. The commissioner may verify the accuracy of such income informa-
31 tion provided by the household by matching it against income information
32 contained in databases to which the commissioner has access, including
33 the state's wage reporting system and by means of an income verification
34 performed [by] PURSUANT TO A COOPERATIVE AGREEMENT WITH the department
35 of taxation and finance [pursuant to subdivision four of section one
36 hundred seventy-one-b of the tax law]. In the event that there is an
37 inconsistency between the income information attested to by the house-
38 hold and any information obtained by the commissioner from other sources
39 pursuant to this subparagraph, and such inconsistency is material to the
40 household's eligibility for a subsidy payment under this title, the
41 commissioner shall require the approved organization to obtain income
42 documentation from the household as specified in subparagraph (iii) of
43 this paragraph.

44 S 34-a. Paragraph (a) of subdivision 8 of section 366-a of the social
45 services law, as amended by section 45-c of part C of chapter 58 of the
46 laws of 2008, is amended to read as follows:

47 (a) Notwithstanding subdivisions two and five of this section, infor-
48 mation concerning income and resources of applicants for and recipients
49 of medical assistance may be verified by matching client information
50 with information contained in the wage reporting system established by
51 section one hundred seventy-one-a of the tax law and in similar systems
52 operating in other geographically contiguous states, by means of an
53 income verification performed [by] PURSUANT TO A MEMORANDUM OF UNDER-
54 STANDING WITH the department of taxation and finance [pursuant to subdivi-
55 sion four of section one hundred seventy-one-b of the tax law,] and,
56 to the extent required by federal law, with information contained in the

1 non-wage income file maintained by the United States internal revenue
2 service, in the beneficiary data exchange maintained by the United
3 States department of health and human services, and in the unemployment
4 insurance benefits file. Such matching shall provide for procedures
5 which document significant inconsistent results of matching activities.
6 Nothing in this section shall be construed to prohibit activities the
7 department reasonably believes necessary to conform with federal
8 requirements under section one thousand one hundred thirty-seven of the
9 social security act.

10 S 34-b. Subdivision 4 of section 171-b of the tax law, as amended by
11 section 45-e of part C of chapter 58 of the laws of 2008, is amended to
12 read as follows:

13 (4) The commissioner is authorized and directed to enter into an
14 agreement with the commissioner of health which shall set forth the
15 procedures by which the commissioner shall (a) [verify] FACILITATE THE
16 VERIFICATION OF income eligibility for subsidized health insurance
17 coverage under the child health insurance plan pursuant to subparagraphs
18 (i) and (ii) of paragraph (f) of subdivision two of section two thousand
19 five hundred eleven of the public health law, and for the medical
20 assistance and family health plus programs pursuant to subdivision eight
21 of section three hundred sixty-six-a and paragraphs (b) and (d) of
22 subdivision two of section three hundred sixty-nine-ee of the social
23 services law, AND FOR IMPOSING PARENTAL FEES IN THE EARLY INTERVENTION
24 PROGRAM PURSUANT TO SUBDIVISION FOUR OF SECTION TWENTY-FIVE HUNDRED
25 FIFTY-SEVEN-A OF THE PUBLIC HEALTH LAW, AS ADDED BY A CHAPTER OF THE
26 LAWS OF TWO THOUSAND TEN, as specified by the commissioner of health and
27 agreed to by the commissioner, and (b) shall provide the information
28 required by subdivision two-a of section two thousand five hundred elev-
29 en of the public health law.

30 S 34-c. Subdivision 5 of section 171-a of the tax law, as amended by
31 section 2 of part A of chapter 58 of the laws of 2005, is amended to
32 read as follows:

33 5. Notwithstanding any provision of law to the contrary, the commis-
34 sioner shall enter into a cooperative agreement with the department of
35 health, which agreement shall provide for the utilization of information
36 obtained pursuant to subdivision one of this section, for the purpose of
37 verifying eligibility for child health insurance plan subsidy payments
38 and required premium payments under sections two thousand five hundred
39 ten and two thousand five hundred eleven of the public health law, [and]
40 for the purpose of verifying eligibility for the program for elderly
41 pharmaceutical insurance coverage under title three of article two of
42 the elder law, AND FOR THE PURPOSE OF IMPOSING PARENTAL FEES UNDER THE
43 EARLY INTERVENTION PROGRAM PURSUANT TO SECTION TWENTY-FIVE HUNDRED
44 FIFTY-SEVEN-A OF THE PUBLIC HEALTH LAW, AS ADDED BY A CHAPTER OF THE
45 LAWS OF TWO THOUSAND TEN, when requested by the department of health.

46 S 34-d. Paragraph 3 of subsection (e) of section 697 of the tax law,
47 as amended by section 4 of part V of chapter 57 of the laws of 2009, is
48 amended to read as follows:

49 (3) Nothing herein shall be construed to prohibit the department, its
50 officers or employees from furnishing information to the office of
51 temporary and disability assistance relating to the payment of the cred-
52 it for certain household and dependent care services necessary for gain-
53 ful employment under subsection (c) of section six hundred six of this
54 article and the earned income credit under subsection (d) of section six
55 hundred six of this article, or pursuant to a local law enacted by a
56 city having a population of one million or more pursuant to subsection

1 (f) of section thirteen hundred ten of this chapter, only to the extent
2 necessary to calculate qualified state expenditures under paragraph
3 seven of subdivision (a) of section four hundred nine of the federal
4 social security act or to document the proper expenditure of federal
5 temporary assistance for needy families funds under section four hundred
6 three of such act. The office of temporary and disability assistance may
7 redisclose such information to the United States department of health
8 and human services only to the extent necessary to calculate such quali-
9 fied state expenditures or to document the proper expenditure of such
10 federal temporary assistance for needy families funds. Nothing herein
11 shall be construed to prohibit the delivery by the commissioner to a
12 commissioner of jurors, appointed pursuant to section five hundred four
13 of the judiciary law, or, in counties within cities having a population
14 of one million or more, to the county clerk of such county, of a mailing
15 list of individuals to whom income tax forms are mailed by the commis-
16 sioner for the sole purpose of compiling a list of prospective jurors as
17 provided in article sixteen of the judiciary law. Provided, however,
18 such delivery shall only be made pursuant to an order of the chief
19 administrator of the courts, appointed pursuant to section two hundred
20 ten of the judiciary law. No such order may be issued unless such chief
21 administrator is satisfied that such mailing list is needed to compile a
22 proper list of prospective jurors for the county for which such order is
23 sought and that, in view of the responsibilities imposed by the various
24 laws of the state on the department, it is reasonable to require the
25 commissioner to furnish such list. Such order shall provide that such
26 list shall be used for the sole purpose of compiling a list of prospec-
27 tive jurors and that such commissioner of jurors, or such county clerk,
28 shall take all necessary steps to insure that the list is kept confiden-
29 tial and that there is no unauthorized use or disclosure of such list.
30 Furthermore, nothing herein shall be construed to prohibit the delivery
31 to a taxpayer or his or her duly authorized representative of a certi-
32 fied copy of any return or report filed in connection with his or her
33 tax or to prohibit the publication of statistics so classified as to
34 prevent the identification of particular reports or returns and the
35 items thereof, or the inspection by the attorney general or other legal
36 representatives of the state of the report or return of any taxpayer or
37 of any employer filed under section one hundred seventy-one-h of this
38 chapter, where such taxpayer or employer shall bring action to set aside
39 or review the tax based thereon, or against whom an action or proceeding
40 under this chapter or under this chapter and article eighteen of the
41 labor law has been recommended by the commissioner, the commissioner of
42 labor with respect to unemployment insurance matters, or the attorney
43 general or has been instituted, or the inspection of the reports or
44 returns required under this article by the comptroller or duly desig-
45 nated officer or employee of the state department of audit and control,
46 for purposes of the audit of a refund of any tax paid by a taxpayer
47 under this article, or the furnishing to the state department of labor
48 of unemployment insurance information obtained or derived from quarterly
49 combined withholding, wage reporting and unemployment insurance returns
50 required to be filed by employers pursuant to paragraph four of
51 subsection (a) of section six hundred seventy-four of this article, for
52 purposes of administration of such department's unemployment insurance
53 program, employment services program, federal and state employment and
54 training programs, employment statistics and labor market information
55 programs, worker protection programs, federal programs for which the
56 department has administrative responsibility or for other purposes

1 deemed appropriate by the commissioner of labor consistent with the
2 provisions of the labor law, and redisclosure of such information in
3 accordance with the provisions of sections five hundred thirty-six and
4 five hundred thirty-seven of the labor law or any other applicable law,
5 or the furnishing to the state office of temporary and disability
6 assistance of information obtained or derived from New York state
7 personal income tax returns as described in paragraph (b) of subdivision
8 two of section one hundred seventy-one-g of this chapter for the purpose
9 of reviewing support orders enforced pursuant to title six-A of article
10 three of the social services law to aid in the determination of whether
11 such orders should be adjusted, or the furnishing of information
12 obtained from the reports required to be submitted by employers regard-
13 ing newly hired or re-hired employees pursuant to section one hundred
14 seventy-one-h of this chapter to the state office of temporary and disa-
15 bility assistance, the state department of health, the state department
16 of labor and the workers' compensation board for purposes of adminis-
17 tration of the child support enforcement program, verification of indi-
18 viduals' eligibility for one or more of the programs specified in
19 subsection (b) of section eleven hundred thirty-seven of the federal
20 social security act and for other public assistance programs authorized
21 by state law, and administration of the state's employment security and
22 workers' compensation programs, and to the national directory of new
23 hires established pursuant to section four hundred fifty-three-A of the
24 federal social security act for the purposes specified in such section,
25 or the furnishing to the state office of temporary and disability
26 assistance of the amount of an overpayment of income tax and interest
27 thereon certified to the comptroller to be credited against past-due
28 support pursuant to section one hundred seventy-one-c of this chapter
29 and of the name and social security number of the taxpayer who made such
30 overpayment, or the disclosing to the commissioner of finance of the
31 city of New York, pursuant to section one hundred seventy-one-l of this
32 chapter, of the amount of an overpayment and interest thereon certified
33 to the comptroller to be credited against a city of New York tax warrant
34 judgment debt and of the name and social security number of the taxpayer
35 who made such overpayment, or the furnishing to the New York state high-
36 er education services corporation of the amount of an overpayment of
37 income tax and interest thereon certified to the comptroller to be cred-
38 ited against the amount of a default in repayment of any education loan
39 debt, including judgments, owed to the federal or New York state govern-
40 ment that is being collected by the New York state higher education
41 services corporation, and of the name and social security number of the
42 taxpayer who made such overpayment, or the furnishing to the state
43 department of health of the information required by paragraph (f) of
44 subdivision two and subdivision two-a of section two thousand five
45 hundred eleven of the public health law and by subdivision eight of
46 section three hundred sixty-six-a and paragraphs (b) and (d) of subdivi-
47 sion two of section three hundred sixty-nine-ee of the social services
48 law, AND BY SUBDIVISION FOUR OF SECTION TWENTY-FIVE HUNDRED FIFTY-SEV-
49 EN-A OF THE PUBLIC HEALTH LAW, AS ADDED BY A CHAPTER OF THE LAWS OF TWO
50 THOUSAND TEN, or the furnishing to the state university of New York or
51 the city university of New York respectively or the attorney general on
52 behalf of such state or city university the amount of an overpayment of
53 income tax and interest thereon certified to the comptroller to be cred-
54 ited against the amount of a default in repayment of a state university
55 loan pursuant to section one hundred seventy-one-e of this chapter and
56 of the name and social security number of the taxpayer who made such

1 overpayment, or the disclosing to a state agency, pursuant to section
2 one hundred seventy-one-f of this chapter, of the amount of an overpay-
3 ment and interest thereon certified to the comptroller to be credited
4 against a past-due legally enforceable debt owed to such agency and of
5 the name and social security number of the taxpayer who made such over-
6 payment, or the furnishing of employee and employer information obtained
7 through the wage reporting system, pursuant to section one hundred
8 seventy-one-a of this chapter, as added by chapter five hundred forty-
9 five of the laws of nineteen hundred seventy-eight, to the state office
10 of temporary and disability assistance, the department of health or to
11 the state office of the medicaid inspector general for the purpose of
12 verifying eligibility for and entitlement to amounts of benefits under
13 the social services law or similar law of another jurisdiction, locating
14 absent parents or other persons legally responsible for the support of
15 applicants for or recipients of public assistance and care under the
16 social services law and persons legally responsible for the support of a
17 recipient of services under section one hundred eleven-g of the social
18 services law and, in appropriate cases, establishing support obligations
19 pursuant to the social services law and the family court act or similar
20 provision of law of another jurisdiction for the purpose of evaluating
21 the effect on earnings of participation in employment, training or other
22 programs designed to promote self-sufficiency authorized pursuant to the
23 social services law by current recipients of public assistance and care
24 and by former applicants and recipients of public assistance and care,
25 (except that with regard to former recipients, information which relates
26 to a particular former recipient shall be provided with client identify-
27 ing data deleted), to the state office of temporary and disability
28 assistance for the purpose of determining the eligibility of any child
29 in the custody, care and custody or custody and guardianship of a local
30 social services district or of the office of children and family
31 services for federal payments for foster care and adoption assistance
32 pursuant to the provisions of title IV-E of the federal social security
33 act by providing information with respect to the parents, the steppar-
34 ents, the child and the siblings of the child who were living in the
35 same household as such child during the month that the court proceedings
36 leading to the child's removal from the household were initiated, or the
37 written instrument transferring care and custody of the child pursuant
38 to the provisions of section three hundred fifty-eight-a or three
39 hundred eighty-four-a of the social services law was signed, provided
40 however that the office of temporary and disability assistance shall
41 only use the information obtained pursuant to this subdivision for the
42 purpose of determining the eligibility of such child for federal
43 payments for foster care and adoption assistance pursuant to the
44 provisions of title IV-E of the federal social security act, and to the
45 state department of labor, or other individuals designated by the
46 commissioner of labor, for the purpose of the administration of such
47 department's unemployment insurance program, employment services
48 program, federal and state employment and training programs, employment
49 statistics and labor market information programs, worker protection
50 programs, federal programs for which the department has administrative
51 responsibility or for other purposes deemed appropriate by the commis-
52 sioner of labor consistent with the provisions of the labor law, and
53 redisclosure of such information in accordance with the provisions of
54 sections five hundred thirty-six and five hundred thirty-seven of the
55 labor law, or the furnishing of information, which is obtained from the
56 wage reporting system operated pursuant to section one hundred seventy-

1 one-a of this chapter, as added by chapter five hundred forty-five of
2 the laws of nineteen hundred seventy-eight, to the state office of
3 temporary and disability assistance so that it may furnish such informa-
4 tion to public agencies of other jurisdictions with which the state
5 office of temporary and disability assistance has an agreement pursuant
6 to paragraph (h) or (i) of subdivision three of section twenty of the
7 social services law, and to the state office of temporary and disability
8 assistance for the purpose of fulfilling obligations and responsibil-
9 ities otherwise incumbent upon the state department of labor, under
10 section one hundred twenty-four of the federal family support act of
11 nineteen hundred eighty-eight, by giving the federal parent locator
12 service, maintained by the federal department of health and human
13 services, prompt access to such information as required by such act, or
14 to the state department of health to verify eligibility under the child
15 health insurance plan pursuant to subdivisions two and two-a of section
16 two thousand five hundred eleven of the public health law, to verify
17 eligibility under the medical assistance and family health plus programs
18 pursuant to subdivision eight of section three hundred sixty-six-a and
19 paragraphs (b) and (d) of subdivision two of section three hundred
20 sixty-nine-ee of the social services law, and to verify eligibility for
21 the program for elderly pharmaceutical insurance coverage under title
22 three of article two of the elder law, AND FOR PURPOSES OF IMPOSING
23 PARENTAL FEES UNDER THE EARLY INTERVENTION PROGRAM PURSUANT TO SECTION
24 TWENTY-FIVE HUNDRED FIFTY-SEVEN-A OF THE PUBLIC HEALTH LAW, AS ADDED BY
25 A CHAPTER OF THE LAWS OF TWO THOUSAND TEN, or to the office of voca-
26 tional and educational services for individuals with disabilities of the
27 education department, the commission for the blind and visually hand-
28 icapped and any other state vocational rehabilitation agency, for
29 purposes of obtaining reimbursement from the federal social security
30 administration for expenditures made by such office, commission or agen-
31 cy on behalf of disabled individuals who have achieved economic self-
32 sufficiency or to the higher education services corporation for the
33 purpose of assisting the corporation in default prevention and default
34 collection of education loan debt, including judgments, owed to the
35 federal or New York state government; provided, however, that such
36 information shall be limited to the names, social security numbers, home
37 and/or business addresses, and employer names of defaulted or delinquent
38 student loan borrowers.

39 Provided, however, that with respect to employee information the
40 office of temporary and disability assistance shall only be furnished
41 with the names, social security account numbers and gross wages of those
42 employees who are (A) applicants for or recipients of benefits under the
43 social services law, or similar provision of law of another jurisdiction
44 (pursuant to an agreement under subdivision three of section twenty of
45 the social services law) or, (B) absent parents or other persons legally
46 responsible for the support of applicants for or recipients of public
47 assistance and care under the social services law or similar provision
48 of law of another jurisdiction (pursuant to an agreement under subdivi-
49 sion three of section twenty of the social services law), or (C) persons
50 legally responsible for the support of a recipient of services under
51 section one hundred eleven-g of the social services law or similar
52 provision of law of another jurisdiction (pursuant to an agreement under
53 subdivision three of section twenty of the social services law), or (D)
54 employees about whom wage reporting system information is being
55 furnished to public agencies of other jurisdictions, with which the
56 state office of temporary and disability assistance has an agreement

1 pursuant to paragraph (h) or (i) of subdivision three of section twenty
2 of the social services law, or (E) employees about whom wage reporting
3 system information is being furnished to the federal parent locator
4 service, maintained by the federal department of health and human
5 services, for the purpose of enabling the state office of temporary and
6 disability assistance to fulfill obligations and responsibilities other-
7 wise incumbent upon the state department of labor, under section one
8 hundred twenty-four of the federal family support act of nineteen
9 hundred eighty-eight, and, only if, the office of temporary and disabili-
10 ty assistance certifies to the commissioner that such persons are such
11 applicants, recipients, absent parents or persons legally responsible
12 for support or persons about whom information has been requested by a
13 public agency of another jurisdiction or by the federal parent locator
14 service and further certifies that in the case of information requested
15 under agreements with other jurisdictions entered into pursuant to
16 subdivision three of section twenty of the social services law, that
17 such request is in compliance with any applicable federal law. Provided,
18 further, that where the office of temporary and disability assistance
19 requests employee information for the purpose of evaluating the effects
20 on earnings of participation in employment, training or other programs
21 designed to promote self-sufficiency authorized pursuant to the social
22 services law, the office of temporary and disability assistance shall
23 only be furnished with the quarterly gross wages (excluding any refer-
24 ence to the name, social security number or any other information which
25 could be used to identify any employee or the name or identification
26 number of any employer) paid to employees who are former applicants for
27 or recipients of public assistance and care and who are so certified to
28 the commissioner by the commissioner of the office of temporary and
29 disability assistance. Provided, further, that with respect to employee
30 information, the department of health shall only be furnished with the
31 information required pursuant to the provisions of paragraph (f) of
32 subdivision two and subdivision two-a of section two thousand five
33 hundred eleven of the public health law and subdivision eight of section
34 three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two
35 of section three hundred sixty-nine-ee of the social services law, with
36 respect to those individuals whose eligibility under the child health
37 insurance plan, medical assistance program, and family health plus
38 program is to be determined pursuant to such provisions and with respect
39 to those members of any such individual's household whose income affects
40 such individual's eligibility and who are so certified to the commis-
41 sioner or by the department of health, AND THE INFORMATION REQUIRED
42 PURSUANT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION TWENTY-FIVE
43 HUNDRED FIFTY-SEVEN-A OF THE PUBLIC HEALTH LAW, AS ADDED BY A CHAPTER OF
44 THE LAWS OF TWO THOUSAND TEN, WITH RESPECT TO THOSE INDIVIDUALS FOR
45 WHICH A PARENTAL FEE IS REQUIRED UNDER THE EARLY INTERVENTION PROGRAM
46 AND WITH RESPECT TO THOSE MEMBERS OF ANY SUCH INDIVIDUAL'S HOUSEHOLD
47 WHOSE INCOME IS USED TO DETERMINE THE PARENTAL FEE OBLIGATION.
48 Provided, further, that wage reporting information shall be furnished to
49 the office of vocational and educational services for individuals with
50 disabilities of the education department, the commission for the blind
51 and visually handicapped and any other state vocational rehabilitation
52 agency only if such office, commission or agency, as applicable, certi-
53 fies to the commissioner that such information is necessary to obtain
54 reimbursement from the federal social security administration for
55 expenditures made on behalf of disabled individuals who have achieved

1 self-sufficiency. Reports and returns shall be preserved for three years
2 and thereafter until the commissioner orders them to be destroyed.

3 S 35. Section 2511 of the public health law is amended by adding a new
4 subdivision 2-c to read as follows:

5 2-C. EXPRESS LANE ELIGIBILITY. (A) NOTWITHSTANDING ANY INCONSISTENT
6 PROVISION OF LAW, RULE OR REGULATION, THE COMMISSIONER IS AUTHORIZED TO
7 (I) ESTABLISH STANDARDS AND PROCEDURES FOR EXPRESS LANE ELIGIBILITY AND
8 ENROLLMENT IMPLEMENTED IN ACCORDANCE WITH SECTION 2107(E)(1)(B) OF THE
9 FEDERAL SOCIAL SECURITY ACT, INCLUDING BUT NOT LIMITED TO RELIANCE ON A
10 FINDING MADE BY AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION
11 1902(E)(13)(F) OF THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE WHETHER
12 A CHILD MEETS ONE OR MORE OF THE ELIGIBILITY CRITERIA SET FORTH IN
13 SUBDIVISION TWO OF THIS SECTION; (II) SPECIFY SUCH STANDARDS AND PROCE-
14 DURES IN THE STATE CHILD HEALTH PLAN ESTABLISHED UNDER TITLE XXI OF THE
15 FEDERAL SOCIAL SECURITY ACT AND APPLICABLE CONTRACTS WITH APPROVED
16 ORGANIZATIONS AND ENROLLMENT FACILITATORS; AND (III) WAIVE ANY INFORMA-
17 TION AND DOCUMENTATION REQUIREMENTS SET FORTH IN THIS SECTION NECESSARY
18 TO IMPLEMENT EXPRESS LANE ELIGIBILITY PURSUANT TO STANDARDS AND PROCE-
19 DURES ESTABLISHED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH;
20 PROVIDED, HOWEVER, THAT INFORMATION AND DOCUMENTATION REQUIRED PURSUANT
21 TO SUBDIVISION TWO-B OF THIS SECTION MAY NOT BE WAIVED.

22 (B) SUBJECT TO FEDERAL APPROVAL, SUCH STANDARDS AND PROCEDURES SHALL
23 SPECIFY THAT INFORMATION AND DOCUMENTATION REGARDING CITIZENSHIP AND
24 IMMIGRATION STATUS COLLECTED BY AN EXPRESS LANE AGENCY AND PROVIDED TO
25 THE COMMISSIONER FOR THE PURPOSE OF EXPRESS LANE ELIGIBILITY MAY BE USED
26 TO SATISFY THE REQUIREMENTS OF SUBDIVISION TWO-B OF THIS SECTION.

27 (C) SUCH STANDARDS AND PROCEDURES SHALL ALSO INCLUDE A PROCESS FOR
28 DETERMINING ENROLLMENT ERROR RATES AND IMPLEMENTING CORRECTIVE ACTIONS
29 AS REQUIRED BY SECTION 1902(E)(13)(E) OF THE FEDERAL SOCIAL SECURITY
30 ACT.

31 S 36. Section 366-a of the social services law is amended by adding a
32 new subdivision 11 to read as follows:

33 11. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR
34 REGULATION, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO (I) ESTABLISH
35 STANDARDS AND PROCEDURES FOR EXPRESS LANE ELIGIBILITY AND ENROLLMENT
36 IMPLEMENTED IN ACCORDANCE WITH SECTION 2107(E)(1)(B) OF THE FEDERAL
37 SOCIAL SECURITY ACT, INCLUDING BUT NOT LIMITED TO RELIANCE ON A FINDING
38 MADE BY AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) OF
39 THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE WHETHER A CHILD MEETS ONE
40 OR MORE OF THE ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE; (II) SPECIFY
41 SUCH STANDARDS AND PROCEDURES IN THE MEDICAL ASSISTANCE STATE PLAN
42 ESTABLISHED UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT; AND
43 (III) WAIVE ANY INFORMATION AND DOCUMENTATION REQUIREMENTS SET FORTH IN
44 THIS SECTION NECESSARY TO IMPLEMENT EXPRESS LANE ELIGIBILITY; PROVIDED,
45 HOWEVER, INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO SECTION ONE
46 HUNDRED TWENTY-TWO OF THIS CHAPTER MAY NOT BE WAIVED.

47 (B) SUBJECT TO FEDERAL APPROVAL, SUCH STANDARDS AND PROCEDURES SHALL
48 SPECIFY THAT INFORMATION AND DOCUMENTATION REGARDING CITIZENSHIP AND
49 IMMIGRATION STATUS COLLECTED BY AN EXPRESS LANE AGENCY AND PROVIDED TO
50 THE COMMISSIONER FOR THE PURPOSE OF EXPRESS LANE ELIGIBILITY MAY BE USED
51 TO SATISFY THE REQUIREMENTS OF SECTION ONE HUNDRED TWENTY-TWO OF THIS
52 CHAPTER.

53 (C) SUCH STANDARDS AND PROCEDURES SHALL ALSO INCLUDE A PROCESS FOR
54 DETERMINING ENROLLMENT ERROR RATES AND IMPLEMENTING CORRECTIVE ACTIONS
55 AS REQUIRED BY SECTION 1902(E)(13)(E) OF THE FEDERAL SOCIAL SECURITY
56 ACT.

1 (D) FOR PURPOSES OF A MEDICAL ASSISTANCE ELIGIBILITY DETERMINATION
2 MADE IN ACCORDANCE WITH THIS SUBDIVISION, A CHILD SHALL BE DEEMED TO
3 SATISFY THE INCOME ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE IF AN
4 EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) OF THE FEDERAL
5 SOCIAL SECURITY ACT AND SPECIFIED IN THE STANDARDS AND PROCEDURES ESTAB-
6 LISHED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, HAS DETERMINED
7 THAT: THE CHILD'S FAMILY HAS INCOME THAT DOES NOT EXCEED A SCREENING
8 THRESHOLD AMOUNT, AS DETERMINED BY THE COMMISSIONER OF HEALTH, EQUAL TO
9 A PERCENTAGE OF THE FEDERAL POVERTY LINE (AS DEFINED AND ANNUALLY
10 REVISED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES)
11 THAT EXCEEDS BY THIRTY PERCENTAGE POINTS THE HIGHEST INCOME ELIGIBILITY
12 LEVEL APPLICABLE TO A FAMILY OF THE SAME SIZE UNDER THE MEDICAL ASSIST-
13 ANCE PROGRAM.

14 S 37. Section 369-ff of the social services law is amended by adding a
15 new subdivision 3-a to read as follows:

16 3-A. (A) INDIVIDUALS ENROLLED IN FAMILY HEALTH PLUS PLANS UNDER THIS
17 SECTION WHO ARE NOT OTHERWISE ELIGIBLE FOR FAMILY HEALTH PLUS UNDER
18 SECTION THREE HUNDRED SIXTY-NINE-EE OF THIS TITLE SHALL BE RESPONSIBLE
19 TO MAKE CO-PAYMENTS IN ACCORDANCE WITH THE TERMS OF PARAGRAPH (B) OF
20 THIS SUBDIVISION.

21 (B) CO-PAYMENTS SHALL BE CHARGED IN THE FOLLOWING AMOUNTS:

22 (I) THE CO-PAYMENT CHARGED FOR EACH DISCHARGE FOR INPATIENT CARE SHALL
23 BE ONE HUNDRED DOLLARS;

24 (II) THE CO-PAYMENT CHARGED FOR EACH EMERGENCY ROOM VISIT AND FOR EACH
25 OUTPATIENT SURGERY SHALL BE FIFTY DOLLARS;

26 (III) THE CO-PAYMENT CHARGED FOR EACH PRIMARY CARE PHYSICIAN OFFICE
27 VISIT, FOR EACH DENTAL SERVICE VISIT, FOR EACH LABORATORY SERVICE, FOR
28 EACH RADIOLOGY SERVICE, FOR EACH OUTPATIENT MENTAL HEALTH SERVICE, AND
29 FOR EACH OUTPATIENT SUBSTANCE ABUSE SERVICE SHALL BE TEN DOLLARS;

30 (IV) THE CO-PAYMENT CHARGED FOR EACH PHYSICIAN SPECIALIST SERVICE
31 OFFICE VISIT, FOR EACH PHYSICAL THERAPY SERVICE, FOR EACH OCCUPATIONAL
32 THERAPY SERVICE, FOR EACH SPEECH THERAPY SERVICE, FOR EACH HEARING
33 SERVICE, FOR EACH VISION SERVICE, AND FOR EACH PODIATRIC SERVICE SHALL
34 BE THIRTY-FIVE DOLLARS;

35 (V) THE CO-PAYMENT CHARGED FOR EACH GENERIC PRESCRIPTION DRUG
36 DISPENSED SHALL BE FIVE DOLLARS AND FOR EACH BRAND NAME PRESCRIPTION
37 DRUG DISPENSED SHALL BE FIFTEEN DOLLARS.

38 (C) EFFECTIVE JANUARY FIRST, TWO THOUSAND TWELVE, AND NOTWITHSTANDING
39 THE CO-PAYMENT AMOUNTS SET FORTH IN PARAGRAPH (B) OF THIS SECTION, THE
40 COMMISSIONER OF HEALTH IS AUTHORIZED TO AMEND SUCH CO-PAYMENT AMOUNTS
41 PURSUANT TO REGULATION.

42 S 38. The public health law is amended by adding a new section 279 to
43 read as follows:

44 S 279. INTERACTIONS BETWEEN PHARMACEUTICAL COMPANIES AND HEALTH CARE
45 PROFESSIONALS. 1. THIS SECTION SETS FORTH A CODE OF CONDUCT FOR ALL
46 PHARMACEUTICAL COMPANIES THAT SELL OR MARKET PRESCRIPTION DRUGS, BIOLOG-
47 ICS OR MEDICAL DEVICES IN THE STATE AND FOR ALL HEALTH CARE PROFES-
48 SIONALS PRACTICING IN THIS STATE TO WHOM SUCH DRUGS, BIOLOGICS OR
49 DEVICES ARE SOLD OR MARKETING. THESE PROVISIONS ARE INTENDED TO BENEFIT
50 PATIENTS, ENHANCE THE PRACTICE OF MEDICINE, AND ENSURE THAT THE
51 RELATIONSHIP BETWEEN PHARMACEUTICAL COMPANIES AND HEALTH CARE PROFES-
52 SIONALS DOES NOT INTERFERE WITH THE INDEPENDENT JUDGMENT OF SUCH PROFES-
53 SIONALS IN MAKING PRESCRIBING DECISIONS.

54 2. AS USED IN THIS SECTION:

55 (A) "BIOLOGIC" MEANS A VIRUS, THERAPEUTIC SERUM, TOXIN, ANTITOXIN,
56 VACCINE, BLOOD, BLOOD COMPONENT OR DERIVATIVE, ALLERGENIC PRODUCT, IMMU-

1 NOGLOBULIN PRODUCT, OR ANALOGOUS PRODUCT, AS DEFINED BY THE PUBLIC
2 HEALTH SERVICE ACT, APPLICABLE TO THE PREVENTION, TREATMENT, OR CURE OF
3 A DISEASE OR CONDITION OF HUMAN BEINGS AND REGULATED AS A DRUG UNDER THE
4 FEDERAL FOOD, DRUG, AND COSMETIC ACT.

5 (B) "BONA FIDE CONSULTING SERVICES" MEANS AN ARRANGEMENT WITH ONE OR
6 MORE HEALTH CARE PROFESSIONALS FOR THE PROVISION OF CONSULTING SERVICES
7 BY SUCH PROFESSIONAL OR PROFESSIONALS, WHERE THE ARRANGEMENT IS CHARAC-
8 TERIZED BY THE FOLLOWING FACTORS:

9 (I) A WRITTEN CONTRACT SPECIFIES THE NATURE OF THE CONSULTING SERVICES
10 TO BE PROVIDED AND THE BASIS FOR PAYMENT OF THOSE SERVICES;

11 (II) A LEGITIMATE NEED FOR THE SERVICES HAS BEEN CLEARLY IDENTIFIED IN
12 ADVANCE OF REQUESTING THE SERVICES AND ENTERING INTO THE PROSPECTIVE
13 CONSULTING ARRANGEMENT;

14 (III) THE CRITERIA FOR SELECTING CONSULTANTS ARE DIRECTLY RELATED TO
15 THE IDENTIFIED PURPOSE AND THE PERSONS RESPONSIBLE FOR SELECTING THE
16 CONSULTANTS HAVE THE EXPERTISE NECESSARY TO EVALUATE WHETHER THE PARTIC-
17 ULAR HEALTH CARE PROFESSIONALS MEET THOSE CRITERIA;

18 (IV) THE NUMBER OF HEALTH CARE PROFESSIONALS RETAINED IS NOT GREATER
19 THAN THE NUMBER REASONABLY NECESSARY TO ACHIEVE THE IDENTIFIED PURPOSE;

20 (V) THE RETAINING COMPANY MAINTAINS RECORDS CONCERNING AND MAKES
21 APPROPRIATE USE OF THE SERVICES PROVIDED BY CONSULTANTS; AND

22 (VI) THE VENUE AND CIRCUMSTANCES OF ANY MEETING WITH CONSULTANTS ARE
23 CONDUCIVE TO THE CONSULTING SERVICES AND ACTIVITIES RELATED TO THE
24 SERVICES ARE THE PRIMARY FOCUS OF THE MEETING.

25 (C) "CONFERENCE OR MEETING" MEANS ANY GATHERING:

26 (I) WHERE RESPONSIBILITY FOR AND CONTROL OVER THE SELECTION OF
27 CONTENT, FACULTY, EDUCATIONAL METHODS, MATERIALS, AND VENUE BELONGS TO
28 THE EVENT'S ORGANIZERS;

29 (II) WHICH IS HELD IN A VENUE THAT IS APPROPRIATE AND CONDUCIVE TO
30 INFORMATIONAL COMMUNICATION AND TRAINING ABOUT MEDICAL INFORMATION;

31 (III) WHICH IS PRIMARILY DEDICATED, IN BOTH TIME AND EFFORT, TO
32 PROMOTING OBJECTIVE SCIENTIFIC AND EDUCATIONAL ACTIVITIES AND DISCOURSE;

33 (IV) WHICH INCLUDES ONE OR MORE EDUCATIONAL PRESENTATIONS; AND

34 (V) WHICH HAS AS THE MAIN INCENTIVE FOR BRINGING ATTENDEES TOGETHER TO
35 FURTHER THEIR KNOWLEDGE ON THE TOPIC OR TOPICS BEING PRESENTED.

36 (D) "CONTINUING MEDICAL EDUCATION" MEANS COURSE WORK OR TRAINING
37 PROVIDED IN THE STATE TO HEALTH CARE PROFESSIONALS LICENSED HEALTH CARE
38 PROVIDERS AUTHORIZED BY LAW TO PRESCRIBE DRUGS, BIOLOGICS OR DEVICES,
39 WHICH PERTAINS TO THE PRACTICE OF THEIR PROFESSION AND FOR WHICH CONTIN-
40 UING MEDICAL EDUCATION OR CONTINUING PROFESSIONAL EDUCATION CREDITS MAY
41 BE AWARDED.

42 (E) "DRUGS" MEANS:

43 (I) ARTICLES RECOGNIZED IN THE OFFICIAL UNITED STATES PHARMACOPOEIA,
44 OFFICIAL HOMEOPATHIC PHARMACOPOEIA OF THE UNITED STATES, OR OFFICIAL
45 NATIONAL FORMULARY;

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

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

50 (IV) ARTICLES INTENDED FOR USE AS A COMPONENT OF ANY ARTICLE SPECIFIED
51 IN SUBPARAGRAPH (I), (II), OR (III) OF THIS PARAGRAPH, NOT INCLUDING
52 MEDICAL DEVICES OR THEIR COMPONENTS, PARTS OR ACCESSORIES.

53 (F) "FINANCIAL SUPPORT" MEANS ANYTHING WITH AN ECONOMIC VALUE, INCLUD-
54 ING BUT NOT LIMITED TO MONEY, GOODS AND SERVICES, OR A PROMISE OR AGREE-
55 MENT TO PROVIDE SUCH FINANCIAL SUPPORT IN THE FUTURE, REGARDLESS OF THE
56 FORM OF SUCH FINANCIAL SUPPORT, WHICH MAY INCLUDE BUT IS NOT LIMITED TO

1 PAYMENT, COMPENSATION, REIMBURSEMENT, REBATE, DISCOUNT, FEE REDUCTION,
2 GRANT, SCHOLARSHIP OR GIFT.

3 (G) "HEALTH CARE PROFESSIONAL" MEANS A PHYSICIAN, DENTIST, PHYSICIAN
4 ASSISTANT, SPECIALIST'S ASSISTANT, NURSE PRACTITIONER, MIDWIFE, OPTOME-
5 TRIST OR OTHER PERSON WHO IS LICENSED, REGISTERED OR CERTIFIED PURSUANT
6 TO TITLE EIGHT OF THE EDUCATION LAW AND IS AUTHORIZED UNDER SUCH TITLE
7 TO PRESCRIBE DRUGS OR MEDICAL DEVICES.

8 (H) "HOSPITAL SETTING" MEANS:

9 (I) A HOSPITAL, AS THAT TERM IS USED UNDER ARTICLE TWENTY-EIGHT OF
10 THIS CHAPTER;

11 (II) ACADEMIC MEDICAL CENTER; OR

12 (III) PHARMACEUTICAL OR MEDICAL DEVICE SPECIALIZED TRAINING FACILITY,
13 WHERE THE FACILITY, AS CERTIFIED TO THE DEPARTMENT BY THE PHARMACEUTICAL
14 OR MEDICAL DEVICE MANUFACTURING COMPANY, IS SPECIFICALLY DESIGNED TO
15 APPROXIMATE THE CONDITIONS OF A SURGICAL SUITE, OR THE CONDITIONS OF A
16 WORKING CLINICAL LABORATORY OR TO PROVIDE MEDICAL TRAINING ON LARGE AND
17 TECHNICAL MEDICAL DEVICES, SUCH AS SURGICAL EQUIPMENT, IMPLANTS, AND
18 IMAGING AND CLINICAL LABORATORY EQUIPMENT.

19 (I) "MEDICAL DEVICE" MEANS INSTRUMENTS, APPARATUS, AND CONTRIVANCES,
20 INCLUDING THEIR COMPONENTS, PARTS AND ACCESSORIES, WHICH ARE:

21 (I) RECOGNIZED IN THE OFFICIAL NATIONAL FORMULARY OR THE UNITED STATES
22 PHARMACOPEIA OR ANY SUPPLEMENT THERETO;

23 (II) INTENDED FOR USE IN THE DIAGNOSIS OF DISEASE OR OTHER CONDITIONS
24 OR IN THE CURE, MITIGATION, TREATMENT OR PREVENTION OF DISEASE, IN
25 PERSONS OR ANIMALS; OR

26 (III) INTENDED TO AFFECT THE STRUCTURE OR FUNCTION OF THE BODY OF A
27 PERSON OR ANIMAL, AND WHICH DOES NOT ACHIEVE ITS PRIMARY INTENDED
28 PURPOSES THROUGH CHEMICAL ACTION WITHIN OR ON SUCH BODY AND WHICH IS NOT
29 DEPENDENT UPON BEING METABOLIZED FOR THE ACHIEVEMENT OF ITS PRIMARY
30 INTENDED PURPOSES.

31 (J) "PHARMACEUTICAL COMPANY" MEANS:

32 (I) AN ENTITY THAT IS ENGAGED IN THE PRODUCTION, PREPARATION, PROPA-
33 GATION, COMPOUNDING, CONVERSION, OR PROCESSING OF PRESCRIPTION DRUGS,
34 BIOLOGICS, OR MEDICAL DEVICES, EITHER DIRECTLY OR INDIRECTLY, BY
35 EXTRACTION FROM SUBSTANCES OF NATURAL ORIGIN OR INDEPENDENTLY BY MEANS
36 OF CHEMICAL SYNTHESIS OR BY A COMBINATION OF EXTRACTION AND CHEMICAL
37 SYNTHESIS;

38 (II) AN ENTITY ENGAGED IN THE PACKAGING, REPACKAGING, LABELING, RELA-
39 BELING, OR DISTRIBUTION OF DRUGS; OR

40 (III) A PERSON WHO ENGAGES IN PHARMACEUTICAL DETAILING, PROMOTIONAL
41 ACTIVITIES, OR OTHER MARKETING OF PRESCRIPTION DRUGS, BIOLOGICS OR
42 MEDICAL DEVICES TO HEALTH CARE PROFESSIONALS IN THIS STATE ON BEHALF OF
43 AN ENTITY DESCRIBED IN SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH,
44 INCLUDING BUT NOT LIMITED TO FIELD SALES REPRESENTATIVES.

45 "PHARMACEUTICAL COMPANY" DOES NOT INCLUDE A LICENSED PHARMACIST TO THE
46 EXTENT HE OR SHE DISPENSES OR PREPARES FOR DISPENSING A PRESCRIPTION
47 DRUG, BIOLOGIC OR MEDICAL DEVICE.

48 (K) "PRESENTER" MEANS A HEALTH CARE PROFESSIONAL WHO CONDUCTS, TEACHES
49 OR PARTICIPATES, OTHER THAN SOLELY AS AN ATTENDEE, IN ANY ASPECT OF A
50 CONTINUING MEDICAL EDUCATION PROGRAM.

51 (L) "PROVIDER" MEANS A PERSON OR ENTITY THAT REPRESENTS TO ATTENDEES
52 OR POTENTIAL ATTENDEES THAT IT IS THE ORGANIZER, OR AN ORGANIZER, OF A
53 CONTINUING MEDICAL EDUCATION EVENT.

54 (M) "SPEAKER" MEANS ANY HEALTH CARE PROFESSIONAL ENGAGED BY A PHARMA-
55 CEUTICAL COMPANY TO PARTICIPATE IN EXTERNAL PROMOTIONAL PROGRAMS THAT

1 PROVIDE MEDICAL OR SCIENTIFIC INFORMATION TO OTHER HEALTH CARE PROFES-
2 SIONALS ON BEHALF OF THE COMPANY.

3 (N) "SPONSOR" MEANS A PHARMACEUTICAL COMPANY, OR A PERSON OR ENTITY
4 ACTING ON BEHALF OF A PHARMACEUTICAL COMPANY, THAT PROVIDES FINANCIAL
5 SUPPORT TO A PROVIDER IN CONNECTION WITH ONE OR MORE CONTINUING MEDICAL
6 EDUCATION PROGRAMS.

7 (O) "SUBSTANTIAL VALUE" MEANS THE VALUE OF AN ITEM OR SERVICE WHICH
8 REASONABLY APPEARS TO AN OBJECTIVE PERSON TO BE ONE HUNDRED DOLLARS OR
9 MORE.

10 3. (A) NO PHARMACEUTICAL COMPANY SHALL OFFER OR PROVIDE TO A HEALTH
11 CARE PROFESSIONAL, AND NO HEALTH CARE PROFESSIONAL SHALL ACCEPT:

12 (I) ANY FINANCIAL SUPPORT, INCLUDING BUT NOT LIMITED TO ANY GRANT,
13 SCHOLARSHIP, SUBSIDY, SUPPORT, CONSULTING CONTRACT, SPEAKER CONTRACT OR
14 EDUCATIONAL OR PRACTICE-RELATED ITEMS TO REWARD THE PROFESSIONAL FOR
15 HAVING PRESCRIBED PARTICULAR DRUGS, BIOLOGICS OR MEDICAL DEVICES IN THE
16 PAST, OR TO INDUCE THE PROFESSIONAL TO PRESCRIBE OR CONTINUE PRESCRIBING
17 PARTICULAR DRUGS, BIOLOGICS OR MEDICAL DEVICES IN THE FUTURE;

18 (II) ANY TANGIBLE OR INTANGIBLE GOOD OR SERVICE IN A MANNER OR ON
19 CONDITIONS THAT WOULD INTERFERE WITH THE INDEPENDENCE OF THE HEALTH CARE
20 PROFESSIONAL'S PRESCRIBING PRACTICES; OR

21 (III) ANY PAYMENT IN CASH OR CASH EQUIVALENTS, EITHER DIRECTLY OR
22 INDIRECTLY, EXCEPT AS COMPENSATION FOR BONA FIDE CONSULTING SERVICES OR
23 SPEAKER SERVICES PURSUANT TO SUBDIVISION NINE OR TEN OF THIS SECTION.

24 (B) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT:

25 (I) THE PROVISION OF PRICE CONCESSIONS BY A PHARMACEUTICAL COMPANY TO
26 A HEALTH CARE PROFESSIONAL, SUCH AS REBATES OR DISCOUNTS, OF THE TYPE
27 THAT ARE COMMONLY OFFERED IN THE NORMAL COURSE OF BUSINESS, FOR LEGITI-
28 MATE BUSINESS REASONS AND TO THE EXTENT SUCH CONCESSIONS COMPLY WITH
29 APPLICABLE LAWS AND REGULATIONS;

30 (II) THE PROVISION OF PRESCRIPTION DRUGS BY A PHARMACEUTICAL COMPANY
31 TO A HEALTH CARE PROFESSIONAL WITHOUT CHARGE SOLELY AND EXCLUSIVELY FOR
32 THE PURPOSE OF PERMITTING THE PROFESSIONAL TO DISTRIBUTE SUCH DRUGS TO
33 HIS OR HER PATIENTS WITHOUT CHARGE, TO THE EXTENT SUCH PROVISION AND
34 DISTRIBUTION COMPLY WITH APPLICABLE LAWS AND REGULATIONS INCLUDING THE
35 PRESCRIPTION DRUG MARKETING ACT; OR

36 (III) THE INVESTMENT OF A PHARMACEUTICAL COMPANY IN A BUSINESS VENTURE
37 IN THE PHARMACEUTICAL OR BIOTECHNOLOGY FIELD IN WHICH A HEALTH CARE
38 PROFESSIONAL IS A PRINCIPAL, OR OTHER JOINT ARRANGEMENT BETWEEN A PHAR-
39 MACEUTICAL COMPANY OR HEALTH CARE PROFESSIONAL IN SUCH A VENTURE,
40 PROVIDED THAT THE RELATIONSHIP BETWEEN THE COMPANY AND THE PROFESSIONAL
41 CHIEFLY RELATES TO SUCH VENTURE AND IS NOT INTENDED TO INFLUENCE THE
42 PROFESSIONAL'S PRESCRIBING DECISIONS.

43 4. NO PHARMACEUTICAL COMPANY SHALL PROVIDE ANY PROMOTIONAL MATERIALS
44 TO A HEALTH CARE PROFESSIONAL UNLESS SUCH MATERIALS:

45 (A) ARE ACCURATE AND NOT MISLEADING;

46 (B) MAKE CLAIMS ABOUT A PRODUCT ONLY WHEN PROPERLY SUBSTANTIATED;

47 (C) ACCURATELY REFLECT THE BALANCE BETWEEN RISKS AND BENEFITS;

48 (D) ARE CONSISTENT WITH ALL OTHER REQUIREMENTS OF THE UNITED STATES
49 FOOD AND DRUG ADMINISTRATION GOVERNING SUCH COMMUNICATIONS; AND

50 (E) DO NOT VIOLATE THE PROVISIONS OF ARTICLE TWENTY-TWO-A OF THE
51 GENERAL BUSINESS LAW.

52 NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE APPLICATION OF
53 ANY PROVISION OF ARTICLE TWENTY-TWO-A OF THE GENERAL BUSINESS LAW OR OF
54 SUBDIVISION TWELVE OF SECTION SIXTY-THREE OF THE EXECUTIVE LAW, OR ANY
55 OTHER APPLICABLE FEDERAL OR STATE LAW OR REGULATION.

1 5. (A) NO PHARMACEUTICAL COMPANY MAY OFFER OR PROVIDE MEALS TO HEALTH
2 CARE PROFESSIONALS, AND NO HEALTH CARE PROFESSIONAL MAY ACCEPT OR PERMIT
3 HIS OR HER STAFF MEMBERS TO ACCEPT SUCH MEALS FROM A PHARMACEUTICAL
4 COMPANY, UNLESS SUCH MEALS:

5 (I) ARE PROVIDED IN CONNECTION WITH STRUCTURED, ORAL INFORMATIONAL
6 PRESENTATIONS THAT PROVIDE SCIENTIFIC OR EDUCATIONAL VALUE AND MEET THE
7 CRITERIA SET FORTH IN SUBDIVISION FOUR OF THIS SECTION;

8 (II) ARE SERVED ONLY FOR CONSUMPTION DURING SUCH PRESENTATION AND ARE
9 NOT OFFERED OR SERVED FOR CONSUMPTION AT ANOTHER TIME OR PLACE OR
10 OUTSIDE THE PRESENCE OF THE PHARMACEUTICAL COMPANY;

11 (III) ARE, IF OFFERED OR PROVIDED BY A FIELD SALES REPRESENTATIVE OR
12 THEIR IMMEDIATE MANAGERS, PROVIDED ONLY IN THE PROFESSIONAL'S OFFICE OR
13 IN A HOSPITAL SETTING;

14 (IV) ARE OFFERED OR PROVIDED ONLY TO HEALTH CARE PROFESSIONALS AND
15 MEMBERS OF THEIR STAFF ATTENDING PRESENTATIONS, AND ARE NOT OFFERED OR
16 PROVIDED TO SPOUSES OR OTHER GUESTS OF A HEALTH CARE PROFESSIONAL;

17 (V) ARE MODEST AS JUDGED BY LOCAL STANDARDS;

18 (VI) ARE NOT PROVIDED AS PART OF AN ENTERTAINMENT OR RECREATIONAL
19 EVENT;

20 (VII) ARE PROVIDED IN A MANNER AND LOCATION CONDUCIVE TO INFORMATIONAL
21 COMMUNICATION; AND

22 (VIII) ARE PROVIDED TO A PARTICULAR HEALTH CARE PROFESSIONAL OR
23 MEMBERS OF SUCH PROFESSIONAL'S STAFF ON NO MORE THAN AN OCCASIONAL
24 BASIS.

25 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
26 SION, MEALS MAY BE PROVIDED TO AND ACCEPTED BY HEALTH CARE PROFESSIONALS
27 WHO INTERACT WITH PERSONNEL EMPLOYED BY A PHARMACEUTICAL COMPANY, OTHER
28 THAN FIELD SALES REPRESENTATIVES OR THEIR IMMEDIATE MANAGERS, OR WHO ARE
29 ENGAGED IN BONA FIDE CONSULTING SERVICES OR SPEAKER SERVICES PURSUANT TO
30 SUBDIVISION NINE OR TEN OF THIS SECTION, OUTSIDE OF THE PROFESSIONAL'S
31 OFFICE OR A HOSPITAL SETTING, PROVIDED THAT SUCH MEALS:

32 (I) ARE INCIDENTAL TO A SUBSTANTIVE INTERACTION WITH THE HEALTH CARE
33 PROFESSIONAL;

34 (II) ARE NOT PROVIDED AS PART OF AN ENTERTAINMENT OR RECREATIONAL
35 EVENT;

36 (III) ARE HELD IN VENUES THAT ARE APPROPRIATE AND CONDUCIVE TO INFOR-
37 MATIONAL COMMUNICATION AND TRAINING ABOUT MEDICAL INFORMATION;

38 (IV) ARE MODEST AS JUDGED BY LOCAL STANDARDS; AND

39 (V) ARE PROVIDED ON NO MORE THAN AN OCCASIONAL BASIS.

40 6. (A) NO PHARMACEUTICAL COMPANY SHALL OFFER OR PROVIDE TO ANY HEALTH
41 CARE PROFESSIONAL, AND NO HEALTH CARE PROFESSIONAL SHALL ACCEPT FROM A
42 PHARMACEUTICAL COMPANY, ANY ENTERTAINMENT OR RECREATIONAL ITEMS OR BENE-
43 FITS, INCLUDING BUT NOT LIMITED TO TICKETS TO THE THEATER OR SPORTING
44 EVENTS, SPORTING EQUIPMENT, OR LEISURE OR VACATION TRIPS, REGARDLESS OF:

45 (I) THE VALUE OF THE ITEMS OR BENEFITS;

46 (II) WHETHER THE COMPANY ENGAGES THE HEALTH CARE PROFESSIONAL AS A
47 SPEAKER OR CONSULTANT; OR

48 (III) WHETHER THE ENTERTAINMENT OR RECREATION IS SECONDARY TO AN
49 EDUCATIONAL PURPOSE.

50 (B) NOTHING CONTAINED IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE
51 CONSTRUED TO PROHIBIT A PHARMACEUTICAL COMPANY FROM PROVIDING TO A
52 HEALTH CARE PROFESSIONAL, OR TO PROHIBIT A HEALTH CARE PROFESSIONAL FROM
53 ACCEPTING, ENTERTAINMENT OR RECREATIONAL BENEFITS IF THE HEALTH CARE
54 PROFESSIONAL IS EMPLOYED BY THE PHARMACEUTICAL COMPANY ON A FULL-TIME,
55 SALARIED BASIS.

1 7. (A) NO PHARMACEUTICAL COMPANY SHALL BE A PROVIDER OF ANY CONTINUING
2 MEDICAL EDUCATION PROGRAM WITHIN THE STATE.

3 (B) NO PHARMACEUTICAL COMPANY SHALL BE A SPONSOR OF ANY CONTINUING
4 MEDICAL EDUCATION PROGRAM WITHIN THE STATE UNLESS THE COMPANY HAS
5 ADOPTED AND IS IN COMPLIANCE WITH POLICIES BY WHICH THE COMPANY:

6 (I) HAS SEPARATED ITS CONTINUING MEDICAL EDUCATION GRANT-MAKING FUNC-
7 TIONS FROM ITS SALES AND MARKETING DEPARTMENTS AND DOES NOT PERMIT ITS
8 SALES AND MARKETING DEPARTMENTS TO HAVE ANY INVOLVEMENT IN ITS CONTINU-
9 ING MEDICAL EDUCATION GRANT-MAKING ACTIVITIES;

10 (II) HAS DEVELOPED AND UTILIZES OBJECTIVE CRITERIA FOR MAKING CONTINU-
11 ING MEDICAL EDUCATION GRANT DECISIONS TO ENSURE THAT THE PROGRAM FUNDED
12 BY THE COMPANY IS A BONA FIDE EDUCATIONAL PROGRAM AND THAT THE FINANCIAL
13 SUPPORT IS NOT AN INDUCEMENT TO PRESCRIBE OR RECOMMEND A PARTICULAR
14 MEDICINE OR COURSE OF TREATMENT; AND

15 (III) AGREES TO RESPECT THE INDEPENDENT JUDGMENT OF THE CONTINUING
16 MEDICAL EDUCATION PROVIDER AND TO FOLLOW STANDARDS FOR COMMERCIAL
17 SUPPORT ESTABLISHED BY THE ACCREDITATION COUNCIL FOR CONTINUING MEDICAL
18 EDUCATION OR AN EQUIVALENT NATIONAL ENTITY THAT ACCREDITS CONTINUING
19 MEDICAL EDUCATION AND IS INDEPENDENT OF ANY SPONSOR OR ORGANIZATION OF
20 SPONSORS.

21 (C) NO PHARMACEUTICAL COMPANY SHALL, IN CONNECTION WITH ANY CONTINUING
22 MEDICAL EDUCATION PROGRAM WITHIN THE STATE:

23 (I) PROVIDE ANY ADVICE OR GUIDANCE TO THE CONTINUING MEDICAL EDUCATION
24 PROVIDER, EVEN IF ASKED BY THE PROVIDER, REGARDING THE CONTENT OR FACUL-
25 TY FOR A PARTICULAR CONTINUING MEDICAL EDUCATION PROGRAM FUNDED BY THE
26 COMPANY; OR

27 (II) PROVIDE ANY VERBAL OR WRITTEN INFORMATION TO A HEALTH CARE
28 PROFESSIONAL WHO IS EXPECTED TO SERVE AS A PRESENTER AT SUCH CONTINUING
29 MEDICAL EDUCATION PROGRAM REGARDING ANY DRUG, BIOLOGIC OR DEVICE MANU-
30 FACTURED, DISTRIBUTED OR MARKETING BY OR ON BEHALF OF THE COMPANY UNLESS
31 SUCH INFORMATION IS CONSISTENT WITH THE CRITERIA SET FORTH IN SUBDIVI-
32 SION FOUR OF THIS SECTION.

33 (D) NO PHARMACEUTICAL COMPANY MAY DIRECTLY OR INDIRECTLY OFFER OR
34 PROVIDE, AND NO HEALTH CARE PROFESSIONAL SHALL ACCEPT, ANY FINANCIAL
35 SUPPORT IN CONNECTION WITH THE PROFESSIONAL'S ATTENDANCE OR PRESENTATION
36 AT A CONTINUING MEDICAL EDUCATION PROGRAM, INCLUDING BUT NOT LIMITED TO
37 FINANCIAL SUPPORT INTENDED TO COMPENSATE THE PROFESSIONAL FOR HIS OR HER
38 TIME SPENT ATTENDING OR PRESENTING AT THE CONTINUING MEDICAL EDUCATION
39 PROGRAM OR TO REIMBURSE THE PROFESSIONAL FOR THE COSTS OF TRAVEL, LODG-
40 ING, OR OTHER PERSONAL EXPENSES INCURRED FOR ATTENDANCE OR PRESENTATION
41 AT THE CONTINUING MEDICAL EDUCATION PROGRAM.

42 (E) THE PROVIDER OF A CONTINUING MEDICAL EDUCATION PROGRAM AT ITS OWN
43 DISCRETION MAY APPLY FINANCIAL SUPPORT RECEIVED FROM A PHARMACEUTICAL
44 COMPANY FOR SUCH PROGRAM TO REDUCE THE OVERALL CONTINUING MEDICAL EDUCA-
45 TION REGISTRATION FEE FOR ALL ATTENDEES. IN SUCH CASE, NOTWITHSTANDING
46 PARAGRAPH (D) OF THIS SUBDIVISION, HEALTH CARE PROFESSIONALS MAY ACCEPT
47 THE BENEFIT OF THE REDUCED FEE.

48 (F) A PHARMACEUTICAL COMPANY SHALL NOT PROVIDE MEALS DIRECTLY AT
49 CONTINUING MEDICAL EDUCATION PROGRAMS, EXCEPT THAT A CONTINUING MEDICAL
50 EDUCATION PROVIDER AT ITS OWN DISCRETION MAY APPLY THE FINANCIAL SUPPORT
51 PROVIDED BY A COMPANY FOR A CONTINUING MEDICAL EDUCATION PROGRAM TO
52 PROVIDE MODEST MEALS FOR ALL PARTICIPANTS. IN SUCH CASE, NOTWITHSTAND-
53 ING PARAGRAPH (D) OF THIS SUBDIVISION, HEALTH CARE PROFESSIONALS MAY
54 ACCEPT SUCH MEALS.

55 (G) NOTWITHSTANDING PARAGRAPH (D) OF THIS SUBDIVISION, A PHARMACEU-
56 TICAL COMPANY MAY PROVIDE FINANCIAL SUPPORT FOR THE COSTS OF TRAVEL,

1 LODGING, OR OTHER PERSONAL EXPENSES TO A HEALTH CARE PROFESSIONAL
2 ATTENDING OR PRESENTING AT A CONTINUING MEDICAL EDUCATION PROGRAM WHO IS
3 A FULL-TIME SALARIED EMPLOYEE OF THE PHARMACEUTICAL COMPANY, OR WHO IS
4 ENGAGED BY THE COMPANY AS A SPEAKER OR CONSULTANT PURSUANT TO A BONA
5 FIDE AGREEMENT AND SUCH FINANCIAL SUPPORT IS PROVIDED PURSUANT TO SUCH
6 AGREEMENT.

7 (H) NO HEALTH CARE PROFESSIONAL PRACTICING IN THE STATE SHALL ATTEND
8 OR PRESENT AT ANY CONTINUING MEDICAL EDUCATION PROGRAM SPONSORED BY ANY
9 PHARMACEUTICAL COMPANY UNLESS ADVISED BY THE PROGRAM PROVIDER THAT SUCH
10 PHARMACEUTICAL COMPANY HAS PROVIDED ASSURANCE THAT IT HAS ADOPTED THE
11 POLICIES ARTICULATED IN PARAGRAPH (B) OF THIS SUBDIVISION AND IS IN
12 COMPLIANCE WITH SUCH POLICIES AND WITH THE REQUIREMENTS OF PARAGRAPH (C)
13 OF THIS SUBDIVISION.

14 (I) NO HEALTH CARE PROFESSIONAL WHO PRACTICES IN THE STATE AND SERVES
15 AS A PRESENTER AT A CONTINUING MEDICAL EDUCATION PROGRAM SHALL:

16 (I) PRESENT OR MAKE AVAILABLE ANY MATERIALS AT SUCH CONTINUING MEDICAL
17 EDUCATION PROGRAM UNLESS SUCH MATERIALS ARE, TO THE BEST OF THE PROFES-
18 SIONAL'S KNOWLEDGE BASED ON REASONABLE INQUIRY, CONSISTENT WITH THE
19 CRITERIA SET FORTH IN SUBDIVISION FOUR OF THIS SECTION;

20 (II) REPRESENT TO ATTENDEES OF SUCH CONTINUING MEDICAL EDUCATION
21 PROGRAM THAT HE OR SHE AUTHORED ANY MATERIALS DISCUSSED, DISTRIBUTED OR
22 OTHERWISE PRESENTED DURING HIS OR HER PRESENTATION AT SUCH CONTINUING
23 MEDICAL EDUCATION PROGRAM UNLESS HE OR SHE MADE SUBSTANTIAL CONTRIB-
24 UTIONS TO THE INTELLECTUAL CONTENT OF SUCH MATERIALS; OR

25 (III) FAIL TO DISCLOSE DURING HIS OR HER PRESENTATION THE EXISTENCE
26 AND NATURE OF ANY FINANCIAL SUPPORT HE OR SHE HAS RECEIVED FROM OR
27 EXPECTS TO RECEIVE FROM A SPONSOR OF SUCH CONTINUING MEDICAL EDUCATION
28 PROGRAM OR FROM A PHARMACEUTICAL COMPANY THAT MANUFACTURERS, DISTRIBUTES
29 OR MARKETS ANY DRUG, BIOLOGIC OR MEDICAL DEVICE DISCUSSED IN SUCH PRES-
30 ENTATION OR COMMONLY PRESCRIBED FOR A DISEASE, INJURY OR CONDITION
31 DISCUSSED IN SUCH PRESENTATION, EXCEPT THAT DISCLOSURE NEED NOT BE MADE
32 OF ANY FEE REDUCTION PURSUANT TO PARAGRAPH (G) OF THIS SUBDIVISION OR
33 THE ACCEPTANCE OF A MEAL PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION.

34 8. (A) NO PHARMACEUTICAL COMPANY SHALL DIRECTLY OR INDIRECTLY OFFER OR
35 PROVIDE ANY FINANCIAL SUPPORT TO A HEALTH CARE PROFESSIONAL IN
36 CONNECTION WITH THE PROFESSIONAL'S ATTENDANCE AT OR PARTICIPATION IN A
37 CONFERENCE OR MEETING, INCLUDING BUT NOT LIMITED TO COMPENSATION FOR THE
38 PROFESSIONAL'S TIME SPENT ATTENDING OR PARTICIPATING IN THE CONFERENCE
39 OR MEETING OR REIMBURSEMENT OF THE COSTS INCURRED BY THE PROFESSIONAL
40 FOR TRAVEL, LODGING, OR OTHER PERSONAL EXPENSES IN CONNECTION WITH THE
41 ATTENDANCE AT OR PARTICIPATION IN THE CONFERENCE OR MEETING.

42 (B) NO PHARMACEUTICAL COMPANY SHALL PROVIDE FINANCIAL SUPPORT FOR A
43 CONFERENCE OR MEETING IF IT HAS ANY RESPONSIBILITY FOR AND CONTROL OVER
44 THE SELECTION OF CONTENT, FACULTY, EDUCATIONAL METHODS, MATERIALS, OR
45 VENUE OF THE CONFERENCE OR GUIDELINES, EXCEPT FOR CONFERENCES OR MEET-
46 INGS SPONSORED BY THE COMPANY.

47 (C) NOTWITHSTANDING PARAGRAPH (A) OR (B) OF THIS SUBDIVISION, A PHAR-
48 MACEUTICAL COMPANY MAY PROVIDE FINANCIAL SUPPORT TO THE SPONSOR OF A
49 CONFERENCE OR MEETING, WHICH MAY BE USED BY THE SPONSOR TO REDUCE THE
50 OVERALL CONFERENCE REGISTRATION FEE FOR ALL ATTENDEES.

51 (D) A PHARMACEUTICAL COMPANY MAY PROVIDE MODEST MEALS OR RECEPTIONS
52 DURING COMPANY-SPONSORED MEETINGS TO HEALTH CARE PROFESSIONALS WITH WHOM
53 THEY HAVE BONA FIDE CONSULTING OR SPEAKER ARRANGEMENTS, BUT MAY NOT
54 PROVIDE RECREATIONAL OR ENTERTAINMENT EVENTS IN CONJUNCTION WITH SUCH
55 MEETINGS.

1 9. NO PHARMACEUTICAL COMPANY SHALL PROVIDE FINANCIAL SUPPORT TO A
2 HEALTH CARE PROFESSIONAL PURSUANT TO A CONSULTING AGREEMENT, AND NO
3 HEALTH CARE PROFESSIONAL SHALL ACCEPT SUCH FINANCIAL SUPPORT, UNLESS:

4 (A) THE CONSULTING ARRANGEMENT IS A BONA FIDE CONSULTING AGREEMENT;
5 AND

6 (B) SUCH FINANCIAL SUPPORT CONSTITUTES REASONABLE COMPENSATION FOR THE
7 PROFESSIONAL'S CONSULTING SERVICES AND REASONABLE REIMBURSEMENT FOR
8 REASONABLE TRAVEL, LODGING, AND MEAL EXPENSES INCURRED AS PART OF
9 PROVIDING SUCH SERVICES, AND IS BASED ON FAIR MARKET VALUE.

10 10. (A) NO PHARMACEUTICAL COMPANY SHALL PROVIDE FINANCIAL SUPPORT TO A
11 HEALTH CARE PROFESSIONAL AS A SPEAKER PURSUANT TO A SPEAKER AGREEMENT,
12 AND NO HEALTH CARE PROFESSIONAL SHALL ACCEPT SUCH FINANCIAL SUPPORT,
13 UNLESS:

14 (I) THE SPEAKER ARRANGEMENT MEETS THE CRITERIA OF A BONA FIDE CONSULT-
15 ING AGREEMENT;

16 (II) SUCH FINANCIAL SUPPORT CONSTITUTES REASONABLE COMPENSATION FOR
17 THE PROFESSIONAL'S SPEAKER SERVICES AND REASONABLE REIMBURSEMENTS FOR
18 REASONABLE TRAVEL, LODGING AND MEAL EXPENSES INCURRED AS PART OF PROVID-
19 ING SUCH SERVICES, AND IS BASED ON FAIR MARKET VALUE; AND

20 (III) THE PROFESSIONAL POSSESSES THE GENERAL MEDICAL EXPERTISE AND
21 REPUTATION, KNOWLEDGE AND EXPERIENCE REGARDING A PARTICULAR THERAPEUTIC
22 AREA, AND COMMUNICATIONS SKILLS SUCH AS WOULD REASONABLY BE EXPECTED OF
23 A SPEAKER IN THE RELEVANT FIELD.

24 (B) NO PHARMACEUTICAL COMPANY SHALL RETAIN A HEALTH CARE PROFESSIONAL
25 AS A SPEAKER UNLESS THE COMPANY:

26 (I) CAPS THE TOTAL AMOUNT OF ANNUAL COMPENSATION IT WILL PAY TO AN
27 INDIVIDUAL HEALTH CARE PROFESSIONAL IN CONNECTION WITH ALL SPEAKING
28 ARRANGEMENTS AT A REASONABLE AMOUNT;

29 (II) PROVIDES FOR PERIODIC MONITORING OF SPEAKER PROGRAMS FOR COMPLI-
30 ANCE WITH UNITED STATES FOOD AND DRUG ADMINISTRATION REGULATORY REQUIRE-
31 MENTS FOR COMMUNICATIONS ON BEHALF OF THE COMPANY ABOUT ITS MEDICINES;

32 (III) ENSURES THAT EACH PROFESSIONAL RECEIVES EXTENSIVE TRAINING ON
33 THE COMPANY'S DRUG PRODUCTS OR OTHER SPECIFIC TOPIC TO BE PRESENTED AND
34 ON COMPLIANCE WITH UNITED STATES FOOD AND DRUG ADMINISTRATION REGULATORY
35 REQUIREMENTS FOR COMMUNICATIONS;

36 (IV) REASONABLY BELIEVES THAT THE TRAINING WILL RESULT IN THE PARTIC-
37 IPANTS PROVIDING A VALUABLE SERVICE TO THE COMPANY; AND

38 (V) SPEAKER TRAINING SESSIONS ARE HELD IN VENUES THAT ARE APPROPRIATE
39 AND CONDUCIVE TO INFORMATIONAL COMMUNICATION AND TRAINING ABOUT MEDICAL
40 INFORMATION.

41 (C) A PHARMACEUTICAL COMPANY SHALL NOT PROVIDE MEALS TO HEALTH CARE
42 PROFESSIONALS AT SPEAKER PROGRAMS UNLESS SUCH MEALS ARE MODEST, OFFERED
43 TO ALL ATTENDEES AND OCCUR IN A VENUE AND MANNER CONDUCIVE TO INFORMA-
44 TIONAL COMMUNICATION.

45 (D) A PHARMACEUTICAL COMPANY SHALL ENSURE THAT EACH SPEAKER AND HIS OR
46 HER MATERIALS CLEARLY IDENTIFY THE COMPANY THAT IS SPONSORING THE PRES-
47 ENTATION, THE FACT THAT THE SPEAKER IS PRESENTING ON BEHALF OF THE
48 COMPANY, AND THAT THE SPEAKER IS PRESENTING INFORMATION THAT IS CONSIST-
49 ENT WITH UNITED STATES FOOD AND DRUG ADMINISTRATION GUIDELINES.

50 11. (A) NO PHARMACEUTICAL COMPANY SHALL RETAIN AS A SPEAKER OR
51 CONSULTANT ANY HEALTH CARE PROFESSIONAL WHO IS A MEMBER OF A COMMITTEE
52 THAT SETS FORMULARIES OR DEVELOPS CLINICAL GUIDELINES UNLESS THE COMPANY
53 REQUIRES THAT THE PROFESSIONAL DISCLOSE TO SUCH COMMITTEE THE EXISTENCE
54 AND NATURE OF HIS OR HER RELATIONSHIP WITH THE COMPANY, FOR AS LONG AS
55 SUCH RELATIONSHIP LASTS AND FOR AT LEAST TWO YEARS AFTER SUCH RELATION-
56 SHIP IS TERMINATED.

(B) NO HEALTH CARE PROFESSIONAL SHALL SERVE BOTH AS A SPEAKER OR CONSULTANT FOR A PHARMACEUTICAL COMPANY AND AS A MEMBER OF A COMMITTEE THAT SETS FORMULARIES OR DEVELOPS CLINICAL GUIDELINES UNLESS HE OR SHE:

(I) DISCLOSES TO SUCH COMMITTEE THE EXISTENCE AND NATURE OF HIS OR HER RELATIONSHIP WITH THE COMPANY, WHICH DISCLOSURE REQUIREMENT SHALL EXTEND FOR A MINIMUM OF TWO YEARS BEYOND THE TERMINATION OF ANY SPEAKER OR CONSULTANT ARRANGEMENT; AND

(II) FOLLOWS THE RELEVANT PROCEDURES SET FORTH BY THE COMMITTEE OF WHICH THEY ARE A MEMBER, WHICH MAY INCLUDE RECUSING THEMSELVES FROM DECISIONS RELATING TO THE PRESCRIPTION DRUG, DEVICE OR BIOLOGIC FOR WHICH THEY HAVE PROVIDED SPEAKING OR CONSULTING SERVICES.

12. NO PHARMACEUTICAL COMPANY SHALL OFFER OR PROVIDE FINANCIAL ASSISTANCE FOR SCHOLARSHIPS OR OTHER EDUCATIONAL FUNDS TO PERMIT MEDICAL STUDENTS, RESIDENTS, FELLOWS, AND OTHER HEALTH CARE PROFESSIONALS IN TRAINING TO ATTEND EDUCATIONAL CONFERENCES UNLESS:

(A) SUCH CONFERENCES ARE SPONSORED BY THE MAJOR EDUCATIONAL, SCIENTIFIC, OR POLICY-MAKING MEETINGS OF NATIONAL, REGIONAL, OR SPECIALTY MEDICAL ASSOCIATIONS; AND

(B) THE SELECTION OF INDIVIDUALS WHO WILL RECEIVE THE ASSISTANCE IS MADE BY THE ACADEMIC OR TRAINING INSTITUTION.

13. A PHARMACEUTICAL COMPANY THAT OBTAINS PRESCRIBER DATA FROM HEALTH CARE PROFESSIONALS SHALL:

(A) MAINTAIN THE CONFIDENTIAL NATURE OF PRESCRIBER DATA AND COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS THAT PROTECT THE CONFIDENTIALITY OF PATIENT INFORMATION;

(B) DEVELOP WRITTEN POLICIES REGARDING THE USE OF THE DATA;

(C) EDUCATE ITS EMPLOYEES AND AGENTS ABOUT SUCH POLICIES;

(D) DESIGNATE AN INTERNAL CONTACT PERSON TO HANDLE INQUIRIES REGARDING THE USE OF THE DATA;

(E) IDENTIFY APPROPRIATE DISCIPLINARY ACTIONS FOR MISUSE OF PRESCRIBER DATA; AND

(F) ABIDE BY THE WISHES OF ANY HEALTH CARE PROFESSIONAL WHO REQUESTS THAT HIS OR HER PRESCRIBER DATA NOT BE MADE AVAILABLE FOR ANY SALES OR MARKETING PURPOSE.

14. NO PHARMACEUTICAL COMPANY SHALL OFFER OR PROVIDE TO HEALTH CARE PROFESSIONALS OR MEMBERS OF THEIR STAFF:

(A) ANY ITEM OR SERVICE INTENDED FOR THE PERSONAL BENEFIT OF THE PROFESSIONAL OR STAFF MEMBERS, SUCH AS FLORAL ARRANGEMENTS, ARTWORK, COMPACT DISCS OR TICKETS TO A SPORTING EVENT;

(B) ANY TANGIBLE ITEM, EVEN IF THEY ARE PRACTICE-RELATED ITEMS OF MINIMAL VALUE SUCH AS PENS, NOTE PADS, OR MUGS, OR ARE ACCOMPANIED BY PATIENT OR PHYSICIAN EDUCATIONAL MATERIALS, EXCEPT FOR EDUCATIONAL ITEMS DESCRIBED IN THIS SUBDIVISION; OR

(C) ANY CASH OR CASH EQUIVALENTS, SUCH AS GIFT CERTIFICATES, EITHER DIRECTLY OR INDIRECTLY, EXCEPT AS COMPENSATION FOR BONA FIDE SERVICES EXPRESSLY PERMITTED UNDER THIS SECTION.

15. A PHARMACEUTICAL COMPANY MAY OFFER OR PROVIDE TO HEALTH CARE PROFESSIONALS ITEMS DESIGNED PRIMARILY FOR THE EDUCATION OF PATIENTS OR HEALTH CARE PROFESSIONALS ONLY IF THE ITEMS:

(A) ARE NOT OF SUBSTANTIAL VALUE AND DO NOT HAVE VALUE TO THE HEALTH CARE PROFESSIONAL OUTSIDE OF HIS OR HER PROFESSIONAL RESPONSIBILITIES, SUCH AS AN ANATOMICAL MODEL FOR USE IN AN EXAMINATION ROOM; AND

(B) ARE NOT OFFERED TO A PARTICULAR HEALTH CARE PROFESSIONAL ON MORE THAN AN OCCASIONAL BASIS, EVEN IF EACH INDIVIDUAL ITEM IS APPROPRIATE.

16. (A) NO PHARMACEUTICAL COMPANY SHALL SELL OR MARKET PRESCRIPTION DRUGS, BIOLOGICS OR MEDICAL DEVICES TO HEALTH CARE PROFESSIONALS PRAC-

TICING IN THIS STATE UNLESS THE REPRESENTATIVES WHO ARE EMPLOYED BY OR ACT ON BEHALF OF THE COMPANY AND WHO VISIT HEALTH CARE PROFESSIONALS PRACTICING IN THIS STATE ARE:

(I) TRAINED IN THE APPLICABLE LAWS AND REGULATIONS THAT GOVERN THE REPRESENTATIVES' INTERACTIONS WITH HEALTH CARE PROFESSIONALS, WHICH TRAINING SHALL BE UPDATED AS NECESSARY;

(II) TRAINED IN OR OTHERWISE KNOWLEDGEABLE ABOUT GENERAL SCIENCE AND PRODUCT-SPECIFIC INFORMATION SUFFICIENT TO ALLOW THE REPRESENTATIVES TO PROVIDE ACCURATE, UP-TO-DATE INFORMATION, CONSISTENT WITH UNITED STATES FOOD AND DRUG ADMINISTRATION REQUIREMENTS AND OTHER CRITERIA SET FORTH IN SUBDIVISION FOUR OF THIS SECTION;

(III) PERIODICALLY ASSESSED TO ENSURE THAT THEY COMPLY WITH APPLICABLE LAWS, REGULATIONS AND RELEVANT COMPANY POLICIES AND STANDARDS OF CONDUCT; AND

(IV) SUBJECT TO APPROPRIATE ACTION WHEN THEY FAIL TO COMPLY WITH LAWS, REGULATIONS AND RELEVANT COMPANY POLICIES AND STANDARDS OF CONDUCT.

17. THE COMMISSIONER MAY ASSESS A CIVIL PENALTY:

(A) AGAINST A PHARMACEUTICAL COMPANY THAT VIOLATES ANY PROVISION OF THIS SECTION IN AN AMOUNT THAT IS NOT LESS THAN FIFTEEN THOUSAND DOLLARS AND NOT MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS PER VIOLATION; AND

(B) AGAINST A HEALTH CARE PROFESSIONAL THAT VIOLATES ANY PROVISION OF THIS SECTION IN AN AMOUNT THAT IS NOT LESS THAN FIVE THOUSAND DOLLARS AND NOT MORE THAN TEN THOUSAND DOLLARS PER VIOLATION.

S 38-a. Section 6509 of the education law is amended by adding a new subdivision 15 to read as follows:

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

S 38-b. Section 6530 of the education law is amended by adding a new subdivision 50 to read as follows:

50. A VIOLATION OF SECTION TWO HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH LAW.

S 39. The opening paragraphs of paragraphs (d) and (e) of subdivision 5-a of section 2807-m of the public health law, as amended by section 98 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

One million nine hundred sixty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, one million nine hundred sixty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, [one] TWO million [nine] SEVEN hundred [sixty] FIFTEEN thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, and [four] SEVEN hundred [nine-ty] FORTY-ONE thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for purposes of physician loan repayment in accordance with subdivision ten of this section. Such funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner as follows:

Four million nine hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, four million nine hundred thousand dollars [annually] for the period January first, two thousand nine through December thirty-first,

1 two thousand [ten] NINE, SIX MILLION SEVEN HUNDRED THOUSAND DOLLARS FOR
2 THE PERIOD JANUARY FIRST, TWO THOUSAND TEN THROUGH DECEMBER
3 THIRTY-FIRST, TWO THOUSAND TEN, and one million [two] SIX hundred [twen-
4 ty-five] NINETY-SEVEN thousand dollars for the period January first, two
5 thousand eleven through March thirty-first, two thousand eleven, shall
6 be set aside and reserved by the commissioner from the regional pools
7 established pursuant to subdivision two of this section and shall be
8 available for purposes of physician practice support. Such funding shall
9 be allocated regionally with one-third of available funds going to New
10 York city and two-thirds of available funds going to the rest of the
11 state and shall be distributed in a manner to be determined by the
12 commissioner as follows:

13 S 39-a. Paragraphs (a) and (c) of subdivision 10 of section 2807-m of
14 the public health law, as added by section 75-e of part C of chapter 58
15 of the laws of 2008, are amended to read as follows:

16 (a) Beginning January first, two thousand eight, the commissioner is
17 authorized, within amounts available pursuant to subdivision five-a of
18 this section, to make loan repayment awards to primary care physicians
19 or other physician specialties determined by the commissioner to be in
20 short supply, licensed to practice medicine in New York state, who agree
21 to practice for at least five years in an underserved area, as deter-
22 mined by the commissioner. Such physician shall be eligible for a loan
23 repayment award of up to one hundred fifty thousand dollars over a five
24 year period distributed as follows: fifteen percent of total loan debt
25 not to exceed twenty thousand dollars for the first year; fifteen
26 percent of total loan debt not to exceed twenty-five thousand dollars
27 for the second year; twenty percent of total loan debt not to exceed
28 thirty-five thousand dollars for the third year; and twenty-five percent
29 of total loan debt not to exceed thirty-five thousand dollars per year
30 for the fourth [and] YEAR; AND ANY UNPAID BALANCE OF THE TOTAL LOAN DEBT
31 NOT TO EXCEED THE MAXIMUM AWARD AMOUNT FOR THE fifth [years] YEAR of
32 practice in such area.

33 (c) In the event that a five-year commitment pursuant to the agreement
34 referenced in paragraph (a) of this subdivision is not fulfilled, the
35 recipient shall be responsible for repayment[, plus interest at a rate
36 determined by the commissioner but not less than the rate of interest
37 set by the commissioner of taxation and finance with respect to under-
38 payments of personal income tax pursuant to section six hundred eighty-
39 four of the tax law, based upon the following schedule: service of less
40 than two years requires repayment of one hundred percent of total funds
41 received; service of less than three years requires repayment of fifty
42 percent of total funds received; service of less than four years
43 requires repayment of twenty-five percent of total funds received, and
44 service of more than four years but less than five years requires repay-
45 ment of ten percent of total funds received] IN AMOUNTS WHICH SHALL BE
46 CALCULATED IN ACCORDANCE WITH THE FORMULA SET FORTH IN SUBDIVISION (B)
47 OF SECTION TWO HUNDRED FIFTY-FOUR-O OF TITLE FORTY-TWO OF THE UNITED
48 STATES CODE, AS AMENDED.

49 S 40. Subdivision 1 of section 2802-a of the public health law, as
50 added by section 87 of part B of chapter 58 of the laws of 2005, is
51 amended to read as follows:

52 1. Notwithstanding any other provision of law to the contrary, the
53 commissioner is authorized to approve up to [five] TEN general hospitals
54 within the state to operate transitional care units by and within such
55 general hospitals. For purposes of this section, "transitional care"
56 shall mean sub acute care services provided to patients of a general

1 hospital who no longer require acute care general hospital inpatient
2 services, but continue to need specialized medical, nursing and other
3 hospital ancillary services and are not yet appropriate for discharge.

4 S 41. Subdivision 2 of section 105 of part B of chapter 58 of the
5 laws of 2005, amending the public health law and other laws relating to
6 implementing the state fiscal plan for the 2005-2006 state fiscal year,
7 is amended to read as follows:

8 2. Section eighty-seven of this act shall expire and be deemed
9 repealed [five] TEN years from the date on which it shall have become a
10 law;

11 S 42. Subdivision 2 of section 12 of the public health law, as amended
12 by chapter 856 of the laws of 1974, is amended and a new subdivision 1-a
13 is added to read as follows:

14 1-A. (A) ANY PERSON WHO, WITH THE INTENT TO DEFRAUD, KNOWINGLY AND
15 WILLFULLY VIOLATES, DISOBEYS OR DISREGARDS ANY MATERIAL TERM OR
16 PROVISION OF THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER SECTION
17 THREE HUNDRED SIXTY-THREE-A OF THE SOCIAL SERVICES LAW OR OF ANY LAWFUL
18 NOTICE, ORDER OR REGULATION PURSUANT THEREOF SHALL BE LIABLE TO THE
19 PEOPLE OF THE STATE FOR A CIVIL PENALTY OF TEN THOUSAND DOLLARS FOR
20 EVERY SUCH VIOLATION.

21 (B) THE PENALTY PROVIDED FOR IN PARAGRAPH (A) OF THIS SUBDIVISION
22 SHALL BE INCREASED TO TWENTY-FIVE THOUSAND DOLLARS FOR A SUBSEQUENT
23 VIOLATION COMMITTED WITHIN FIVE YEARS OF THE INITIAL VIOLATION FOR WHICH
24 A PENALTY WAS ASSESSED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

25 (C) THE PENALTY PROVIDED FOR IN PARAGRAPH (B) OF THIS SUBDIVISION
26 SHALL BE INCREASED TO FIFTY THOUSAND DOLLARS FOR A SUBSEQUENT VIOLATION
27 COMMITTED WITHIN FIVE YEARS OF THE INITIAL VIOLATION FOR WHICH A PENALTY
28 WAS ASSESSED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION.

29 2. The [penalty] PENALTIES provided for in [subdivision] SUBDIVISIONS
30 one AND ONE-A of this section may be recovered by an action brought by
31 the commissioner in any court of competent jurisdiction.

32 S 43. Subdivision 4 of section 6 of part C of chapter 58 of the laws
33 of 2005, amending the public health law and other laws relating to
34 authorizing reimbursements for expenditures made by social services
35 districts for medical assistance, is amended to read as follows:

36 4. If the commissioner of health finds that a district has either
37 substantially failed to demonstrate due diligence, including due dili-
38 gence with respect to the identification and reporting of fraud and
39 abuse, according to the prescribed requirements and guidelines or
40 continues to fail to comply with such requirements then such commission-
41 er may impose such sanctions and penalties as are permitted under the
42 public health law and the social services law. IN ADDITION, IF THE
43 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, OR A SUCCESSOR AGEN-
44 CY, DISALLOWS CLAIMS FOR FEDERAL FINANCIAL PARTICIPATION SUBMITTED TO IT
45 BY THE DEPARTMENT OF HEALTH, OR IF ANY FEDERAL AGENCY DETERMINES TO
46 RECOVER FEDERAL MEDICAID FUNDS PREVIOUSLY PAID TO THE DEPARTMENT OF
47 HEALTH, THE DEPARTMENT MAY RECOVER FROM A DISTRICT THE AMOUNT OF SUCH
48 DISALLOWANCE OR RECOVERY THAT THE COMMISSIONER DETERMINES WAS CAUSED BY
49 A DISTRICT'S FAILURE TO PROPERLY ADMINISTER, SUPERVISE OR OPERATE THE
50 MEDICAID PROGRAM. ANY SUCH RECOVERY FROM A DISTRICT SHALL BE MADE
51 NOTWITHSTANDING, AND IN ADDITION TO, ANY DISTRICT MEDICAID SHARE AMOUNTS
52 CALCULATED PURSUANT TO SECTION ONE OF THIS PART.

53 S 43-a. Paragraph (f) of section 1 of part C of chapter 58 of the laws
54 of 2005, amending the public health law and other laws relating to
55 authorizing reimbursements for expenditures made by social services

1 districts for medical assistance, as amended by section 62 of part C of
2 chapter 58 of the laws of 2007, is amended to read as follows:

3 (f) Subject to paragraph (g) of this section, the state fiscal year
4 social services district expenditure cap amount calculated for each
5 social services district pursuant to paragraph (d) of this section shall
6 be allotted to each district during that fiscal year and paid to the
7 department in equal weekly amounts in a manner to be determined by the
8 commissioner and communicated to such districts and, SUBJECT TO THE
9 PROVISIONS OF SUBDIVISION FOUR OF SECTION SIX OF THIS PART, shall repre-
10 sent each district's maximum responsibility for medical assistance
11 expenditures governed by this section.

12 S 43-b. Paragraph (b) of section 1 of part C of chapter 58 of the laws
13 of 2005, amending the public health law and other laws relating to
14 authorizing reimbursements for expenditures made by social services
15 districts for medical assistance, is amended to read as follows:

16 (b) Commencing with the period April 1, 2005 through March 31, 2006, a
17 social services district's yearly net share of medical assistance
18 expenditures shall be calculated in relation to a reimbursement base
19 year which, for purposes of this section, is defined as January 1, 2005
20 through December 31, 2005. The final base year expenditure calculation
21 for each social services district shall be made by the commissioner of
22 health, and approved by the director of the division of the budget, no
23 later than June 30, 2006. Such calculations shall be based on actual
24 expenditures made by or on behalf of social services districts, and
25 revenues received by social services districts, during the base year and
26 shall be made without regard to expenditures made, and revenues
27 received, outside the base year that are related to services provided
28 during, or prior to, the base year. Such base year calculations shall be
29 based on the social services district medical assistance shares
30 provisions in effect on January 1, 2005. SUBJECT TO THE PROVISIONS OF
31 SUBDIVISION FOUR OF SECTION SIX OF THIS PART, THE STATE/LOCAL SOCIAL
32 SERVICES DISTRICT RELATIVE PERCENTAGES OF THE NON-FEDERAL SHARE OF
33 MEDICAL ASSISTANCE EXPENDITURES INCURRED PRIOR TO JANUARY 1, 2006 SHALL
34 NOT BE SUBJECT TO ADJUSTMENT ON AND AFTER JULY 1, 2006.

35 S 44. Notwithstanding any contrary provision of law, surcharges and
36 assessments due and owing pursuant to sections 2807-j, 2807-s and 2807-t
37 of the public health law for any period prior to January 1, 2010, which
38 are paid and accompanied by all required reports and which were received
39 on or before December 31, 2010 shall not be subject to penalties as
40 otherwise provided in such sections, provided, however, that such
41 reports may be based on estimates by payors and designated providers of
42 services of the amounts owed, subject to subsequent audit by the commis-
43 sioner of health or such commissioner's designee, however, with regard
44 to all principal, interest and penalty amounts collected by the commis-
45 sioner of health prior to the effective date of this act, the interest
46 and penalty provisions of sections 2807-j, 2807-s and 2807-t of the
47 public health law shall remain in full force and effect and such amounts
48 collected shall not be subject to further adjustment pursuant to this
49 section. Furthermore, the provisions of this section shall not apply to
50 any surcharge or assessment payments made in response to a final audit
51 finding issued by such commissioner of health or such commissioner's
52 designee.

53 S 45. Paragraph (f) of subdivision 8-a of section 2807-j of the public
54 health law, as added by section 39 of part B of chapter 58 of the laws
55 of 2008, is amended to read as follows:

1 (f) The commissioner may enter into agreements with designated provid-
2 ers of services, and with third-party payors, in regard to which audit
3 findings have been made pursuant to this section or section twenty-eight
4 hundred seven-s of this article, extending and applying such audit find-
5 ings or a portion thereof in settlement and satisfaction of potential
6 audit liabilities for subsequent un-audited periods through the two
7 thousand [five] NINE calendar year. The commissioner may waive payment
8 of interest and penalties otherwise applicable to such subsequent unau-
9 dited periods when such amounts due as a result of such agreement, other
10 than waived penalties and interest, are paid in full to the commissioner
11 or the commissioner's designee within sixty days of execution of such
12 agreement by all parties to the agreement.

13 S 46. Section 2872 of the public health law is amended by adding a new
14 subdivision 3-b to read as follows:

15 3-B. "ELIGIBLE SECURED HOSPITAL BORROWER". A NOT-FOR-PROFIT HOSPITAL
16 CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS FINANCED
17 OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO THE FORMER SECTION
18 SEVEN-A OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE LAWS
19 OF NINETEEN HUNDRED SEVENTY-THREE AND FOR WHICH SPECIAL HOSPITAL PROJECT
20 BONDS (AS DEFINED IN FORMER PARAGRAPH (D) OF SUBDIVISION THREE OF
21 SECTION THREE OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE
22 LAWS OF NINETEEN HUNDRED SEVENTY-THREE) REMAIN OUTSTANDING.

23 S 46-a. The public health law is amended by adding a new section
24 2874-b to read as follows:

25 S 2874-B. REFINANCING MORTGAGE LOANS TO ELIGIBLE SECURED HOSPITAL
26 BORROWERS. ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVI-
27 SION THREE-B OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-TWO OF THIS ARTI-
28 CLE, SHALL BE AUTHORIZED TO REFINANCE ANY MORTGAGE LOAN FINANCED WITH
29 THE PROCEEDS OF SPECIAL HOSPITAL PROJECT BONDS, WHICH LOANS ARE
30 OUTSTANDING AS OF THE EFFECTIVE DATE OF THIS SECTION. A MORTGAGE LOAN TO
31 AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION THREE-B
32 OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-TWO OF THIS ARTICLE, MADE BY THE
33 MEDICAL CARE FACILITIES FINANCE AGENCY, AND ANY SUCCESSOR THERETO, MAY
34 BE REFINANCED FOR A TERM NOT LONGER THAN THE TERM SUFFICIENT TO ASSURE
35 THAT THE INTEREST ON BONDS ISSUED TO REFINANCE THE MORTGAGE LOAN WILL BE
36 EXCLUDABLE FROM GROSS INCOME OF THE HOLDERS THEREOF FOR FEDERAL TAX
37 PURPOSES, PROVIDED THAT IN NO EVENT SHALL THE TERM OF SUCH REFINANCING
38 LOAN EXCEED THIRTY YEARS FROM THE DATE OF THE ISSUANCE OF THE REFUNDING
39 BONDS AND SHALL INCLUDE ALL COSTS ASSOCIATED WITH THE REFINANCING OF
40 INDEBTEDNESS. ALL REFINANCING APPLICATIONS BY ELIGIBLE SECURED HOSPITAL
41 BORROWERS SHALL BE APPROVED BY THE ELIGIBLE SECURED HOSPITAL BORROWER'S
42 BOARD AND THE COMMISSIONER. SUCH REFINANCING APPLICATIONS SHALL INCLUDE
43 ANALYTICAL EVIDENCE SUFFICIENT TO DEMONSTRATE THAT THE PROPOSED REFI-
44 NANCING IS BEING UNDERTAKEN FOR SOUND BUSINESS PURPOSES AND IN FURTHER-
45 ANCE OF MAINTAINING OR IMPROVING THE FINANCIAL CONDITION OF THE HOSPI-
46 TAL. SUCH EVIDENCE MAY INCLUDE BUT IS NOT LIMITED TO: PRESENT VALUE
47 ANALYSIS OF DEBT SERVICE PAYMENTS, INCLUDING WHERE APPLICABLE, PRESENT
48 VALUE ANALYSIS THAT SEGREGATES DEBT SERVICE PAYMENTS BETWEEN PRINCIPAL
49 AND INTEREST COMPONENTS; FINANCIAL PRO FORMAS THAT PROJECT THE BORROW-
50 ER'S REVENUES, EXPENSES AND FINANCIAL POSITION FOR A PERIOD DETERMINED
51 BY THE COMMISSIONER; OR ANY OTHER ANALYSIS OR INFORMATION THE COMMIS-
52 SIONER DEEMS NECESSARY TO EVALUATE THE APPLICATION (INCLUDING BUT NOT
53 LIMITED TO ANALYSIS AND RECOMMENDATIONS OF CONSULTANTS). AS A CONDITION
54 OF SUCH PRIOR APPROVAL, THE COMMISSIONER SHALL APPROVE THE PRINCIPAL
55 AMOUNT OF THE REFINANCING, AND REQUIRE THE ELIGIBLE SECURED HOSPITAL
56 BORROWER TO GIVE THE DEPARTMENT A WRITTEN UNDERTAKING, ACCEPTABLE TO THE

COMMISSIONER, THAT IT WILL NOT CLAIM ADDITIONAL REIMBURSEMENT UNDER THE MEDICAL ASSISTANCE PROGRAM AS ESTABLISHED UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW DUE TO INTEREST PAYMENTS ON REFINANCING INDEBTEDNESS. ANY SUCH ADDITIONAL INTEREST PAYMENTS ON REFINANCED INDEBTEDNESS COVERED BY SUCH WRITTEN UNDERTAKING SHALL NOT BE CONSIDERED AS ALLOWABLE COSTS UNDER THE MEDICAL ASSISTANCE PROGRAM AND SHALL NOT BE INCLUDED IN REIMBURSEMENT RATES OF PAYMENT UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

S 46-b. Subdivision 3 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, is amended by adding a new paragraph (d-1) to read as follows:

(D-1) "SPECIAL HOSPITAL PROJECT BONDS" SHALL MEAN BONDS ISSUED PURSUANT TO SECTION SEVEN-C OF THIS ACT FOR THE PURPOSE OF REFINANCING OUTSTANDING MORTGAGE LOANS OF ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF THIS SECTION, PURSUANT TO THIS ACT.

S 46-c. Section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, is amended by adding a new subdivision 6-c to read as follows:

6-C. "ELIGIBLE SECURED HOSPITAL BORROWER" SHALL MEAN A NOT-FOR-PROFIT HOSPITAL CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS FINANCED OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO FORMER SECTION SEVEN-A OF THIS ACT, AND FOR WHICH SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN FORMER PARAGRAPH D OF SUBDIVISION THREE OF THIS SECTION, REMAIN OUTSTANDING.

S 46-d. Subdivision 10 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by chapter 803 of the laws of 1984, is amended to read as follows:

10. "Hospital project" shall mean a specific work or improvement or the refinancing of existing indebtedness which constitutes a lien or encumbrance upon the real property or assets of the eligible borrower OR THE REFINANCING OF EXISTING INDEBTEDNESS OF AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF THIS SECTION, FOR WHICH SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN FORMER PARAGRAPH (D) OF SUBDIVISION THREE OF THIS SECTION, REMAIN OUTSTANDING whether or not such refinancing is related to the construction, acquisition or rehabilitation of a specified work or improvement undertaken by a non-profit hospital corporation or a non-profit medical corporation, constituting an eligible borrower in accordance with the provisions of article [twenty-eight-B] 28-B of the public health law.

S 46-e. Subdivision 11 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, is amended to read as follows:

11. "Hospital project cost" shall mean the sum total of all costs incurred by a non-profit hospital corporation or a non-profit medical corporation, constituting an eligible borrower undertaking a project as approved by the commissioner in accordance with the provisions of article [twenty-eight-B] 28-B of the public health law, OR, IN CASE OF AN ELIGIBLE SECURED HOSPITAL BORROWER, ALL COSTS INCURRED IN CONNECTION WITH THE REFINANCING OF EXISTING INDEBTEDNESS APPROVED BY THE COMMISSIONER PURSUANT TO SECTION 2874-B OF THE PUBLIC HEALTH LAW.

S 46-f. Subdivision 12 of section 3 of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by chapter 156 of the laws of 1974, is amended to read as follows:

12. "Mortgage loan" shall mean a loan made by the agency to an eligible borrower in an amount not to exceed the total hospital project cost and secured by a first mortgage lien on the real property of which the hospital project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the hospital project. Such loan may be further secured by such a lien upon other real property owned by the eligible borrower. Notwithstanding the foregoing provisions of this subdivision or any other provisions of this act to the contrary, any personal property may be excluded from the lien of the mortgage provided (a) the commissioner [of health] finds that such property is not essential for the rendition of required hospital services as such term is defined in article [twenty-eight] 28 of the public health law, and (b) the agency consents to such exclusion.

The term "mortgage loan" shall also mean and include a loan made by the agency to a limited-profit nursing home company in an amount not to exceed ninety-five [percentum] PER CENTUM of the nursing home project cost, or to a non-profit nursing home company in an amount not to exceed the total nursing home project cost, and secured by a first mortgage lien on the real property of which the nursing home project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement or operation of the nursing home project. Notwithstanding the foregoing provisions of this subdivision or any other provision of this article to the contrary, any personal property may be excluded from the lien of the mortgage provided (a) the commissioner finds that such property is not essential for the nursing home project as such term is defined in article [twenty-eight-A] 28-A of the public health law, and (b) the agency consents to such exclusion.

THE TERM "MORTGAGE LOAN" SHALL ALSO MEAN AND INCLUDE A LOAN MADE TO AN ELIGIBLE SECURED HOSPITAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF THIS SECTION, TO REFINANCE OUTSTANDING INDEBTEDNESS PURSUANT TO THIS ACT.

S 46-g. Subdivision 10 of section 5 of section 1 of chapter 392 of the laws of 1973 constituting the New York state medical care facilities finance agency act, as amended by chapter 387 of the laws of 2006, is amended to read as follows:

10. Subject to the approval of the commissioner of health pursuant to the provisions of article 28-B of the public health law, to make mortgage loans and project loans to non-profit hospital corporations and non-profit medical corporations constituting eligible borrowers AND ELIGIBLE SECURED HOSPITAL BORROWERS AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT and to undertake commitments to make any such mortgage loans and project loans;

S 46-h. Section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, is amended by adding a new section 7-c to read as follows:

S 7-C. SECURED HOSPITAL PROJECTS RESERVE FUNDS AND APPROPRIATIONS. 1. SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT, ISSUED TO REFINANCE THE PROJECTS OF ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT, SHALL BE SECURED BY (A) A MORTGAGE LIEN, (B) FUNDS AND ACCOUNTS ESTABLISHED UNDER THE BOND RESOLUTION, (C) THE SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS, (D) THE SECURED HOSPITAL CAPITAL RESERVE FUND OR FUNDS, AND (E) SUCH SERVICE

1 CONTRACT OR CONTRACTS ENTERED INTO IN ACCORDANCE WITH THE PROVISIONS OF
2 SUBDIVISION FOUR OF THIS SECTION.

3 2. (A) THE AGENCY SHALL ESTABLISH A SECURED HOSPITAL SPECIAL DEBT
4 SERVICE RESERVE FUND OR FUNDS AND PAY INTO SUCH FUND OR FUNDS MONEYS
5 FROM THE SECURED HOSPITAL FUND UP TO AN AMOUNT NOT TO EXCEED AN AMOUNT
6 NECESSARY TO ENSURE THE REPAYMENT OF PRINCIPAL AND INTEREST DUE ON ANY
7 OUTSTANDING INDEBTEDNESS ON SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED
8 IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

9 FUNDS DEPOSITED IN SUCH SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE
10 FUND OR FUNDS SHALL BE USED IN THE EVENT THAT AN ELIGIBLE SECURED HOSPI-
11 TAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS
12 ACT, FAILS TO MAKE PAYMENTS IN AN AMOUNT SUFFICIENT TO PAY THE REQUIRED
13 DEBT SERVICE PAYMENTS ON SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN
14 PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

15 (B) THE AGENCY SHALL, FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDI-
16 VISION AND FOR THE SUPPORT OF ELIGIBLE SECURED HOSPITAL BORROWERS, PAY
17 INTO THE SECURED HOSPITAL FUND CURRENTLY ESTABLISHED AND MAINTAINED BY
18 THE AGENCY: (I) ALL FUNDS REQUIRED TO BE PAID IN ACCORDANCE WITH THE
19 PROVISIONS OF ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW AND REGU-
20 LATIONS PROMULGATED IN SUCH ARTICLE; (II) ANY MORTGAGE INSURANCE PREMIUM
21 ASSESSED IN AN AMOUNT FIXED AT THE DISCRETION OF THE AGENCY, UPON THE
22 ISSUANCE OF SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH
23 (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT; (III) ANY
24 INCOME OR INTEREST EARNED ON OTHER RESERVE FUNDS WHICH THE AGENCY ELECTS
25 TO TRANSFER TO THE SECURED HOSPITAL FUND; AND (IV) ANY OTHER MONEYS
26 WHICH MAY BE MADE AVAILABLE TO THE AGENCY FROM ANY OTHER SOURCE OR
27 SOURCES. MONEYS PAID INTO THE SECURED HOSPITAL FUND SHALL, IN THE
28 DISCRETION OF THE AGENCY, BUT SUBJECT TO AGREEMENTS WITH BONDHOLDERS, BE
29 USED TO FUND THE SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS AT A LEVEL
30 OR LEVELS WHICH MINIMIZE THE NEED FOR USE OF THE CAPITAL RESERVE FUND OR
31 FUNDS IN THE EVENT OF THE FAILURE OF AN ELIGIBLE SECURED HOSPITAL
32 BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT,
33 TO MAKE THE REQUIRED DEBT SERVICE PAYMENTS ON SPECIAL HOSPITAL PROJECT
34 BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION
35 THREE OF THIS ACT.

36 (C) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS
37 SUBDIVISION, THE STATE HEREBY EXPRESSLY RESERVES THE RIGHT TO MODIFY OR
38 REPEAL THE PROVISIONS OF ARTICLE 28 OF THE PUBLIC HEALTH LAW.

39 3. THE AGENCY SHALL ESTABLISH A SECURED HOSPITAL CAPITAL RESERVE FUND
40 OR FUNDS WHICH SHALL BE FUNDED AT AN AMOUNT OR AMOUNTS EQUAL TO THE
41 LESSER OF EITHER: (A) THE MAXIMUM AMOUNT OF PRINCIPAL, SINKING FUND
42 PAYMENTS AND INTEREST DUE IN ANY SUCCEEDING YEAR ON OUTSTANDING SPECIAL
43 HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION
44 THREE OF SECTION THREE OF THIS ACT, OR (B) FOR TAX EXEMPT BONDS, THE
45 MAXIMUM AMOUNT TO ENSURE THAT SUCH BONDS WILL NOT BE CONSIDERED ARBI-
46 TRAGE BONDS UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE
47 CAPITAL RESERVE FUND SHALL BE FUNDED BY THE SALE OF SPECIAL HOSPITAL
48 PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF
49 SECTION THREE OF THIS ACT, OR FROM SUCH OTHER FUNDS AS MAY BE LEGALLY
50 AVAILABLE FOR SUCH PURPOSE, AS PROVIDED FOR IN THE BOND RESOLUTION OR
51 RESOLUTIONS AUTHORIZING THE ISSUANCE OF SUCH BONDS.

52 4. (A) NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW TO
53 THE CONTRARY, AND SUBJECT TO THE MAKING OF ANNUAL APPROPRIATIONS THERE-
54 FOR BY THE LEGISLATURE IN ORDER TO REFINANCE MORTGAGE LOANS TO ELIGIBLE
55 SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION
56 THREE OF THIS ACT, THE DIRECTOR OF THE BUDGET IS AUTHORIZED IN ANY STATE

1 FISCAL YEAR TO ENTER INTO ONE OR MORE SERVICE CONTRACTS, WHICH SERVICE
2 CONTRACTS SHALL NOT EXCEED THE TERM OF THE SPECIAL HOSPITAL PROJECT
3 BONDS, ISSUED FOR THE BENEFIT OF THE ELIGIBLE SECURED HOSPITAL BORROWER,
4 UPON SUCH TERMS AS THE DIRECTOR OF THE BUDGET AND THE AGENCY AGREE, SO
5 AS TO PROVIDE ANNUALLY TO THE AGENCY IN THE AGGREGATE SUCH SUM, IF ANY,
6 AS NECESSARY TO MEET THE DEBT SERVICE PAYMENTS DUE ON OUTSTANDING
7 SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDI-
8 VISION THREE OF SECTION THREE OF THIS ACT, IN ANY YEAR IF THE FUNDS
9 PROVIDED FOR IN THIS SECTION ARE INADEQUATE.

10 (B) ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO PARAGRAPH (A) OF
11 THIS SUBDIVISION SHALL PROVIDE (I) THAT THE OBLIGATION OF THE DIRECTOR
12 OF THE BUDGET OR OF THE STATE TO FUND OR TO PAY THE AMOUNTS THEREIN
13 PROVIDED FOR SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE MEANING
14 OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED EXECU-
15 TORY ONLY TO THE EXTENT OF MONEYS AVAILABLE AND THAT NO LIABILITY SHALL
16 BE INCURRED BY THE STATE BEYOND THE MONEYS AVAILABLE FOR SUCH PURPOSE,
17 AND THAT SUCH OBLIGATION IS SUBJECT TO ANNUAL APPROPRIATION BY THE
18 LEGISLATURE; AND (II) THAT THE AMOUNTS PAID TO THE AGENCY PURSUANT TO
19 ANY SUCH CONTRACT MAY BE USED BY IT SOLELY TO PAY OR TO ASSIST IN
20 FINANCING COSTS OF MORTGAGE LOANS TO ELIGIBLE SECURED HOSPITAL BORROW-
21 ERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT.

22 5. THE AGENCY SHALL NOT ISSUE SPECIAL HOSPITAL PROJECT BONDS, AS
23 DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS
24 ACT, EXCEPT TO REFINANCE MORTGAGE LOANS FOR ELIGIBLE SECURED HOSPITAL
25 BORROWERS AS PROVIDED IN SECTION THREE OF THIS ACT.

26 S 46-i. Notwithstanding any other provision of this act: (i)
27 reimbursement for interest on any indebtedness hereunder to be paid by
28 the medical assistance program established under title 11 of article 5
29 of the social services law shall be subject to the availability of
30 federal financial participation; and (ii) the refinancing of a mortgage
31 loan pursuant to this act shall not alter, affect or change the compo-
32 nent of medical assistance reimbursement applicable to the depreciation
33 of any asset or assets.

34 S 47. Subdivision 2 of section 366-a of the social services law is
35 amended by adding a new paragraph (d) to read as follows:

36 (D) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
37 SION, AN APPLICANT OR RECIPIENT WHOSE ELIGIBILITY UNDER THIS TITLE IS
38 DETERMINED WITHOUT REGARD TO THE AMOUNT OF HIS OR HER ACCUMULATED
39 RESOURCES MAY ATTEST TO THE AMOUNT OF INTEREST INCOME GENERATED BY SUCH
40 RESOURCES IF THE AMOUNT OF SUCH INTEREST INCOME IS EXPECTED TO BE IMMA-
41 TERIAL TO MEDICAL ASSISTANCE ELIGIBILITY, AS DETERMINED BY THE COMMIS-
42 SIONER OF HEALTH. IN THE EVENT THERE IS AN INCONSISTENCY BETWEEN THE
43 INFORMATION REPORTED BY THE APPLICANT OR RECIPIENT AND ANY INFORMATION
44 OBTAINED BY THE COMMISSIONER OF HEALTH FROM OTHER SOURCES AND SUCH
45 INCONSISTENCY IS MATERIAL TO MEDICAL ASSISTANCE ELIGIBILITY, THE COMMIS-
46 SIONER OF HEALTH SHALL REQUEST THAT THE APPLICANT OR RECIPIENT PROVIDE
47 ADEQUATE DOCUMENTATION TO VERIFY HIS OR HER INTEREST INCOME.

48 S 47-a. Subdivision 2 of section 369-ee of the social services law is
49 amended by adding a new paragraph (b-1) to read as follows:

50 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-
51 SION, AN INDIVIDUAL MAY ATTEST TO THE AMOUNT OF INTEREST INCOME GENER-
52 ATED BY HIS OR HER ACCUMULATED RESOURCES IF THE AMOUNT OF SUCH INTEREST
53 INCOME IS EXPECTED TO BE IMMATERIAL TO ELIGIBILITY UNDER THIS SECTION,
54 AS DETERMINED BY THE COMMISSIONER OF HEALTH. IN THE EVENT THERE IS AN
55 INCONSISTENCY BETWEEN THE INFORMATION REPORTED BY THE INDIVIDUAL AND ANY
56 INFORMATION OBTAINED BY THE COMMISSIONER OF HEALTH FROM OTHER SOURCES

1 AND SUCH INCONSISTENCY IS MATERIAL TO ELIGIBILITY UNDER THIS SECTION,
2 THE COMMISSIONER OF HEALTH SHALL REQUEST THAT THE INDIVIDUAL PROVIDE
3 ADEQUATE DOCUMENTATION TO VERIFY HIS OR HER INTEREST INCOME.

4 S 48. Paragraph (d) of subdivision 5 of section 366-a of the social
5 services law, as amended by section 1 of part R of chapter 58 of the
6 laws of 2009, 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 OF ELIGIBILITY for assistance under this title [for a recipient
22 of], PERSONS RECEIVING medicaid COMMUNITY COVERAGE WITH COMMUNITY-BASED
23 LONG TERM CARE, INCLUDING BUT NOT LIMITED TO waiver services provided or
24 authorized by the office of mental retardation and developmental disa-
25 bilities, beginning on or after January first, two thousand ten, [such
26 recipient] may be permitted, as determined by the commissioner of
27 health, to attest to place of residence and to all information regarding
28 the household's income and/or resources that are necessary to [deter-
29 mine] RECERTIFY such eligibility.

30 S 49. Paragraph (a) of subdivision 4 of section 366 of the social
31 services law, as amended by chapter 453 of the laws of 1990, subpara-
32 graph (i) as amended by section 59 of part B of chapter 436 of the laws
33 of 1997, is amended to read as follows:

34 (a) [(i)] Notwithstanding any other provision of law, each family
35 which was eligible for medical assistance pursuant to subparagraph eight
36 or nine of paragraph (a) of subdivision one of this section in at least
37 [three] ONE of the six months immediately preceding the month in which
38 such family became ineligible for such assistance because of hours of,
39 or income from, employment of the caretaker relative, or because of loss
40 of entitlement to the earnings disregard under subparagraph (iii) of
41 paragraph (a) of subdivision eight of section one hundred thirty-one-a
42 of this [chapter] ARTICLE shall, while such family includes a dependent
43 child, remain eligible for medical assistance for [six] TWELVE calendar
44 months immediately following the month in which such family would other-
45 wise be determined to be ineligible for medical assistance pursuant to
46 the provisions of this title and the regulations of the department
47 governing income and resource limitations relating to eligibility deter-
48 minations for families described in subparagraph eight of paragraph (a)
49 of subdivision one of this section.

50 [(ii)] Each family which received medical assistance for the entire six
51 month period under subparagraph (i) of this paragraph and complied with
52 the department's reporting requirements for such initial six month peri-
53 od shall be offered the option of extending such eligibility for an
54 additional six calendar months if and for so long as such family
55 includes a dependent child and meets the income requirements in subpara-
56 graph (ii) of paragraph (b) of this subdivision.]

1 S 50. Paragraph (b) of subdivision 4 of section 366 of the social
2 services law, as added by chapter 453 of the laws of 1990, subparagraph
3 (i) as amended by section 60 of part B of chapter 436 of the laws of
4 1997, is amended to read as follows:

5 (b) (i) Upon giving notice of termination of medical assistance
6 provided pursuant to subparagraph eight or nine of paragraph (a) of
7 subdivision one of this section, the department shall notify each such
8 family of its rights to extended benefits under paragraph (a) of this
9 subdivision and describe [any reporting requirements and] the conditions
10 under which such extension may be terminated. [The department shall also
11 provide subsequent notices of the option to extend coverage pursuant to
12 paragraph (a) of this subdivision in the third and sixth months of the
13 initial six month extended coverage period and notices of the reporting
14 requirements under such paragraph in each of the third and sixth months
15 of the initial six month extended coverage period and in the third month
16 of the additional extended coverage period.]

17 (ii) The department shall promulgate regulations implementing the
18 requirements of this paragraph and paragraph (a) of this subdivision
19 relating to the conditions under which [initial] extended coverage [and
20 additional extended coverage] hereunder may be terminated, the scope of
21 coverage, [the reporting requirements] and the conditions under which
22 coverage may be extended pending a redetermination of eligibility. Such
23 regulations shall, at a minimum, provide for: (A) termination of such
24 coverage at the close of the first month in which the family ceases to
25 include a dependent child [and at the close of the first or fourth month
26 of the additional extended coverage period if the family fails to
27 report, as required by the regulations, or the caretaker relative had no
28 earnings in one or more of the previous three months unless such lack of
29 earnings was for good cause, or the family's average gross monthly earn-
30 ings, less necessary work related child care costs of the caretaker
31 relative, during the preceding three months was greater than one hundred
32 eighty-five percent of the federal income official poverty line applica-
33 ble to the family's size]; (B) notice of termination prior to the effec-
34 tive date of any terminations; (C) [quarterly reporting of income and
35 child care costs during the initial and additional extended coverage
36 periods; (D)] coverage under employee health plans and health mainte-
37 nance organizations; and [(E)] (D) disqualification of persons for
38 extended coverage benefits under this paragraph for fraud.

39 S 51. Notwithstanding any inconsistent provision of section 112 or 163
40 of the state finance law or any other contrary provision of the state
41 finance law or any other contrary provision of law, the commissioner of
42 health may, without a competitive bid or request for proposal process,
43 enter into contracts with one or more certified public accounting firms
44 for the purpose of conducting audits of disproportionate share hospital
45 payments made by the state of New York to general hospitals and for the
46 purpose of conducting audits of hospital cost reports as submitted to
47 the state of New York in accordance with article 28 of the public health
48 law.

49 S 52. Section 17 of part C of chapter 58 of the laws of 2005 amending
50 the public health law and other laws relating to implementing the state
51 fiscal plan for the 2005-2006 state fiscal year, as added by section 21
52 of part E of chapter 63 of the laws of 2005, is amended to read as
53 follows:

54 S 17. 1. Notwithstanding any inconsistent provision of law, rule or
55 regulation, for payments made by a state governmental agency to a gener-
56 al hospital for specialty inpatient AND OUTPATIENT hospital services

provided to patients eligible for payments pursuant to title 11 of article 5 of the social services law discharged on or after April 1, 2005 through March 31, [2010] 2015, the commissioner of health, subject to the approval of the director of the budget, may:

(a) after a hospital has agreed to participate in a program selected pursuant to subdivision two of this section, establish rates of payment or special payment rate methodologies for specialty [inpatient] hospital services selected in accordance with subdivision two of this section provided to patients eligible for payments pursuant to title 11 of article 5 of the social services law through negotiations with hospitals in any area of the state. Such negotiated rates, if any, shall be negotiated with each individual selected hospital. Such negotiation shall include a process for the commissioner of health and each selected hospital to mutually identify services for which such negotiated rates shall apply. Such rates shall be reasonable and adequate to reimburse the costs of an economically and efficiently operated provider of services. The commissioner of health may establish adjusted rates of payment pursuant to an administrative rate appeal process to hospitals that participate in such negotiations and agree to receive the negotiated payment rates established under this paragraph for the patients described in this paragraph in lieu of rates of payment otherwise applicable pursuant to section 2807-c of the public health law without a competitive bid or request for proposal process; and/or

(b) select among hospitals in any area of the state those eligible for reimbursement for specialty [inpatient] hospital services selected in accordance with subdivision two of this section and establish payments for such services based on a competitive bidding process.

2. The commissioner of health shall select [a maximum of five geographically defined inpatient] hospital sites for which reimbursement may be negotiated for a maximum of [five] TEN specialty inpatient AND OUTPATIENT services that are selected based on the following criteria:

(a) such services may be provided more efficiently and economically; and

(b) there is a correlation between the volume of such services or procedures performed by [an inpatient] A hospital and improved patient outcomes that is accepted by medical experts in the field as evidenced by inclusion in peer reviewed scientific literature published and/or recognized by national organizations; and

(c) identification of such services and the implementation of this section with respect to such services is consistent with other initiatives to enhance the quality and patient outcomes of [inpatient] HOSPITAL services and procedures that are or are being planned to be undertaken by the department of health, including but not limited to projects that identify centers of excellence for particular services; and

(d) identification of such services for purposes of implementing this section will not diminish access, including geographic access, which for purposes of this section shall mean that a patient shall not be prevented from accessing services in a timely fashion due to distance or travel time; [and]

(e) [such services have low utilization or are provided in units with low occupancy; and

(f)] any other criteria determined by the commissioner of health to promote the cost effective delivery of specialty [inpatient] hospital services; AND

(F) CRITERIA UTILIZED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES WITH REGARD TO PAYMENT METHODOLOGIES UTILIZED WITH REGARD TO

1 CENTERS OF EXCELLENCE PURSUANT TO TITLE XVIII OF THE FEDERAL SOCIAL
2 SECURITY ACT (MEDICARE).

3 3. Selection of hospitals by the commissioner of health pursuant to
4 subdivision two of this section shall be made based on the following
5 criteria:

6 (a) Consultation with hospitals, hospital associations or other
7 provider organizations, and consumers; and

8 (b) Assurances of patient access, including geographic access, to the
9 selected specialty services; and

10 (c) Historical volume of services provided by the hospital; and

11 (d) Consistency with other quality and outcomes improvement initi-
12 atives being or planned to be pursued by the department of health,
13 including but not limited to, projects that identify centers of excel-
14 lence; and

15 (e) The order and timeline under which services identified pursuant to
16 this section shall be provided; and

17 (f) Such other criteria that the commissioner of health may deem
18 appropriate.

19 4. [Inpatient hospital] HOSPITAL services not selected by the commis-
20 sioner of health pursuant to this section and not subject to negotiation
21 under paragraph (a) of subdivision one of this section provided to
22 patients eligible for payments pursuant to title 11 of article 5 of the
23 social services law shall be reimbursed pursuant to [section] SECTIONS
24 2807 OR 2807-c of the public health law, AS APPLICABLE.

25 5. Notwithstanding any inconsistent provisions of law, rule or regu-
26 lation, for purposes of this program, no payments within a geograph-
27 ically defined site shall be made for specialty [inpatient] hospital
28 services selected by the commissioner of health in accordance with
29 subdivision two of this section for which there is an adjusted rate of
30 payment with a hospital pursuant to paragraph (a) or (b) of subdivision
31 one of this section when such services are provided to patients eligible
32 for payments pursuant to title 11 of article 5 of the social services
33 law by a hospital which has not received adjusted rates of payment
34 pursuant to paragraph (a) or (b) of subdivision one of this section;
35 provided, however, payments may be made to such hospital in accordance
36 with section 2807-c of the public health law if the provision of such
37 services has been prior approved by the commissioner of health, or if
38 the inpatient admission is a result of an emergency admission.

39 6. Payment of rates established pursuant to this section for purposes
40 of this program shall be contingent upon federal approval of a waiver
41 application submitted by the commissioner of health in order to receive
42 federal financial participation for services provided under this
43 section; provided, however, the commissioner of health shall provide a
44 copy of such waiver application to the legislature prior to submission
45 for federal approval. The commissioner of health may take any steps
46 necessary to implement this section prior to receiving federal approval
47 of such waiver application.

48 7. The commissioner of health shall report to the governor and the
49 legislature concerning the implementation of this section, including
50 available data regarding the cost effective delivery of specialty inpa-
51 tient services selected in accordance with this section, within eighteen
52 months from the date of issuance of adjusted rates of payment entered
53 into pursuant to paragraphs (a) and (b) of subdivision one of this
54 section.

1 S 53. Paragraph (q) of subdivision 2 of section 365-a of the social
2 services law, as added by section 32 of part C of chapter 58 of the laws
3 of 2008, is amended to read as follows:

4 (q) diabetes self-management training services for persons diagnosed
5 with diabetes when such services are ordered by a physician, registered
6 [physician's] PHYSICIAN assistant, registered nurse practitioner, or
7 licensed midwife and provided by a licensed, registered, or certified
8 health care professional, as determined by the commissioner of health,
9 who is certified as a diabetes educator by the National Certification
10 Board for Diabetes Educators, or a successor national certification
11 board, OR PROVIDED BY SUCH A PROFESSIONAL WHO IS AFFILIATED WITH A
12 PROGRAM CERTIFIED BY THE AMERICAN DIABETES ASSOCIATION, THE AMERICAN
13 ASSOCIATION OF DIABETES EDUCATORS, THE INDIAN HEALTH SERVICES, OR ANY
14 OTHER NATIONAL ACCREDITATION ORGANIZATION APPROVED BY THE FEDERAL
15 CENTERS FOR MEDICARE AND MEDICAID SERVICES; provided, however, that the
16 provisions of this paragraph shall not take effect unless all necessary
17 approvals under federal law and regulation have been obtained to receive
18 federal financial participation in the costs of health care services
19 provided pursuant to this paragraph. Nothing in this paragraph shall be
20 construed to modify any licensure, certification or scope of practice
21 provision under title eight of the education law.

22 S 54. The opening paragraph of paragraph (i) of subdivision 1 of
23 section 2807-c of the public health law, as amended by section 19 of
24 part B of chapter 58 of the laws of 2008, is amended to read as follows:

25 For the rate period July first, two thousand seven through March thir-
26 ty-first, two thousand eight and for rates applicable to the state
27 fiscal year commencing April first, two thousand eight, and each state
28 fiscal year thereafter through March thirty-first, two thousand [elev-
29 en,] NINE, AND FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH
30 NOVEMBER THIRTIETH, TWO THOUSAND NINE, PROVIDED, HOWEVER, THAT FOR THE
31 PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO
32 THOUSAND NINE THE AGGREGATE RATE ADJUSTMENTS CALCULATED PURSUANT TO
33 SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL NOT EXCEED FOUR MILLION
34 DOLLARS, AND contingent upon the availability of federal financial
35 participation:

36 S 55. The opening paragraph of paragraph (j) of subdivision 1 of
37 section 2807-c of the public health law, as amended by section 19-a of
38 part B of chapter 58 of the laws of 2008, is amended to read as follows:

39 For the rate period July first, two thousand seven through March thir-
40 ty-first, two thousand eight and for rates applicable to the state
41 fiscal year commencing April first, two thousand eight, and each state
42 fiscal year thereafter through March thirty-first, two thousand [elev-
43 en,] NINE AND FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH
44 NOVEMBER THIRTIETH, TWO THOUSAND NINE, PROVIDED, HOWEVER, THAT FOR THE
45 PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO
46 THOUSAND NINE THE AGGREGATE RATE ADJUSTMENTS CALCULATED PURSUANT TO
47 SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL NOT EXCEED TWENTY-EIGHT
48 MILLION DOLLARS, AND contingent upon the availability of federal finan-
49 cial participation:

50 S 56. The opening paragraph of paragraph (1) of subdivision 1 of
51 section 2807-c of the public health law, as added by section 65-f of
52 part A of chapter 58 of the laws of 2007, is amended to read as follows:

53 Effective for periods on and after July first, two thousand seven
54 THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE:

1 S 57. Paragraph (a) of subdivision 32 of section 2807-c of the public
2 health law, as amended by section 1 of part U of chapter 57 of the laws
3 of 2007, is amended to read as follows:

4 (a) The commissioner shall adjust inpatient medical assistance rates
5 of payment established pursuant to this section for rural hospitals as
6 defined in paragraph (c) of subdivision one of section twenty-eight
7 hundred seven-w of this article in accordance with paragraph (b) of this
8 subdivision for purposes of supporting critically needed health care
9 services in rural areas in the following aggregate amounts for the
10 following periods:

11 seven million dollars for the period May first, two thousand five
12 through December thirty-first, two thousand five, seven million dollars
13 for the period January first, two thousand six through December thirty-
14 first, two thousand six, seven million dollars for the period April
15 first, two thousand seven through December thirty-first, two thousand
16 seven, [and] seven million dollars for [each] calendar year [thereafter]
17 TWO THOUSAND EIGHT, AND SIX MILLION FOUR HUNDRED SEVENTEEN THOUSAND
18 DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND NINE THROUGH NOVEMBER
19 THIRTIETH, TWO THOUSAND NINE.

20 S 58. Subparagraph (ii) of paragraph (k) of subdivision 1 of section
21 2807-c of the public health law, as amended by section 30-a of part B of
22 chapter 58 of the laws of 2008, is amended to read as follows:

23 (ii) for the period April first, two thousand eight through March
24 thirty-first, two thousand nine, and each state fiscal year thereafter
25 through [March thirty-first, two thousand eleven] NOVEMBER THIRTIETH,
26 TWO THOUSAND NINE, thirty-eight million dollars shall be allocated ON AN
27 ANNUALIZED BASIS for such purpose to such hospitals in accordance with
28 [regulations promulgated by the commissioner and which shall provide]
29 THE METHODOLOGY SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH,
30 PROVIDED, HOWEVER, that [up to] thirty percent of such funds shall be
31 allocated proportionally, based on the number of foreign languages
32 utilized by one or more percent of the residents in each hospital total
33 service area population, PROVIDED, HOWEVER, THAT FOR THE PERIOD APRIL
34 FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE,
35 SUCH ALLOCATION SHALL BE REDUCED TO TWENTY-FIVE MILLION THREE HUNDRED
36 THIRTY-THREE THOUSAND DOLLARS.

37 S 59. The opening paragraph and subparagraphs (i) and (ii) of para-
38 graph (e-1) of subdivision 4 of section 2807-c of the public health law,
39 as added by section 12 of part C of chapter 58 of the laws of 2009, are
40 amended to read as follows:

41 Notwithstanding any inconsistent provision of paragraph (e) of this
42 subdivision or any other contrary provision of law and subject to the
43 availability of federal financial participation, per diem rates of
44 payment by governmental agencies for a general hospital or a distinct
45 unit of a general hospital for inpatient psychiatric services that would
46 otherwise be subject to the provisions of paragraph (e) of this subdivi-
47 sion[, and rates of payment for outpatient psychiatric services provided
48 by such facilities as specified in this paragraph,] shall, with regard
49 to days of service [and visits] ASSOCIATED WITH ADMISSIONS occurring on
50 and after [December first, two thousand nine,] APRIL FIRST, TWO THOUSAND
51 TEN, be in accordance with the following:

52 (i) For rate periods on and after [December first, two thousand nine]
53 APRIL FIRST, TWO THOUSAND TEN, the commissioner, in consultation with
54 the commissioner of the office of mental health, shall promulgate regu-
55 lations, and may promulgate emergency regulations, establishing method-
56 ologies for determining the operating cost components of rates of

1 payments for services described in this paragraph. Such regulations
2 shall utilize two thousand five operating costs as submitted to the
3 department prior to [December first, two thousand eight] JULY FIRST, TWO
4 THOUSAND NINE and shall provide for methodologies establishing per diem
5 inpatient rates that utilize case mix adjustment mechanisms [and provide
6 for post-discharge referral to outpatient services]. Such regulations
7 shall contain criteria for adjustments based on length of stay.

8 (ii) Rates of payment established pursuant to subparagraph [(ii)] (I)
9 of this paragraph shall reflect an aggregate net statewide increase in
10 reimbursement for such services of up to twenty-five million dollars on
11 an annual basis.

12 S 60. Paragraph (u) of subdivision 2 of section 365-a of the social
13 services law, as added by section 27 of part C of chapter 58 of the laws
14 of 2009, is amended to read as follows:

15 (u) screening, brief intervention, and referral to treatment in hospi-
16 tal OUTPATIENT AND emergency departments AND FREE-STANDING DIAGNOSTIC
17 AND TREATMENT CENTERS of individuals at risk for substance abuse includ-
18 ing referral to the appropriate level of intervention and treatment in a
19 community setting; provided, however, that the provisions of this para-
20 graph relating to screening, brief intervention, and referral to treat-
21 ment services shall not take effect unless all necessary approvals under
22 federal law and regulation have been obtained to receive federal finan-
23 cial participation in such costs.

24 S 61. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section
25 2807 of the public health law, as amended by section 16-a of part C of
26 chapter 58 of the laws of 2009, is amended to read as follows:

27 (ii) notwithstanding the provisions of paragraphs (a) and (b) of this
28 subdivision, for periods on and after January first, two thousand nine,
29 the following services provided by general hospital outpatient depart-
30 ments and diagnostic and treatment centers shall be reimbursed with
31 rates of payment based entirely upon the ambulatory patient group meth-
32 odology as described in paragraph (e) of this subdivision, provided,
33 however, that the commissioner may utilize existing payment methodol-
34 ogies or may promulgate regulations establishing alternative payment
35 methodologies for one or more of the services specified in [clauses (C)
36 and (D) of] this subparagraph, effective for periods on and after March
37 first, two thousand nine:

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

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

46 (C) individual psychotherapy services provided by licensed social
47 workers, in accordance with licensing criteria set forth in applicable
48 regulations, to persons under the age of [nineteen] TWENTY-ONE and to
49 persons requiring such services as a result of or related to pregnancy
50 or giving birth; and

51 (D) individual psychotherapy services provided by licensed social
52 workers, in accordance with licensing criteria set forth in applicable
53 regulations, at diagnostic and treatment centers that provided, billed
54 for, and received payment for these services between January first, two
55 thousand seven and December thirty-first, two thousand seven; [and]

(E) services provided to pregnant women pursuant to paragraph (s) of subdivision two of section three hundred sixty-five-a of the social services law and, for periods on and after January first, two thousand ten, all other services provided pursuant to such paragraph (s) and services provided pursuant to paragraph (t) of subdivision two of section three hundred sixty-five-a of the social services law;

(F) WHEELCHAIR EVALUATION SERVICES AND EYEGLASS DISPENSING SERVICES; AND

(G) IMMUNIZATION SERVICES, EFFECTIVE FOR SERVICES RENDERED ON AND AFTER JUNE TENTH, TWO THOUSAND NINE.

S 62. Clauses (A) and (B) of subparagraph (iii) of paragraph (g) of subdivision 35 of section 2807-c of the public health law, as added by section 2 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(A) for the period December first, two thousand nine through March thirty-first, two thousand ten, up to [seventy-five] THIRTY-THREE million FIVE HUNDRED THOUSAND dollars;

(B) for the period April first, two thousand ten through March thirty-first, two thousand eleven, up to [thirty-three] SEVENTY-FIVE million [five hundred thousand] dollars, PROVIDED, HOWEVER, THAT, NOTWITHSTANDING SUBPARAGRAPH (II) OF THIS PARAGRAPH, NO FACILITY SHALL RECEIVE AN AMOUNT PURSUANT TO THIS CLAUSE THAT IS LESS THAN SUCH FACILITY RECEIVED PURSUANT TO CLAUSE (A) OF THIS SUBPARAGRAPH;

S 63. Intentionally omitted.

S 64. Subparagraphs (i) and (ii) of paragraph (b) of subdivision 2-a of section 2807 of the public health law, as amended by section 14 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(i) for the period [March] SEPTEMBER first, two thousand nine through [December first] NOVEMBER THIRTIETH, two thousand nine, seventy-five percent of such rates of payment for services provided by each diagnostic and treatment center and each free-standing ambulatory surgery center shall reflect the average Medicaid payment per claim, as determined by the commissioner, for services provided by that facility in the two thousand seven calendar year, but excluding any payments for services covered by the facility's licensure, if any, under the mental hygiene law, and twenty-five percent of such rates of payment shall, for the operating cost component, reflect the utilization of the ambulatory patient groups reimbursement methodology described in paragraph (e) of this subdivision;

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

S 65. Paragraph (s) of subdivision 2 of section 365-a of the social services law, as added by section 27 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(s) smoking cessation counseling services for pregnant women on any day of pregnancy through the end of the month in which the one hundred eightieth day following the end of the pregnancy occurs, and children

1 and adolescents ten to [nineteen] TWENTY years of age, during a medical
2 visit when provided by a general hospital outpatient department or a
3 free-standing clinic, or by a physician, registered physician's assist-
4 ant, registered nurse practitioner or licensed midwife in office-based
5 settings; provided, however, that the provisions of this paragraph
6 relating to smoking cessation counseling services shall not take effect
7 unless all necessary approvals under federal law and regulation have
8 been obtained to receive federal financial participation in the costs of
9 such services.

10 S 66. Subdivision 2-a of section 2807 of the public health law is
11 amended by adding a new paragraph (f-1) to read as follows:

12 (F-1) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR
13 ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER MAY WITH THE
14 APPROVAL OF THE DIRECTOR OF THE BUDGET, FOR PERIODS PRIOR TO TWO THOU-
15 SAND TWELVE, ESTABLISH RATES OF PAYMENTS FOR SELECTED PATIENT SERVICE
16 CATEGORIES THAT ARE BASED ENTIRELY UPON THE AMBULATORY PATIENT GROUPS
17 METHODOLOGY AS AUTHORIZED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION.

18 S 67. Subdivision 7-a of section 101 of part A of chapter 57 of the
19 laws of 2006, amending the social services law relating to medically
20 fragile children, as amended by section 65 of part C of chapter 58 of
21 the laws of 2008, is amended to read as follows:

22 7-a. Sections fifty-eight, fifty-eight-a and fifty-eight-b shall take
23 effect January 1, 2007 [and shall expire and be deemed repealed January
24 1, 2011].

25 S 67-a. Paragraph (d) of subdivision 3 of section 367-a of the social
26 services law, as added by chapter 33 of the laws of 1998, subparagraphs
27 1 and 2 as amended by section 2 of part G of chapter 23 of the laws of
28 2002, is amended to read as follows:

29 (d) (1) Beginning April first, two thousand two and to the extent that
30 federal financial participation is available at a one hundred percent
31 federal Medical assistance percentage and subject to sections 1933 and
32 1902(a)(10)(E)(iv) of the federal social security act, medical assist-
33 ance shall be available for full payment of medicare part B premiums for
34 individuals (referred to as qualified individuals 1) who are entitled to
35 hospital insurance benefits under part A of title XVIII of the federal
36 social security act and whose income exceeds the income level estab-
37 lished by the state and is at least one hundred twenty percent, but less
38 than one hundred thirty-five percent, of the federal poverty level, for
39 a family of the size involved and who are not otherwise eligible for
40 medical assistance under the state plan;

41 (2) [Beginning April first, two thousand two and to the extent that
42 federal financial participation is available at a one hundred percent
43 federal Medical assistance percentage and subject to sections 1933 and
44 1902(a)(10)(E)(iv) of the federal social security act, medical assist-
45 ance shall be available for payment of that portion of the medicare part
46 B premium increase that is attributable to the operation of the amend-
47 ments made by section 4611(e)(3) of the balanced budget act of 1997, for
48 individuals (referred to as qualified individuals 2) who are entitled to
49 hospital insurance benefits under part A of title XVIII of the federal
50 social security act and whose income exceeds the income level estab-
51 lished by the state and is at least one hundred thirty-five percent, but
52 less than one hundred seventy-five percent, of the federal poverty
53 level, for a family of the size involved and who are not otherwise
54 eligible for medical assistance under the state plan;

55 (3)] Premium payments for the individuals described in [subparagraphs]
56 SUBPARAGRAPH one [and two] of this paragraph will be one hundred percent

1 federally funded up to the amount of the federal allotment. The depart-
2 ment shall discontinue enrollment into the program when the part B
3 premium payments made pursuant to [such paragraphs] SUBPARAGRAPH ONE OF
4 THIS PARAGRAPH meet the yearly federal allotment.

5 [(4)] (3) The commissioner of health shall develop a simplified appli-
6 cation form, consistent with federal law, for payments pursuant to this
7 section. The commissioner of health, in cooperation with the office for
8 the aging, shall publicize the availability of such payments to medicare
9 beneficiaries.

10 S 68. Section 2 of chapter 33 of the laws of 1998, amending the social
11 services law relating to authorizing payment of medicare part B premiums
12 to certain medicaid recipients, as amended by chapter 415 of the laws of
13 2008, is amended to read as follows:

14 S 2. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after January 1, 1998[,
16 provided, however that such provisions shall expire and be deemed
17 repealed December 31, 2010].

18 S 69. Intentionally omitted.

19 S 70. Notwithstanding any inconsistent provision of law, rule or regu-
20 lation, for purposes of implementing the provisions of the public health
21 law and the social services law, references to titles XIX and XXI of the
22 federal social security act in the public health law and the social
23 services law shall be deemed to include and also to mean any successor
24 titles thereto under the federal social security act.

25 S 71. Notwithstanding any inconsistent provision of law, rule or regu-
26 lation, the effectiveness of the provisions of sections 2807 and 3614 of
27 the public health law, section 18 of chapter 2 of the laws of 1988, and
28 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
29 or certification of rates of payment, are hereby suspended and without
30 force or effect for purposes of implementing the provisions of this act.

31 S 72. Severability clause. If any clause, sentence, paragraph, subdi-
32 vision, section or part of this act shall be adjudged by any court of
33 competent jurisdiction to be invalid, such judgment shall not affect,
34 impair or invalidate the remainder thereof, but shall be confined in its
35 operation to the clause, sentence, paragraph, subdivision, section or
36 part thereof directly involved in the controversy in which such judg-
37 ement shall have been rendered. It is hereby declared to be the intent
38 of the legislature that this act would have been enacted even if such
39 invalid provisions had not been included herein.

40 S 73. This act shall take effect immediately and shall be deemed to
41 have been in full force and effect on and after April 1, 2010, provided
42 that:

43 (a) section twelve of this act shall take effect June 1, 2010;
44 sections thirty-two and thirty-three of this act shall take effect July
45 1, 2010; and sections twenty-six, twenty-seven, twenty-eight, twenty-
46 nine, thirty and thirty-seven of this act shall take effect January 1,
47 2011;

48 (b) any rules or regulations necessary to implement the provisions of
49 this act may be promulgated and any procedures, forms, or instructions
50 necessary for such implementation may be adopted and issued on or after
51 the date this act shall have become a law;

52 (c) this act shall not be construed to alter, change, affect, impair
53 or defeat any rights, obligations, duties or interests accrued, incurred
54 or conferred prior to the effective date of this act;

(d) the commissioner of health and the superintendent of insurance and any appropriate council may take any steps necessary to implement this act prior to its effective date;

(e) notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of insurance and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date;

(f) the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of insurance or any council to adopt or amend or promulgate regulations implementing this act;

(g) the amendments to subdivision 8 of section 272 of the public health law made by section eleven of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(h) the amendments to subparagraph (ii) of paragraph (b) of subdivision 9 of section 367-a of the social services law made by section thirteen of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(i) the amendments to section 2807-j of the public health law made by sections sixteen and forty-five of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(j) the amendments to section 2807-s of the public health law made by section twenty of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(k) the amendments to subdivision 7 of section 2510 of the public health law made by section thirty-two of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(l) the amendments to article 2-A of the public health law made by section thirty-eight of this act shall not affect the repeal of such article and shall be deemed repealed therewith;

(m) the amendments to subdivision 1 of section 2802-a of the public health law made by section forty-one of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(n) sections forty-six through forty-six-i of this act shall expire and be deemed repealed on and after March 31, 2011; and

(o) the amendments to paragraph (d) of subdivision 3 of section 367-a of the social services law made by section sixty-seven-a of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith.

PART C

Section 1. Subdivision 17 of section 2808 of the public health law, as added by chapter 433 of the laws of 1997, is amended to read as follows:

17. (A) Notwithstanding any inconsistent provision of law or regulation to the contrary, for the period April first, nineteen hundred ninety-seven through March thirty-first, nineteen hundred ninety-eight, the commissioner shall not be required to revise a certified rate of payment established pursuant to this article based on consideration of rate appeals filed by a residential health care facility or based upon adjustments to capital cost reimbursement as a result of approval by the commissioner of an application for construction under section twenty-eight hundred two of this article. For the period April first, nineteen hundred ninety-eight, through March thirty-first, nineteen hundred nine-

ty-nine, the commissioner shall revise certified rates of payment in an aggregate amount not to exceed twenty million dollars, state share medical assistance. In cases where the commissioner determines that a significant financial hardship exists, he or she may, subject to the approval of the director of the budget, consider an exemption to this subdivision. Beginning April first, nineteen hundred ninety-nine and thereafter, the commissioner shall consider such rate appeals within a reasonable period.

(B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGULATION TO THE CONTRARY, FOR STATE FISCAL YEAR PERIODS BEGINNING APRIL FIRST, TWO THOUSAND TEN AND ENDING MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, THE COMMISSIONER SHALL NOT BE REQUIRED TO REVISE CERTIFIED RATES OF PAYMENT ESTABLISHED PURSUANT TO THIS ARTICLE FOR RATE PERIODS PRIOR TO APRIL FIRST, TWO THOUSAND TWELVE, BASED ON CONSIDERATION OF RATE APPEALS FILED BY RESIDENTIAL HEALTH CARE FACILITIES OR BASED UPON ADJUSTMENTS TO CAPITAL COST REIMBURSEMENT AS A RESULT OF APPROVAL BY THE COMMISSIONER OF AN APPLICATION FOR CONSTRUCTION UNDER SECTION TWENTY-EIGHT HUNDRED TWO OF THIS ARTICLE, IN EXCESS OF AGGREGATE ANNUAL AMOUNTS OF EIGHTY MILLION DOLLARS FOR EACH SUCH STATE FISCAL YEAR. IN REVISING SUCH RATES WITHIN SUCH FISCAL LIMITS THE COMMISSIONER MAY PRIORITIZE RATE APPEALS FOR FACILITIES WHICH THE COMMISSIONER DETERMINES ARE FACING SIGNIFICANT FINANCIAL HARDSHIP AND, FURTHER, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO AGREEMENTS WITH SUCH FACILITIES TO RESOLVE MULTIPLE PENDING RATE APPEALS BASED UPON A NEGOTIATED AGGREGATE AMOUNT AND MAY OFFSET SUCH NEGOTIATED AGGREGATE AMOUNTS AGAINST ANY AMOUNTS OWED BY THE FACILITY TO THE DEPARTMENT, INCLUDING, BUT NOT LIMITED TO, AMOUNTS OWED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THIS ARTICLE. RATE ADJUSTMENTS MADE PURSUANT TO THIS PARAGRAPH REMAIN FULLY SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE.

S 2. Section 2808 of the public health law is amended by adding a new subdivision 25 to read as follows:

25. RESERVED BED DAYS. (A) FOR PURPOSES OF THIS SUBDIVISION, A "RESERVED BED DAY" IS A DAY FOR WHICH A GOVERNMENTAL AGENCY PAYS A RESIDENTIAL HEALTH CARE FACILITY TO RESERVE A BED FOR A PERSON ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW WHILE HE OR SHE IS TEMPORARILY HOSPITALIZED OR ON LEAVE OF ABSENCE FROM THE FACILITY.

(B) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION OR ANY OTHER LAW OR REGULATION TO THE CONTRARY, FOR RESERVED BED DAYS PROVIDED ON BEHALF OF PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(I) PAYMENTS FOR RESERVED BED DAYS SHALL BE MADE AT NINETY-FIVE PERCENT OF THE MEDICAID RATE OTHERWISE PAYABLE TO THE FACILITY FOR SERVICES PROVIDED ON BEHALF OF SUCH PERSON;

(II) PAYMENT TO A FACILITY FOR RESERVED BED DAYS PROVIDED ON BEHALF OF SUCH PERSON FOR TEMPORARY HOSPITALIZATIONS MAY NOT EXCEED FOURTEEN DAYS IN ANY TWELVE MONTH PERIOD;

(III) PAYMENT TO A FACILITY FOR RESERVED BED DAYS PROVIDED ON BEHALF OF SUCH PERSON FOR NON-HOSPITALIZATION LEAVES OF ABSENCE MAY NOT EXCEED TEN DAYS IN ANY TWELVE MONTH PERIOD.

S 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section 2807-d of the public health law, as amended by section 37 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(vi) Notwithstanding any contrary provision of this paragraph or any other provision of law or regulation to the contrary, for residential health care facilities the assessment shall be six percent of each resi-

1 dental health care facility's gross receipts received from all patient
2 care services and other operating income on a cash basis for the period
3 April first, two thousand two through March thirty-first, two thousand
4 three for hospital or health-related services, including adult day
5 services; provided, however, that residential health care facilities'
6 gross receipts attributable to payments received pursuant to title XVIII
7 of the federal social security act (medicare) shall be excluded from the
8 assessment; provided, however, that for all such gross receipts received
9 on or after April first, two thousand three through March thirty-first,
10 two thousand five, such assessment shall be five percent, and further
11 provided that for all such gross receipts received on or after April
12 first, two thousand five through March thirty-first, two thousand nine,
13 and on or after April first, two thousand nine through March thirty-
14 first, two thousand [eleven] TEN, such assessment shall be six percent,
15 AND PROVIDED FURTHER, HOWEVER, THAT ON AND AFTER APRIL FIRST, TWO THOU-
16 SAND TEN, SUCH ASSESSMENT SHALL BE SEVEN PERCENT.

17 S 4. Paragraph (c) of subdivision 10 of section 2807-d of the public
18 health law, as amended by section 2 of part H of chapter 686 of the laws
19 of 2003, is amended to read as follows:

20 (c) provided, however, that for the purposes of determining rates of
21 payment pursuant to this article for residential health care facilities,
22 the assessment imposed pursuant to subparagraph (vi) of paragraph (b) of
23 subdivision two of this section shall be a reimbursable cost to be
24 reflected as timely as practicable, and subsequently reconciled to actu-
25 al cost, in rates of payment applicable within the assessment period,
26 PROVIDED, HOWEVER, THAT SUCH ASSESSMENTS IN EXCESS OF SIX PERCENT SHALL
27 NOT BE A REIMBURSABLE COST FOR THE PURPOSES OF DETERMINING MEDICAID
28 RATES OF PAYMENT.

29 S 5. Subparagraph (i) of paragraph (b) of subdivision 2-b of section
30 2808 of the public health law, as amended by section 3 of part D of
31 chapter 58 of the laws of 2009, is amended to read as follows:

32 (i) Subject to the provisions of subparagraphs (ii) through (xiv) of
33 this paragraph, for periods on and after April first, two thousand nine
34 through [March thirty-first, two thousand ten] FEBRUARY TWENTY-EIGHTH,
35 TWO THOUSAND ELEVEN the operating cost component of rates of payment
36 shall reflect allowable operating costs as reported in each facility's
37 cost report for the two thousand two calendar year, as adjusted for
38 inflation on an annual basis in accordance with the methodology set
39 forth in paragraph (c) of subdivision ten of section twenty-eight
40 hundred seven-c of this article, provided, however, that for those
41 facilities which do not receive a per diem add-on adjustment pursuant to
42 subparagraph (ii) of paragraph (a) of this subdivision, rates shall be
43 further adjusted to include the proportionate benefit, as determined by
44 the commissioner, of the expiration of the opening paragraph and para-
45 graph (a) of subdivision sixteen of this section and of paragraph (a) of
46 subdivision fourteen of this section, and provided further that the
47 operating cost component of rates of payment for those facilities which
48 did not receive a per diem adjustment in accordance with subparagraph
49 (ii) of paragraph (a) of this subdivision shall not be less than the
50 operating component such facilities received in the two thousand eight
51 rate period, as adjusted for inflation on an annual basis in accordance
52 with the methodology set forth in paragraph (c) of subdivision ten of
53 section twenty-eight hundred seven-c of this article and further
54 provided, however, that rates for facilities whose operating cost compo-
55 nent reflects base year costs subsequent to January first, two thousand
56 two shall have rates computed in accordance with this paragraph, utiliz-

1 ing allowable operating costs as reported in such subsequent base year
2 period, and trended forward to the rate year in accordance with applica-
3 ble inflation factors.

4 S 5-a. The opening paragraph and subparagraph (vi) of paragraph (a),
5 and subparagraph (i) of paragraph (d) of subdivision 2-c of section 2808
6 of the public health law, as added by section 5 of part D of chapter 58
7 of the laws of 2009, are amended to read as follows:

8 Notwithstanding any inconsistent provision of this section or any
9 other contrary provision of law and subject to the availability of
10 federal financial participation, the operating costs of rates of payment
11 by governmental agencies for inpatient services provided by residential
12 health care facilities on and after [April first, two thousand ten]
13 MARCH FIRST, TWO THOUSAND ELEVEN shall be determined in accordance with
14 the following; PROVIDED, HOWEVER, THAT THE PROVISIONS OF PARAGRAPH (D)
15 OF THIS SUBDIVISION SHALL BE EFFECTIVE ON AND AFTER APRIL FIRST, TWO
16 THOUSAND TEN:

17 (vi) Notwithstanding subparagraph (i) of this paragraph, the operating
18 cost component of the rates, effective [April first, two thousand ten]
19 MARCH FIRST, TWO THOUSAND ELEVEN for the following categories of facili-
20 ties, as established pursuant to applicable regulations, shall reflect
21 the rates in effect for such facilities on [March thirty-first, two
22 thousand ten] FEBRUARY TWENTY-EIGHTH, TWO THOUSAND ELEVEN, as adjusted
23 for inflation in accordance with applicable statutes: (A) AIDS facili-
24 ties or discrete AIDS units within facilities, (B) discrete units for
25 residents receiving care in a long-term inpatient rehabilitation program
26 for traumatic brain injured persons, (C) discrete units providing
27 specialized programs for residents requiring behavioral interventions,
28 (D) discrete units for long-term ventilator dependent residents, and (E)
29 facilities or discrete units within facilities that provide extensive
30 nursing, medical, psychological and counseling support services solely
31 to children. Such rate shall remain in effect until the department, in
32 consultation with representatives of the nursing home industry, as
33 selected by the commissioner, develops a regional pricing or alternative
34 methodology for determining such rates.

35 (i) Subject to the availability of federal financial participation,
36 the commissioner is authorized to establish a quality of care incentive
37 pool or pools for eligible residential health care facilities and
38 increase Medicaid rates of payment for such eligible facilities from
39 this pool or pools IN AGGREGATE AMOUNTS OF UP TO FIFTY MILLION DOLLARS
40 FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND TEN AND
41 WITHIN AMOUNTS APPROPRIATED FOR EACH STATE FISCAL YEAR THEREAFTER.
42 Within amounts available, payments will be determined by the commis-
43 sioner by applying criteria, including, but not limited to, the quality
44 components of the minimum data set required under federal law, survey
45 information, direct care staffing, including labor costs, and other
46 facility data.

47 S 5-b. Section 2 of part D of chapter 58 of the laws of 2009, amending
48 the public health law and other laws relating to Medicaid reimbursements
49 to residential health care facilities, is amended to read as follows:

50 S 2. Notwithstanding paragraph (b) of subdivision 2-b of section 2808
51 of the public health law or any other contrary provision of law, with
52 regard to adjustments to medicaid rates of payment for inpatient
53 services provided by residential health care facilities for the period
54 April 1, 2009 through March 31, 2010, made pursuant to paragraph (b) of
55 subdivision 2-b of section 2808 of the public health law, the commis-
56 sioner of health and the director of the budget shall, upon a determi-

1 nation that such adjustments, including the application of adjustments
2 authorized by the provisions of paragraph (g) of subdivision 2-b of
3 section 2808 of the public health law, shall result in an aggregate
4 increase in total Medicaid rates of payment for such services for such
5 period that is less than or more than two hundred ten million dollars
6 (\$210,000,000), make such proportional adjustments to such rates as are
7 necessary to result in an increase of such aggregate expenditures of two
8 hundred ten million dollars (\$210,000,000), [and provided further,
9 however, that the operating component of such rates for the period April
10 1, 2009 through March 31, 2010 shall not be subject to case mix adjust-
11 ments pursuant to subparagraph (ii) of paragraph (b) of subdivision 2-b
12 of section 2808 of the public health law, as otherwise scheduled pursu-
13 ant to such subparagraph for January of 2010,] and provided further,
14 however, that notwithstanding [subdivision 2-c of] section 2808 of the
15 public health law or any other contrary provision of law, with regard to
16 adjustments to inpatient rates of payment made pursuant to [subdivision
17 2-c of] section 2808 of the public health law for inpatient services
18 provided by residential health care facilities for the period April 1,
19 2010 through March 31, 2011, the commissioner of health and the director
20 of the budget shall, upon a determination by such commissioner and such
21 director that such rate adjustments shall, prior to the application of
22 any applicable adjustment for inflation, result in an aggregate increase
23 in total Medicaid rates of payment for such services, INCLUDING PAYMENTS
24 MADE PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (D) OF SUBDIVISION 2-C OF
25 SECTION 2808 OF THE PUBLIC HEALTH LAW, make such proportional adjust-
26 ments to such rates as are necessary to reduce such total aggregate rate
27 adjustments such that the aggregate total reflects no such increase OR
28 DECREASE, AND PROVIDED FURTHER, HOWEVER, THE CASE MIX ADJUSTMENTS AS
29 OTHERWISE AUTHORIZED BY SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVI-
30 SION 2-B OF SECTION 2808 OF THE PUBLIC HEALTH LAW AND AS SCHEDULED FOR
31 JANUARY OF 2011 SHALL NOT BE MADE. Adjustments made pursuant to this
32 section shall not be subject to subsequent correction or reconciliation.

33 S 5-c. Section 48 of part C of chapter 109 of the laws of 2006, amend-
34 ing the social services law and other laws relating to the Medicaid
35 reimbursement rate settings, as amended by section 6 of part D of chap-
36 ter 58 of the laws of 2009, is amended to read as follows:

37 S 48. Notwithstanding any contrary provision of law, the commissioner
38 of health shall, by no later than May 15, 2007, establish a workgroup
39 pertaining to Medicaid reimbursement rate-setting for residential health
40 care facilities for future periods, including, but not limited to, the
41 following areas:

42 (a) operating costs that should be considered allowable in the devel-
43 opment of regional prices;

44 (b) identification of appropriate cost differentials among facilities
45 based on factors including, but not limited to, size, affiliation,
46 location, public versus non-public, facility layout, culture exchange
47 initiatives and labor costs, including the most appropriate mechanism to
48 adjust rates of payment to reflect appropriate cost differentials
49 related to direct care staffing, including adjustments to the direct
50 component of the operating cost component of such rate, establishment of
51 a quality care incentive pool pursuant to subdivision [(2-c)] 2-C of
52 section 2808 of the public health law or other mechanisms;

53 (c) reimbursement for facilities providing care to specialized popu-
54 lations with specialized care needs;

55 (d) the relationship between facility spending on various costs and
56 quality of care and patient outcomes;

- 1 (e) appropriate regions to be utilized;
2 (f) the reasons underlying the existing proportion of Medicaid
3 patients to non-Medicaid patients in New York facilities;
4 (g) issues related to Medicare;
5 (h) impact of planned rightsizing of the acute care system;
6 (i) impact of planned rightsizing of nursing home system;
7 (j) impact of using Medicaid only case mix; and
8 (k) other issues as determined by the commissioner.

9 The members of the workgroup shall include department of health staff
10 and representatives of statewide associations representing the residen-
11 tial health care facility industry in New York, organizations represent-
12 ing employees, and, by May thirty-first, two thousand nine, advocates
13 for residential health care facility residents and representatives of
14 regional associations representing the residential health care facility
15 industry in New York. The workgroup shall work in consultation with the
16 assembly and the senate. The commissioner of health shall appoint the
17 chair of the workgroup and designate such employees of the department of
18 health as are reasonably necessary to provide necessary data and support
19 services to the workgroup. The commissioner of health shall submit an
20 interim report summarizing the workgroup's deliberations and the commis-
21 sioner of health's recommendations to the governor, the temporary presi-
22 dent of the senate, the speaker of the assembly, and the minority lead-
23 ers of the senate and the assembly by [December fifteenth, two thousand
24 nine] JULY 1, 2010, and a subsequent report shall be submitted to these
25 individuals no later than [February fifteenth, two thousand ten] NOVEM-
26 BER 1, 2010. The workgroup shall continue until December thirty-first,
27 two thousand ten to evaluate the implementation of the new system.

28 S 6. Section 2808 of the public health law is amended by adding a new
29 subdivision 26 to read as follows:

30 26. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, FOR RATE PERI-
31 ODS ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, RESIDENTIAL HEALTH CARE
32 FACILITY MEDICAID RATES OF PAYMENT SHALL NOT INCLUDE REIMBURSEMENT FOR
33 THE COST OF PRESCRIPTION DRUGS. SUCH REIMBURSEMENT SHALL BE IN ACCORD-
34 ANCE WITH OTHERWISE APPLICABLE PROVISIONS OF SECTION THREE HUNDRED
35 SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

36 S 7. Paragraph (c) of subdivision 2 of section 3614-a of the public
37 health law, as added by section 1 of part B of chapter 58 of the laws of
38 2009, is amended to read as follows:

39 (c) Notwithstanding any contrary provisions of this section or any
40 other contrary provision of law or regulation, for certified home health
41 agencies and for providers of long term home health care programs the
42 assessment shall be thirty-five hundredths of one percent of each agen-
43 cy's or provider's gross receipts received from all home health care
44 services and other operating income on a cash basis for periods on and
45 after April first, two thousand nine, PROVIDED, HOWEVER, THAT FOR PERI-
46 ODS ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, SUCH ASSESSMENT FOR SUCH
47 SERVICES SHALL BE SEVEN TENTHS OF ONE PERCENT OF EACH AGENCY'S OR
48 PROVIDER'S GROSS RECEIPTS.

49 S 8. Subdivision 6 of section 3614-a of the public health law is
50 amended by adding a new paragraph (g) to read as follows:

51 (G) DELINQUENT AMOUNTS WHICH HAVE BEEN REFERRED FOR RECOUPMENT OR
52 OFFSET PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, OR WHICH HAVE BEEN
53 REFERRED TO THE OFFICE OF THE ATTORNEY GENERAL FOR COLLECTION, SHALL BE
54 DEEMED FINAL AND NOT SUBJECT TO FURTHER REVISION OR RECONCILIATION BY
55 THE COMMISSIONER BASED ON ANY ADDITIONAL REPORTS OR OTHER INFORMATION
56 SUBMITTED BY THE AGENCY OR PROVIDER, PROVIDED, HOWEVER, THAT SUCH DELIN-

QUENCIES SHALL NOT BE REFERRED FOR SUCH RECOUPMENT OR FOR SUCH COLLECTION BASED ON ESTIMATED AMOUNTS UNLESS THE AGENCY OR THE PROVIDER HAS RECEIVED WRITTEN NOTIFICATION OF SUCH DELINQUENCIES AND HAS BEEN GIVEN NO LESS THAN THIRTY DAYS IN WHICH TO SUBMIT DELINQUENT REPORTS.

S 9. Paragraph (b) of subdivision 2 of section 3614-b of the public health law, as added by section 3 of part B of chapter 58 of the laws of 2009, is amended to read as follows:

(b) Notwithstanding any contrary provisions of this section or any other contrary provision of law or regulation, the assessment shall be thirty-five hundredths 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 April first, two thousand nine, PROVIDED, HOWEVER, THAT FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, SUCH ASSESSMENT FOR SUCH SERVICES SHALL BE SEVEN TENTHS OF ONE PERCENT OF EACH SUCH LICENSED HOME CARE SERVICES AGENCY'S GROSS RECEIPTS.

S 10. Subdivision 6 of section 3614-b of the public health law is amended by adding a new paragraph (g) to read as follows:

(G) DELINQUENT AMOUNTS WHICH HAVE BEEN REFERRED FOR RECOUPMENT OR OFFSET PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, OR WHICH HAVE BEEN REFERRED TO THE OFFICE OF THE ATTORNEY GENERAL FOR COLLECTION, SHALL BE DEEMED FINAL AND NOT SUBJECT TO FURTHER REVISION OR RECONCILIATION BY THE COMMISSIONER BASED ON ANY ADDITIONAL REPORTS OR OTHER INFORMATION SUBMITTED BY THE AGENCY, PROVIDED, HOWEVER, THAT SUCH DELINQUENCIES SHALL NOT BE REFERRED FOR SUCH RECOUPMENT OR FOR SUCH COLLECTION BASED ON ESTIMATED AMOUNTS UNLESS THE AGENCY HAS RECEIVED WRITTEN NOTIFICATION OF SUCH DELINQUENCIES AND HAS BEEN GIVEN NO LESS THAN THIRTY DAYS IN WHICH TO SUBMIT DELINQUENT REPORTS.

S 11. Paragraph (b) of subdivision 2 of section 367-i of the social services law, as added by section 4 of part B of chapter 58 of the laws of 2009, is amended to read as follows:

(b) Notwithstanding any contrary provisions of this section or any other contrary provision of law or regulation, the assessment shall be thirty-five hundredths of one percent of each such provider's gross receipts from all personal care services and other operating income on a cash basis for periods on and after April first, two thousand nine, PROVIDED, HOWEVER, THAT FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, SUCH ASSESSMENT FOR SUCH SERVICES SHALL BE SEVEN TENTHS OF ONE PERCENT OF EACH SUCH PROVIDER'S GROSS RECEIPTS.

S 12. Subdivision 6 of section 367-i of the social services law is amended by adding a new paragraph (f) to read as follows:

(F) DELINQUENT AMOUNTS WHICH HAVE BEEN REFERRED FOR RECOUPMENT OR OFFSET PURSUANT TO PARAGRAPH (C) OF SUBDIVISION FIVE OF THIS SECTION, OR WHICH HAVE BEEN REFERRED TO THE OFFICE OF THE ATTORNEY GENERAL FOR COLLECTION, SHALL BE DEEMED FINAL AND NOT SUBJECT TO FURTHER REVISION OR RECONCILIATION BY THE COMMISSIONER OF HEALTH BASED ON ANY ADDITIONAL REPORTS OR OTHER INFORMATION SUBMITTED BY THE PROVIDER, PROVIDED, HOWEVER, THAT SUCH DELINQUENCIES SHALL NOT BE REFERRED FOR SUCH RECOUPMENT OR FOR SUCH COLLECTION BASED ON ESTIMATED AMOUNTS UNLESS THE PROVIDER HAS RECEIVED WRITTEN NOTIFICATION OF SUCH DELINQUENCIES AND HAS BEEN GIVEN NO LESS THAN THIRTY DAYS IN WHICH TO SUBMIT DELINQUENT REPORTS.

S 13. Paragraph (e) of subdivision 2 of section 365-a of the social services law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(e) (I) personal care services, including personal emergency response services, shared aide and an individual aide, WHICH, FOR INDIVIDUALS WHO

1 HAVE ATTAINED THE AGE OF TWENTY-ONE, AND SUBJECT TO THE PROVISIONS OF
2 SUBPARAGRAPH (II) OF THIS PARAGRAPH, SHALL NOT EXCEED AN AVERAGE OF
3 TWELVE HOURS PER DAY IN ANY AUTHORIZATION PERIOD, furnished to an indi-
4 vidual who is not an inpatient or resident of a hospital, nursing facil-
5 ity, intermediate care facility for the mentally retarded, or institu-
6 tion for mental disease, as determined to meet the recipient's needs for
7 assistance [when cost effective and appropriate in accordance with
8 section three hundred sixty-seven-k and section three hundred sixty-sev-
9 en-o of this title], and when prescribed by a physician, in accordance
10 with the recipient's plan of treatment and provided by individuals who
11 are qualified to provide such services, who are supervised by a regis-
12 tered nurse and who are not members of the recipient's family, and
13 furnished in the recipient's home or other location;

14 (II) MEDICALLY NECESSARY PERSONAL CARE SERVICES THAT EXCEED AN AVERAGE
15 OF TWELVE HOURS PER DAY IN ANY AUTHORIZATION PERIOD MAY BE PROVIDED TO
16 AN INDIVIDUAL WHO IS RECEIVING SERVICES FROM A CERTIFIED HOME HEALTH
17 AGENCY, OR IS ENROLLED IN THE LONG TERM HOME HEALTH CARE PROGRAM, A
18 MANAGED LONG TERM CARE PLAN, THE AIDS HOME CARE PROGRAM, OR THE NURSING
19 HOME TRANSITION AND DIVERSION WAIVER, IN ACCORDANCE WITH THE TERMS OF
20 THOSE PROGRAMS.

21 S 13-a. Section 365-f of the social services law is amended by adding
22 a new subdivision 2-a to read as follows:

23 2-A. PERSONAL CARE SERVICES PROVIDED UNDER THIS SECTION TO AN INDIVID-
24 UAL WHO HAS ATTAINED THE AGE OF TWENTY-ONE, AND WHO IS NOT RECEIVING
25 SUCH SERVICES FROM A CERTIFIED HOME HEALTH AGENCY, A LONG TERM HOME
26 HEALTH CARE PROGRAM, OR AN AIDS HOME CARE PROGRAM, SHALL NOT EXCEED AN
27 AVERAGE OF TWELVE HOURS PER DAY IN ANY AUTHORIZATION PERIOD.

28 S 13-b. Subdivision 6-a of section 366 of the social services law is
29 amended by adding a new paragraph i to read as follows:

30 I. NOTWITHSTANDING THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION
31 AND THE AGGREGATE COST PROVISION OF PARAGRAPH A OF THIS SUBDIVISION, A
32 PERSON MAY PARTICIPATE IN THE NURSING HOME TRANSITION AND DIVERSION
33 PROGRAM SPECIFIED IN THIS SUBDIVISION IF THE PERSON: HAS A MEDICAL NEED
34 FOR SERVICES THAT ARE DESCRIBED IN PARAGRAPH (E) OF SUBDIVISION TWO OF
35 SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE OR IN SECTION THREE
36 HUNDRED SIXTY-FIVE-F OF THIS TITLE BUT THAT EXCEED A LIMIT IMPOSED BY
37 SUCH PROVISIONS; AND IS OTHERWISE INELIGIBLE FOR, OR IS UNABLE TO
38 ACCESS, LONG-TERM COMMUNITY-BASED SERVICES AVAILABLE UNDER THIS TITLE;
39 AND OTHERWISE MEETS THE CRITERIA FOR PARTICIPATION SET FORTH IN THIS
40 SUBDIVISION.

41 S 14. Section 3614 of the public health law is amended by adding a new
42 subdivision 12 to read as follows:

43 12. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGU-
44 LATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTIC-
45 IPATION, EFFECTIVE JANUARY FIRST, TWO THOUSAND TWELVE, PAYMENTS BY
46 GOVERNMENT AGENCIES FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGEN-
47 CIES, EXCEPT FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS
48 OF AGE AND OTHER DISCRETE GROUPS AS MAY BE DETERMINED BY THE COMMISSION-
49 ER PURSUANT TO REGULATIONS, SHALL BE BASED ON EPISODIC PAYMENTS. IN
50 ESTABLISHING SUCH PAYMENTS, THE COMMISSIONER SHALL TAKE INTO CONSIDER-
51 ATION THE FINDINGS OF THE HOME HEALTH CARE REIMBURSEMENT WORKGROUP
52 ESTABLISHED PURSUANT TO SECTION ONE HUNDRED TWENTY-FIVE-D OF PART C OF
53 CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND NINE; PROVIDED FURTHER
54 THAT A BASE PRICE SHALL BE ESTABLISHED FOR EACH EPISODE OF CARE AND
55 ADJUSTED BY A WAGE INDEX FACTOR AND AN INDIVIDUAL PATIENT CASE MIX
56 INDEX. SUCH EPISODIC PAYMENTS MAY BE FURTHER ADJUSTED FOR LOW AND HIGH-

UTILIZATION CASES THAT EXCEED OUTLIER THRESHOLDS OF SUCH PAYMENTS. BASE YEAR EPISODIC PAYMENTS SHALL BE FURTHER ADJUSTED TO THE APPLICABLE RATE YEAR IN ACCORDANCE WITH APPLICABLE TREND FACTOR ADJUSTMENTS. THE COMMISSIONER MAY REQUIRE AGENCIES TO COLLECT AND SUBMIT ANY DATA REQUIRED TO IMPLEMENT THIS SUBDIVISION. THE COMMISSIONER MAY PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

(B) WITHIN AMOUNTS APPROPRIATED AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, THE COMMISSIONER SHALL ESTABLISH AN INCENTIVE POOL FOR RATE ADJUSTMENTS TO ELIGIBLE AGENCIES THAT MEET QUALITY MEASURES, AS ESTABLISHED BY THE COMMISSIONER. SUCH PAYMENTS SHALL BE MADE IN THE FORM OF ADJUSTMENTS TO MEDICAID RATES OF PAYMENT FOR SERVICES PROVIDED BY AGENCIES MEETING SUCH QUALITY MEASURES.

S 15. Subdivision 2 of section 3616 of the public health law, as amended by chapter 622 of the laws of 1988, is amended to read as follows:

2. Continued provision of a long term home health care program, AIDS home care program or certified home health agency services paid for by government funds shall be based upon a comprehensive assessment of the medical, social and environmental needs of the recipient of the services. Such assessment shall be performed at least every one hundred [twenty] EIGHTY days by the provider of a long term home health care program, AIDS home care program or the certified home health agency providing services for the patient and the local department of social services, and shall be reviewed by a physician charged with the responsibility by the commissioner. The commissioner shall prescribe the forms on which the assessment will be made.

S 16. Notwithstanding any provision of law or regulation to the contrary, and subject to the availability of federal financial participation, the commissioner of health shall establish procedures to permit long-term home health care programs and providers of other services covered pursuant to federal waivers, or which provide case management services, to collaborate to jointly serve individuals when the services of both entities are necessary to meet such an individual's needs; provided, however, that such entities shall maintain distinct yet coordinated service and case management responsibilities and shall not duplicate benefits.

S 17. Intentionally omitted.

S 18. Subdivision 3 of section 3612 of the public health law, as amended by chapter 606 of the laws of 2003, is amended to read as follows:

3. Any organization which provides or makes available any home care services to the public in this state, in any organized program developed or rendered under its auspices or provided under contract with any such organization, shall submit annually to the commissioner a complete description of its operation, including name, address, location or principal place of business, ownership, identification of administrative personnel responsible for home care services programs, the nature and extent of such programs, and such other information as the commissioner shall require. For certified home health agencies and licensed home care services agencies such annual report shall include reports on the type, frequency and reimbursement for services provided, including reimbursement from federal and state governmental agencies. The commissioner shall determine the form and content of the information compiled and the annual date for submission of such information. The commissioner shall require certified home health agencies to provide all information necessary to a licensed home care services agency sub-contracting with such

1 certified home health agency, to allow such licensed home care services
2 agency to file its annual report. The commissioner shall make such
3 information available to the appropriate governmental agencies of the
4 state, the counties and the city of New York so as to make known the
5 availability of home care services to provide data for planning for
6 health needs of the people of the state. This information shall be
7 available to the public and to the health systems agencies. ANY ORGAN-
8 IZATION SUBJECT TO THE REPORTING REQUIREMENTS OF THIS SUBDIVISION SHALL
9 BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR
10 EACH VIOLATION OF SUCH REQUIREMENTS. SUCH PENALTY MAY BE RECOVERED BY AN
11 ACTION BROUGHT BY THE COMMISSIONER IN ANY COURT OF COMPETENT JURISDIC-
12 TION.

13 S 19. Federal-state Medicare shared savings partnership program.
14 Notwithstanding any provision of law to the contrary, the commissioner
15 of health shall seek federal approval for the establishment of a feder-
16 al-state Medicare shared savings partnership program. Such program may
17 include, among others, the following features: (a) an incentive through
18 shared savings to the state for achieving federal cost-savings and effi-
19 ciencies to Medicare, such as from reduced expenditures for hospital,
20 long-term care and other medical care provided to beneficiaries eligible
21 for both Medicare and Medicaid, which result from state initiatives in
22 the care and management of such beneficiaries; such incentive shall
23 provide for a reinvestment of a portion of such federal savings into the
24 state's health care system; (b) acceptance of risk by the state for the
25 delivery and financing of Medicare-covered services; and (c) an incen-
26 tive to permit providers of medical services to share in demonstrated
27 Medicare savings.

28 S 20. The social services law is amended by adding a new section 366-i
29 to read as follows:

30 S 366-I. LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM. 1. NOTWITH-
31 STANDING ANY INCONSISTENT PROVISION OF SECTIONS THREE HUNDRED SIXTY-SIX
32 OR THREE HUNDRED SIXTY-SIX-C OF THIS TITLE, OR ANY OTHER PROVISION OF
33 LAW, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO DEVELOP THE LONG-TERM
34 CARE FINANCING DEMONSTRATION PROGRAM, AN ALTERNATIVE PROGRAM FOR THE
35 ESTABLISHMENT OF ELIGIBILITY UNDER THE MEDICAL ASSISTANCE PROGRAM FOR UP
36 TO FIVE THOUSAND PERSONS.

37 2. THE PROVISIONS OF THIS SECTION SHALL NOT TAKE EFFECT UNLESS ALL
38 NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED
39 TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF HEALTH CARE
40 SERVICES PROVIDED TO PERSONS DETERMINED TO BE ELIGIBLE FOR MEDICAL
41 ASSISTANCE PURSUANT TO THIS SECTION.

42 3. DEFINED PRIVATE CONTRIBUTION. UPON BEING DETERMINED ELIGIBLE FOR
43 THE DEMONSTRATION, A PERSON SHALL DISCLOSE HIS OR HER HOUSEHOLD'S
44 RESOURCES AND INCOME TO THE LOCAL SOCIAL SERVICES DISTRICT, OR AN ENTITY
45 ACTING ON BEHALF OF SUCH DISTRICT PURSUANT TO SUBDIVISION FIVE OF THIS
46 SECTION, AND SHALL ENTER INTO AN AGREEMENT WITH SUCH DISTRICT OR ENTITY.
47 THE AGREEMENT SHALL REQUIRE THE PERSON TO APPLY A DEFINED PRIVATE
48 CONTRIBUTION TOWARD THE COST OF INSTITUTIONAL OR NON-INSTITUTIONAL
49 LONG-TERM CARE, AS DEFINED BY THE COMMISSIONER IN REGULATIONS. SUCH
50 REGULATIONS SHALL PROVIDE FOR TWO LEVELS OF CONTRIBUTION: (A) A LEVEL
51 THAT WOULD PERMIT A FULL MEDICAL ASSISTANCE RESOURCE EXEMPTION PURSUANT
52 TO PARAGRAPH (A) OF SUBDIVISION FOUR OF THIS SECTION; AND (B) A LEVEL OR
53 LEVELS THAT WOULD PERMIT A MEDICAL ASSISTANCE RESOURCE EXEMPTION THAT IS
54 EQUIVALENT TO THE VALUE OF THE CONTRIBUTION PURSUANT TO PARAGRAPH (B) OF
55 SUBDIVISION FOUR OF THIS SECTION.

1 4. MEDICAL ASSISTANCE ELIGIBILITY. UPON COMPLETION OF THE DEFINED
2 PRIVATE CONTRIBUTION REQUIRED BY SUCH AGREEMENT, THE PERSON MAY APPLY
3 FOR MEDICAL ASSISTANCE UNDER THIS TITLE AND, IF OTHERWISE ELIGIBLE,
4 SHALL BE ELIGIBLE FOR SUCH ASSISTANCE EITHER: (A) IN THE CASE OF AN
5 INDIVIDUAL WHO OPTS FOR A CONTRIBUTION LEVEL UNDER PARAGRAPH (A) OF
6 SUBDIVISION THREE OF THIS SECTION, WITHOUT REGARD TO OTHERWISE APPLICA-
7 BLE RESOURCE REQUIREMENTS OF THIS TITLE; OR (B) IN THE CASE OF AN INDI-
8 VIDUAL WHO OPTS FOR A CONTRIBUTION LEVEL UNDER PARAGRAPH (B) OF SUBDIVI-
9 SION THREE OF THIS SECTION, WITHOUT REGARD TO AN AMOUNT OF RESOURCES
10 THAT IS EQUIVALENT TO THE VALUE OF THE CONTRIBUTION. IN EITHER CASE,
11 ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER THIS TITLE SHALL, WITH RESPECT
12 TO THE AMOUNT OF RESOURCES THAT ARE EXEMPT FROM CONSIDERATION UNDER THIS
13 SUBDIVISION, BE WITHOUT REGARD TO THE LIEN AND ESTATE RECOVERY
14 PROVISIONS OF SECTION THREE HUNDRED SIXTY-NINE OF THIS TITLE; PROVIDED,
15 HOWEVER, THAT NOTHING HEREIN SHALL PREVENT THE IMPOSITION OF A LIEN OR
16 RECOVERY AGAINST PROPERTY OF AN INDIVIDUAL ON ACCOUNT OF MEDICAL ASSIST-
17 ANCE INCORRECTLY PAID.

18 5. THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT WITH A
19 PRIVATE ENTITY TO ASSIST IN THE ADMINISTRATION OF THE DEMONSTRATION
20 PROGRAM ESTABLISHED BY THIS SECTION. SUCH A CONTRACT MAY INCLUDE, WITH-
21 OUT LIMITATION, ASSISTANCE IN THE DEVELOPMENT OF THE CRITERIA FOR THE
22 DEFINED PRIVATE CONTRIBUTION, DRAFTING OF THE DEFINED CONTRIBUTION
23 AGREEMENT, ACCEPTING AND PROCESSING APPLICATIONS FOR DEMONSTRATION
24 PARTICIPATION UNDER THIS SECTION, AND ACCEPTING AND PROCESSING APPLICA-
25 TIONS FOR MEDICAL ASSISTANCE FOR DEMONSTRATION PARTICIPANTS. NOTWITH-
26 STANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND
27 ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED
28 FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMIS-
29 SIONER IS AUTHORIZED TO ENTER INTO A CONTRACT UNDER THIS SUBDIVISION
30 WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

31 6. THE COMMISSIONER SHALL SUBMIT A REPORT TO THE GOVERNOR, PRESIDENT
32 PRO TEM OF THE SENATE AND SPEAKER OF THE ASSEMBLY BY THE FIRST DAY OF
33 NOVEMBER, TWO THOUSAND FIFTEEN, ON THE IMPLEMENTATION OF THIS SECTION.
34 SUCH REPORT SHALL INCLUDE A STATEMENT AS TO THE EXTENT TO WHICH INDIVID-
35 UALS HAVE OPTED TO PARTICIPATE IN THE DEMONSTRATION, AN ANALYSIS OF THE
36 IMPACT OF THE DEMONSTRATION ON MEDICAL ASSISTANCE PROGRAM LONG-TERM CARE
37 COSTS, ANY RECOMMENDATIONS FOR LEGISLATIVE ACTION, AND SUCH OTHER
38 MATTERS AS MAY BE PERTINENT.

39 S 21. The social services law is amended by adding a new section 367-v
40 to read as follows:

41 S 367-V. COUNTY LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM. 1.
42 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE COMMISSIONER IS
43 AUTHORIZED TO ESTABLISH A LONG-TERM CARE FINANCING DEMONSTRATION
44 PROGRAM, TO OPERATE IN UP TO FIVE COUNTIES, FOR THE PURPOSE OF CREATING
45 INCENTIVES AND FUNDING FOR THE TRANSFORMATION OF COUNTY NURSING HOME
46 BEDS INTO OTHER LONG-TERM CARE SETTINGS.

47 2. (A) THE DEMONSTRATION PROGRAM ESTABLISHED PURSUANT TO THIS SECTION
48 SHALL PERMIT A PARTICIPATING COUNTY TO REDUCE ITS COUNTY NURSING HOME
49 BED CAPACITY, OR TO CLOSE A COUNTY NURSING HOME, AND TO INVEST ANY
50 RESULTING DEMONSTRATED SAVINGS IN PROGRAMS OR SERVICES THAT WILL, TO THE
51 EXTENT FEASIBLE, ENCOURAGE THE USE OF COMMUNITY-BASED LONG-TERM CARE
52 ALTERNATIVES TO INSTITUTIONAL CARE.

53 (B) SUCH PROGRAMS OR SERVICES MAY INCLUDE, BUT ARE NOT LIMITED TO:

54 (I) EXPANSION OF COMMUNITY-BASED SERVICES SUCH AS THE PROGRAM FOR
55 ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE), THE LONG TERM HOME HEALTH

1 CARE PROGRAM, THE MANAGED LONG TERM CARE PROGRAM, ADULT DAY CARE
2 SERVICES, AND CAREGIVER SUPPORT SERVICES;

3 (II) EXPANSION OF SENIOR HOUSING;

4 (III) ASSISTED LIVING PROGRAM;

5 (IV) PAYMENT OF SUBSIDIES TO ENCOURAGE ASSISTED LIVING PROGRAMS, ADULT
6 CARE FACILITIES, AND NON-PUBLIC NURSING HOMES TO ACCEPT HARD-TO-SERVE
7 RESIDENTS; AND

8 (V) CONTRACTS WITH NON-PUBLIC NURSING HOMES TO GUARANTEE BEDS FOR
9 THOSE HARD-TO-SERVE PERSONS WHO CHOOSE NURSING HOME CARE OR FOR WHOM
10 OTHER COMMUNITY-BASED OPTIONS ARE NOT FEASIBLE OR ARE UNAVAILABLE.

11 3. A COUNTY WISHING TO PARTICIPATE IN THE DEMONSTRATION PROGRAM ESTAB-
12 LISHED PURSUANT TO THIS SECTION SHALL DEVELOP A PLAN AND SUBMIT AN
13 APPLICATION FOR PARTICIPATION TO THE COMMISSIONER OF HEALTH DETAILING
14 SUCH PLAN AT A TIME AND IN A MANNER TO BE DETERMINED BY SUCH COMMISSION-
15 ER. THE COMMISSIONER IS AUTHORIZED TO APPROVE OR DISAPPROVE ANY SUCH
16 APPLICATION AND TO CERTIFY THE AMOUNT OF DEMONSTRATED SAVINGS.

17 4. NOTWITHSTANDING THE CAP ON SOCIAL SERVICES DISTRICT SHARES OF
18 MEDICAL ASSISTANCE EXPENDITURES ESTABLISHED PURSUANT TO SECTION ONE OF
19 PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND FIVE, THE
20 DIRECTOR OF THE DIVISION OF THE BUDGET IS AUTHORIZED, IN HIS OR HER SOLE
21 DISCRETION, TO ADJUST A DISTRICT'S CAP AMOUNT TO ACCOUNT FOR CHANGES IN
22 THE NON-FEDERAL SHARE OF MEDICAL ASSISTANCE RESULTING FROM ANY APPROVED
23 DEMONSTRATION PLAN.

24 5. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO SUBMIT ANY AMENDMENTS
25 TO THE STATE PLAN FOR MEDICAL ASSISTANCE AND ANY WAIVERS OF THE FEDERAL
26 SOCIAL SECURITY ACT THAT SUCH COMMISSIONER DETERMINES TO BE NECESSARY TO
27 OBTAIN FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SERVICES PROVIDED
28 PURSUANT TO THIS SECTION.

29 6. THE COMMISSIONER OF HEALTH SHALL SUBMIT A REPORT TO THE GOVERNOR,
30 PRESIDENT PRO TEM OF THE SENATE AND SPEAKER OF THE ASSEMBLY BY THE FIRST
31 DAY OF NOVEMBER, TWO THOUSAND FIFTEEN, ON THE IMPLEMENTATION OF THIS
32 SECTION. SUCH REPORT SHALL INCLUDE IDENTIFICATION OF THE COUNTIES
33 APPROVED TO PARTICIPATE IN THE DEMONSTRATION, A DESCRIPTION OF SUCH
34 COUNTIES' APPROVED DEMONSTRATION PLANS, AN ANALYSIS OF THE IMPACT OF THE
35 DEMONSTRATION ON LONG-TERM CARE COSTS AND SERVICE DELIVERY, ANY RECOM-
36 MENDATIONS FOR LEGISLATIVE ACTION, AND SUCH OTHER MATTERS AS MAY BE
37 PERTINENT.

38 S 22. Subdivision 6 of section 3614 of the public health law, as
39 amended by chapter 645 of the laws of 2003, is amended by adding a new
40 paragraph (c) to read as follows:

41 (C) THE DEPARTMENT SHALL CONDUCT A STUDY OF THE USE OF RESIDENT DATA
42 COLLECTED FROM A UNIFORM ASSESSMENT TOOL IDENTIFIED BY THE COMMISSIONER
43 WITH RESPECT TO ITS EFFECTIVENESS IN EVALUATION AND ADJUSTING RATES OF
44 PAYMENT FOR ASSISTED LIVING PROGRAMS. ON OR BEFORE JULY THIRTY-FIRST,
45 TWO THOUSAND ELEVEN, THE COMMISSIONER SHALL PROVIDE THE GOVERNOR, THE
46 SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE
47 CHAIRPERSONS OF THE ASSEMBLY AND SENATE HEALTH COMMITTEES WITH A REPORT
48 SETTING FORTH THE CONCLUSIONS OF SUCH STUDY.

49 S 23. Subdivision 2 of section 2801-e of the public health law, as
50 added by chapter 750 of the laws of 2004, is amended to read as follows:

51 2. Notwithstanding any inconsistent provision of law or regulation to
52 the contrary, a residential health care facility, as defined in section
53 twenty-eight hundred one of this article, may apply to temporarily
54 decertify or permanently convert a portion of its existing certified
55 beds to another type of program or service under the voluntary residen-
56 tial health care facility rightsizing demonstration program. The commis-

1 sioner may approve temporary decertifications and permanent conversions
2 of beds totaling no more than [two thousand five hundred] FIVE THOUSAND
3 residential health care facility beds on a statewide basis under this
4 program. Such approvals shall reflect, to the extent practicable,
5 participation by a variety of residential health care facilities based
6 on geography, size and other pertinent factors.

7 S 24. Subdivision 4 of section 4403-f of the public health law is
8 REPEALED and two new subdivisions 4 and 4-a are added to read as
9 follows:

10 4. SOLVENCY. (A) THE COMMISSIONER SHALL BE RESPONSIBLE FOR EVALUATING,
11 APPROVING AND REGULATING ALL MATTERS RELATING TO FISCAL SOLVENCY,
12 INCLUDING RESERVES, SURPLUS AND PROVIDER CONTRACTS. THE COMMISSIONER MAY
13 PROMULGATE REGULATIONS TO IMPLEMENT THIS SECTION. THE COMMISSIONER, IN
14 THE ADMINISTRATION OF THIS SUBDIVISION:

15 (I) SHALL BE GUIDED BY THE STANDARDS WHICH GOVERN THE FISCAL SOLVENCY
16 OF A HEALTH MAINTENANCE ORGANIZATION, PROVIDED, HOWEVER, THAT THE
17 COMMISSIONER SHALL RECOGNIZE THE SPECIFIC DELIVERY COMPONENTS, OPERA-
18 TIONAL CAPACITY AND FINANCIAL CAPABILITY OF THE ELIGIBLE APPLICANT FOR A
19 CERTIFICATE OF AUTHORITY;

20 (II) SHALL NOT APPLY FINANCIAL SOLVENCY STANDARDS THAT EXCEED THOSE
21 REQUIRED FOR A HEALTH MAINTENANCE ORGANIZATION; AND

22 (III) SHALL ESTABLISH REASONABLE CAPITALIZATION AND CONTINGENT RESERVE
23 REQUIREMENTS.

24 (B) STANDARDS ESTABLISHED PURSUANT TO THIS SUBDIVISION SHALL BE
25 ADEQUATE TO PROTECT THE INTERESTS OF ENROLLEES IN MANAGED LONG TERM CARE
26 PLANS. THE COMMISSIONER SHALL BE SATISFIED THAT THE ELIGIBLE APPLICANT
27 IS FINANCIALLY SOUND, AND HAS MADE ADEQUATE PROVISIONS TO PAY FOR
28 SERVICES.

29 4-A. ROLE OF THE SUPERINTENDENT OF INSURANCE. (A) THE SUPERINTENDENT
30 OF INSURANCE SHALL DETERMINE AND APPROVE PREMIUMS IN ACCORDANCE WITH THE
31 INSURANCE LAW WHENEVER ANY POPULATION OF ENROLLEES NOT ELIGIBLE UNDER
32 TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT IS TO BE COVERED. THE
33 DETERMINATION AND APPROVAL OF THE SUPERINTENDENT OF INSURANCE SHALL
34 RELATE TO PREMIUMS CHARGED TO SUCH ENROLLEES NOT ELIGIBLE UNDER TITLE
35 XIX OF THE FEDERAL SOCIAL SECURITY ACT.

36 (B) THE SUPERINTENDENT OF INSURANCE SHALL EVALUATE AND APPROVE ANY
37 ENROLLEE CONTRACTS WHENEVER SUCH ENROLLEE CONTRACTS ARE TO COVER ANY
38 POPULATION OF ENROLLEES NOT ELIGIBLE UNDER TITLE XIX OF THE FEDERAL
39 SOCIAL SECURITY ACT.

40 S 25. Paragraphs (a), (b) and (c) of subdivision 6 of section 4403-f
41 of the public health law, paragraph (a) as added by section 16 of part C
42 of chapter 58 of the laws of 2007 and paragraphs (b) and (c) as added by
43 chapter 659 of the laws of 1997, are amended to read as follows:

44 (a) An applicant shall be issued a certificate of authority as a
45 managed long term care plan upon a determination by the commissioner[,
46 subject to any applicable evaluations, approvals, and regulations of the
47 superintendent of insurance as stated in this section,] that the appli-
48 cant complies with the operating requirements for a managed long term
49 care plan under this section. The commissioner shall issue no more than
50 fifty certificates of authority to managed long term care plans pursuant
51 to this section. For purposes of issuance of no more than fifty certif-
52 icates of authority, such certificates shall include those certificates
53 issued pursuant to paragraphs (b) and (c) of this subdivision.

54 (b) An operating demonstration shall be issued a certificate of
55 authority as a managed long term care plan upon a determination by the
56 commissioner[, subject to the necessary evaluations, approvals and regu-

lations of the superintendent of insurance as stated in this section,] that such demonstration complies with the operating requirements for a managed long term care plan under this section. Except as otherwise expressly provided in paragraphs (d) and (e) of subdivision seven of this section, nothing in this section shall be construed to affect the continued legal authority of an operating demonstration to operate its previously approved program.

(c) An approved managed long term care demonstration shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner[, subject to the necessary evaluations, approvals and regulations of the superintendent of insurance set forth in this section,] that such demonstration complies with the operating requirements for a managed long term care plan under this section. Notwithstanding any inconsistent provision of law to the contrary, all authority for the operation of approved managed long term care demonstrations which have not been issued a certificate of authority as a managed long term care plan, shall expire one year after the adoption of regulations implementing managed long term care plans.

S 26. Paragraph (f) of subdivision 7 of section 4403-f of the public health law, as added by chapter 659 of the laws of 1997 and as relettered by section 20 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(f) Continuation of a certificate of authority issued under this section[, subject to the necessary evaluations, approvals and regulations of the superintendent of insurance,] shall be contingent upon satisfactory performance by the managed long term care plan in the delivery, continuity, accessibility, cost effectiveness and quality of the services to enrolled members; compliance with applicable provisions of this section and rules and regulations promulgated thereunder; the continuing fiscal solvency of the organization; and, federal financial participation in payments on behalf [on] OF enrollees who are eligible to receive services under title XIX of the federal social security act.

S 27. Subdivision 9 of section 4403-f of the public health law, as added by chapter 659 of the laws of 1997, is amended to read as follows:

9. Reports. The department shall provide an interim report to the governor, temporary president of the senate and the speaker of the assembly on or before April first, two thousand three and a final report on or before April first, two thousand six on the results of the managed long term care plans under this section. Such results shall be based on data provided by the managed long term care plans and shall include but not be limited to the quality, accessibility and appropriateness of services; consumer satisfaction; the mean and distribution of impairment measures of the enrollees by payor for each plan; the current method of calculating premiums and the cost of comparable health and long term care services provided on a fee-for-service basis for enrollees eligible for services under title XIX of the federal social security act; and the results of periodic reviews of enrollment levels and practices. [Such reports shall contain a section prepared by the superintendent of insurance as to the results of the plans approved in accordance with this section concerning the matters regulated by the superintendent of insurance.] Such reports shall [also] provide data on the demographic and clinical characteristics of enrollees, voluntary and involuntary disenrollments from plans, AND utilization of services and shall examine the feasibility of increasing the number of plans that may be approved. Data collected pursuant to this section shall be available to the public in an aggregated format to protect individual confidentiality, however

1 under no circumstance will data be released on items with cells with
2 smaller than statistically acceptable standards.

3 S 28. Paragraphs (b) and (c) of subdivision 5 of section 2808 of the
4 public health law, paragraph (b) as added by section 12 of part 00 of
5 chapter 57 of the laws of 2008, and paragraph (c) as added by section 11
6 of part D of chapter 58 of the laws of 2009, are amended to read as
7 follows:

8 (b) On and after April first, two thousand [eight] TEN, no NON-PUBLIC
9 residential health care facility may withdraw equity or transfer assets
10 which in the aggregate exceed three percent of such facility's total
11 [Medicaid] REPORTED ANNUAL revenue [in any calendar year] FOR PATIENT
12 CARE SERVICES, BASED ON THE FACILITY'S MOST RECENTLY AVAILABLE REPORTED
13 DATA, without prior written notification to the commissioner. Notifica-
14 tion shall be made in a form acceptable to the department by certified
15 or registered mail.

16 (c) Notwithstanding any inconsistent provision of this subdivision, on
17 and after April first, two thousand [nine] TEN, no non-public residen-
18 tial health care facility, whether operated as for-profit facility or as
19 a not-for-profit facility, may withdraw equity or transfer assets which
20 in the aggregate exceed three percent of such facility's total [Medi-
21 caid] REPORTED ANNUAL revenue [in the prior calendar year] FOR PATIENT
22 CARE SERVICES, BASED ON THE FACILITY'S MOST RECENTLY AVAILABLE REPORTED
23 DATA, without the prior written approval of the commissioner. The
24 commissioner shall make a determination to approve or disapprove a
25 request for withdrawal of equity or assets under this subdivision within
26 sixty days of the date of the receipt of a written request from the
27 facility. Requests shall be made in a form acceptable to the department
28 by certified or registered mail. In reviewing such requests the commis-
29 sioner shall consider the facility's overall financial condition, any
30 indications of financial distress, whether the facility is delinquent in
31 any payment owed to the department, whether the facility has been cited
32 for immediate jeopardy or substandard quality of care, and such other
33 factors as the commissioner deems appropriate. In addition to any other
34 remedy or penalty available under this chapter, and after opportunity
35 for a hearing, the commissioner may require replacement of the withdrawn
36 equity or assets and may impose a penalty for violation of the
37 provisions of this subdivision in an amount not to exceed ten percent of
38 any amount withdrawn without prior approval.

39 S 29. Notwithstanding any inconsistent provision of law, rule or regu-
40 lation, for purposes of implementing the provisions of the public health
41 law and the social services law, references to titles XIX and XXI of the
42 federal social security act in the public health law and the social
43 services law shall be deemed to include and also to mean any successor
44 titles thereto under the federal social security act.

45 S 30. Notwithstanding any inconsistent provision of law, rule or regu-
46 lation, the effectiveness of the provisions of sections 2807 and 3614 of
47 the public health law, section 18 of chapter 2 of the laws of 1988, and
48 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
49 or certification of rates of payment, are hereby suspended and without
50 force or effect for purposes of implementing the provisions of this act.

51 S 31. Severability clause. If any clause, sentence, paragraph, subdi-
52 vision, section or part of this act shall be adjudged by any court of
53 competent jurisdiction to be invalid, such judgment shall not affect,
54 impair or invalidate the remainder thereof, but shall be confined in its
55 operation to the clause, sentence, paragraph, subdivision, section or
56 part thereof directly involved in the controversy in which such judgment

1 shall have been rendered. It is hereby declared to be the intent of the
2 legislature that this act would have been enacted even if such invalid
3 provisions had not been included herein.

4 S 32. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after April 1, 2010, provided,
6 however, that:

7 1. sections thirteen, thirteen-a and thirteen-b of this act shall take
8 effect July 1, 2010;

9 2. the amendments to subdivisions six, seven and nine of section
10 4403-f of the public health law made by sections twenty-five, twenty-six
11 and twenty-seven of this act shall not affect the repeal of such subdi-
12 visions and shall be deemed repealed therewith;

13 3. any rules or regulations necessary to implement the provisions of
14 this act may be promulgated and any procedures, forms, or instructions
15 necessary for such implementation may be adopted and issued on or after
16 the date this act shall have become a law;

17 4. this act shall not be construed to alter, change, affect, impair or
18 defeat any rights, obligations, duties or interests accrued, incurred or
19 conferred prior to the effective date of this act;

20 5. the commissioner of health and the superintendent of insurance and
21 any appropriate council may take any steps necessary to implement this
22 act prior to its effective date;

23 6. notwithstanding any inconsistent provision of the state administra-
24 tive procedure act or any other provision of law, rule or regulation,
25 the commissioner of health and the superintendent of insurance and any
26 appropriate council is authorized to adopt or amend or promulgate on an
27 emergency basis any regulation he or she or such council determines
28 necessary to implement any provision of this act on its effective date;

29 7. the provisions of this act shall become effective notwithstanding
30 the failure of the commissioner of health or the superintendent of
31 insurance or any council to adopt or amend or promulgate regulations
32 implementing this act.

33 PART D

34 Section 1. Subsection (e) of 3231 of the insurance law, as added by
35 chapter 501 of the laws of 1992, subparagraph (B) of paragraph 2 as
36 amended by chapter 237 of the laws of 2009, is amended to read as
37 follows:

38 (e) (1) (A) An insurer desiring to increase or decrease premiums
39 [after April first, nineteen hundred ninety-three] for any policy form
40 subject to this section shall submit a rate filing or application to the
41 superintendent.

42 AN INSURER SHALL SEND WRITTEN NOTICE OF THE PROPOSED RATE ADJUSTMENT,
43 INCLUDING THE SPECIFIC CHANGE REQUESTED, TO EACH POLICY HOLDER AND
44 CERTIFICATE HOLDER AFFECTED BY THE ADJUSTMENT BETWEEN NINETY AND ONE
45 HUNDRED FIVE DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE. THE NOTICE
46 SHALL PROMINENTLY INCLUDE MAILING AND WEBSITE ADDRESSES FOR BOTH THE
47 INSURANCE DEPARTMENT AND THE INSURER THROUGH WHICH A PERSON MAY CONTACT
48 THE INSURANCE DEPARTMENT OR INSURER TO RECEIVE ADDITIONAL INFORMATION OR
49 TO SUBMIT WRITTEN COMMENTS TO THE INSURANCE DEPARTMENT ON THE RATE
50 FILING OR APPLICATION. The superintendent shall determine whether the
51 filing or application shall become effective as filed, shall become
52 effective as modified, or shall be disapproved. THE SUPERINTENDENT MAY
53 MODIFY OR DISAPPROVE THE RATE FILING OR APPLICATION IF THE SUPERINTEN-
54 DENT FINDS THAT THE PREMIUMS ARE UNREASONABLE, EXCESSIVE, INADEQUATE, OR

UNFAIRLY DISCRIMINATORY, AND MAY CONSIDER THE FINANCIAL CONDITION OF THE INSURER WHEN APPROVING, MODIFYING OR DISAPPROVING ANY PREMIUM ADJUSTMENT. AN INSURER SHALL NOT IMPLEMENT A RATE ADJUSTMENT UNLESS THE INSURER PROVIDES AT LEAST FORTY-FIVE DAYS ADVANCE WRITTEN NOTICE OF THE PREMIUM RATE ADJUSTMENT APPROVED BY THE SUPERINTENDENT TO EACH POLICY HOLDER AND CERTIFICATE HOLDER AFFECTED BY THE RATE ADJUSTMENT.

(B) UPON RECEIPT OF A RATE FILING OR APPLICATION BY OR ON BEHALF OF AN INSURER THAT, TOGETHER WITH ANY OTHER RATE ADJUSTMENTS IMPOSED DURING A CONTINUOUS TWELVE-MONTH PERIOD, WOULD CAUSE AN AGGREGATE INCREASE IN PREMIUMS FOR THAT POLICY FORM OF MORE THAN TEN PERCENT, THE SUPERINTENDENT SHALL ORDER THAT A PUBLIC HEARING BE HELD AT THE INSURER'S EXPENSE. THE WRITTEN NOTICE REQUIRED BY SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL INCLUDE NOTICE OF THE PUBLIC HEARING. THE INSURER SHALL ALSO PUBLISH NOTICE OF SUCH HEARING ON THREE SUCCESSIVE DAYS IN AT LEAST ONE NEWSPAPER HAVING GENERAL CIRCULATION IN EACH COUNTY WHERE PERSONS AFFECTED BY THE PROPOSED CHANGE RESIDE. THE NOTICE OF HEARING SHALL BE SUBJECT TO THE SUPERINTENDENT'S PRIOR APPROVAL, AND SHALL STATE THE DATE, TIME AND PLACE OF THE HEARING (AS SCHEDULED BY THE SUPERINTENDENT), THE PURPOSE THEREOF, THE CHANGES PROPOSED, THE POLICY FORMS AFFECTED, AND THE PROPOSED EFFECTIVE DATE OF THE CHANGES. THE NOTICE OF HEARING SHALL ALSO PROMINENTLY INCLUDE TOLL-FREE TELEPHONE NUMBERS AND MAILING AND WEBSITE ADDRESSES FOR BOTH THE INSURANCE DEPARTMENT AND THE INSURER THROUGH WHICH A PERSON MAY CONTACT THE INSURANCE DEPARTMENT OR INSURER TO RECEIVE ADDITIONAL INFORMATION OR TO SUBMIT WRITTEN COMMENTS TO THE INSURANCE DEPARTMENT ON THE RATE FILING OR APPLICATION. THE DATE SPECIFIED FOR THE HEARING SHALL NOT BE LESS THAN TEN NOR MORE THAN THIRTY DAYS FROM THE DATE OF THE LAST PUBLICATION OF THE NOTICE OF THE HEARING. UPON CONCLUSION OF THE PUBLIC HEARING, THE SUPERINTENDENT SHALL RENDER A WRITTEN DETERMINATION AS TO WHETHER THE RATE FILING OR APPLICATION SHALL BECOME EFFECTIVE AS FILED, SHALL BECOME EFFECTIVE AS MODIFIED, OR SHALL BE DISAPPROVED.

(C) THE EXPECTED MINIMUM LOSS RATIO FOR A POLICY FORM SUBJECT TO THIS SECTION, FOR WHICH A RATE FILING OR APPLICATION IS MADE PURSUANT TO THIS PARAGRAPH, OTHER THAN A MEDICARE SUPPLEMENTAL INSURANCE POLICY, OR, WITH THE APPROVAL OF THE SUPERINTENDENT, AN AGGREGATION OF POLICY FORMS THAT ARE COMBINED INTO ONE COMMUNITY RATING EXPERIENCE POOL AND RATED CONSISTENT WITH COMMUNITY RATING REQUIREMENTS, SHALL NOT BE LESS THAN EIGHTY-FIVE PERCENT. IN REVIEWING A RATE FILING OR APPLICATION, THE SUPERINTENDENT MAY MODIFY THE EIGHTY-FIVE PERCENT EXPECTED MINIMUM LOSS RATIO REQUIREMENT IF THE SUPERINTENDENT DETERMINES THE MODIFICATION TO BE IN THE INTERESTS OF THE PEOPLE OF THIS STATE. NO LATER THAN JUNE THIRTIETH OF EACH YEAR, EVERY INSURER SUBJECT TO THIS SUBPARAGRAPH SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR THE PREVIOUS CALENDAR YEAR IN A FORMAT ACCEPTABLE TO THE SUPERINTENDENT. IF AN EXPECTED LOSS RATIO IS NOT MET, THE SUPERINTENDENT MAY DIRECT THE INSURER TO TAKE CORRECTIVE ACTION, WHICH MAY INCLUDE THE SUBMISSION OF A RATE FILING TO REDUCE FUTURE PREMIUMS, OR TO ISSUE DIVIDENDS, PREMIUM REFUNDS OR CREDITS, OR ANY COMBINATION OF THESE.

(2) (A) [Beginning October first, nineteen hundred ninety-four] UNTIL SEPTEMBER THIRTIETH, TWO THOUSAND TEN, as an alternate procedure to the requirements of paragraph one of this subsection, an insurer desiring to increase or decrease premiums for any policy form subject to this section may instead submit a rate filing or application to the superintendent and such application or filing shall be deemed approved, provided that: (i) the anticipated minimum loss ratio for a policy form shall not be less than [seventy-five] EIGHTY-FIVE percent of the premi-

1 um[,] and (ii) the insurer submits, as part of such filing, a certifi-
2 cation by a member of the American Academy of Actuaries or other indi-
3 vidual acceptable to the superintendent that the insurer is in
4 compliance with the provisions of this paragraph, based upon that
5 person's examination, including a review of the appropriate records and
6 of the actuarial assumptions and methods used by the insurer in estab-
7 lishing premium rates for policy forms subject to this section. AN
8 INSURER SHALL NOT UTILIZE THE ALTERNATE PROCEDURE PURSUANT TO THIS PARA-
9 GRAPH TO IMPLEMENT A CHANGE IN RATES TO BE EFFECTIVE ON OR AFTER OCTOBER
10 FIRST, TWO THOUSAND TEN.

11 (B) Each calendar year, an insurer shall return, in the form of aggre-
12 gate benefits for each policy form filed pursuant to the alternate
13 procedure set forth in this paragraph at least [seventy-five]
14 EIGHTY-FIVE percent of the aggregate premiums collected for the policy
15 form during that calendar year. Insurers shall annually report, no later
16 than [May first] JUNE THIRTIETH of each year, the loss ratio calculated
17 pursuant to this paragraph for each such policy form for the previous
18 calendar year. In each case where the loss ratio for a policy form fails
19 to comply with the [seventy-five] EIGHTY-FIVE percent loss ratio
20 requirement, the insurer shall issue a dividend or credit against future
21 premiums for all policy holders with that policy form in an amount
22 sufficient to assure that the aggregate benefits paid in the previous
23 calendar year plus the amount of the dividends and credits shall equal
24 [seventy-five] EIGHTY-FIVE percent of the aggregate premiums collected
25 for the policy form in the previous calendar year. The dividend or cred-
26 it shall be issued to each policy holder who had a policy which was in
27 effect at any time during the applicable year. The dividend or credit
28 shall be prorated based on the direct premiums earned for the applicable
29 year among all policy holders eligible to receive such dividend or cred-
30 it. An insurer shall make a reasonable effort to identify the current
31 address of, and issue dividends or credits to, former policy holders
32 entitled to the dividend or credit. An insurer shall, with respect to
33 dividends or credits to which former policy holders that the insurer is
34 unable to identify after a reasonable effort would otherwise be enti-
35 tled, have the option, as deemed acceptable by the superintendent, of
36 prospectively adjusting premium rates by the amount of such dividends or
37 credits, issuing the amount of such dividends or credits to existing
38 policy holders, depositing the amount of such dividends or credits in
39 the fund established pursuant to section four thousand three hundred
40 twenty-two-a of this chapter, or utilizing any other method which
41 offsets the amount of such dividends or credits. All dividends and
42 credits must be distributed by September thirtieth of the year following
43 the calendar year in which the loss ratio requirements were not satis-
44 fied. The annual report required by this paragraph shall include an
45 insurer's calculation of the dividends and credits, as well as an expla-
46 nation of the insurer's plan to issue dividends or credits. The
47 instructions and format for calculating and reporting loss ratios and
48 issuing dividends or credits shall be specified by the superintendent by
49 regulation. Such regulations shall include provisions for the distrib-
50 ution of a dividend or credit in the event of cancellation or termi-
51 nation by a policy holder.

52 (3) ALL POLICY FORMS SUBJECT TO THIS SUBSECTION, OTHER THAN MEDICARE
53 SUPPLEMENTAL INSURANCE POLICY FORMS, ISSUED OR IN EFFECT DURING CALENDAR
54 YEAR TWO THOUSAND TEN SHALL BE SUBJECT TO A MINIMUM LOSS RATIO REQUIRE-
55 MENT OF EIGHTY-FIVE PERCENT. INSURERS MAY USE THE ALTERNATE FILING
56 PROCEDURE SET FORTH IN PARAGRAPH TWO OF THIS SUBSECTION TO ADJUST PREMI-

1 UM RATES IN ORDER TO MEET THE REQUIRED MINIMUM LOSS RATIO FOR CALENDAR
2 YEAR TWO THOUSAND TEN. THE RATE FILING OR APPLICATION SHALL BE SUBMIT-
3 TED NO LATER THAN SEPTEMBER THIRTIETH, TWO THOUSAND TEN.

4 S 2. Section 4308 of the insurance law, subsection (b) as amended and
5 subsections (d), (e) and (f) as added by chapter 501 of the laws of
6 1992, paragraph 3 of subsection (c) as amended by chapter 520 of the
7 laws of 1999, subsections (g), (h), (i) and (j) as added by chapter 504
8 of the laws of 1995 and paragraph 2 of subsection (h) as amended by
9 chapter 237 of the laws of 2009, is amended to read as follows:

10 S 4308. Supervision of superintendent; public hearings. (a) No corpo-
11 ration subject to the provisions of this article shall enter into any
12 contract unless and until it shall have filed with the superintendent a
13 copy of the contract or certificate and of all applications, riders and
14 endorsements for use in connection with the issuance or renewal thereof,
15 to be formally approved by him as conforming to the applicable
16 provisions of this article and not inconsistent with any other provision
17 of law applicable thereto. The superintendent shall, within a reasonable
18 time after the filing of any such form, notify the corporation filing
19 the same either of his approval or of his disapproval of such form.

20 (b) No corporation subject to the provisions of this article shall
21 enter into any contract unless and until it shall have filed with the
22 superintendent a schedule of the premiums or, if appropriate, rating
23 formula from which premiums are determined, to be paid under the
24 contracts and shall have obtained the superintendent's approval thereof.
25 The superintendent may refuse such approval if he finds that such premi-
26 ums, or the premiums derived from the rating formula, are excessive,
27 inadequate or unfairly discriminatory, provided, however, the super-
28 intendent may also consider the financial condition of such corporation
29 in approving or disapproving any premium or rating formula. ANY ADJUST-
30 MENTS TO AN APPROVED SCHEDULE OF PREMIUMS OR TO THE APPROVED RATING
31 FORMULA FOR NON-COMMUNITY RATED CONTRACTS SHALL ALSO BE SUBJECT TO THE
32 APPROVAL OF THE SUPERINTENDENT PROVIDED, HOWEVER, SUCH ADJUSTMENTS SHALL
33 NOT BE SUBJECT TO THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION.
34 Any premium or formula approved by the superintendent shall make
35 provision for such increase as may be necessary to meet the requirements
36 of a plan approved by the superintendent in the manner prescribed in
37 section four thousand three hundred ten of this article for restoration
38 of the statutory reserve fund required by such section. Notwithstanding
39 any other provision of law, the superintendent, as part of the rate
40 increase approval process, may defer, reduce or reject a rate increase
41 if, in the judgment of the superintendent, the salary increases for
42 senior level management executives employed at corporations subject to
43 the provisions of this article are excessive or unwarranted given the
44 financial condition or overall performance of such corporation. The
45 superintendent is authorized to promulgate rules and regulations which
46 the superintendent deems necessary to carry out such deferral, reduction
47 or rejection.

48 (c) (1) [Except for an application pursuant to subsection (f) of
49 section four thousand three hundred four of this article, no] AN
50 increase or decrease in premiums with respect to [individual] COMMUNITY
51 RATED contracts [issued pursuant to the provisions of such section]
52 shall NOT be approved by the superintendent unless it is in compliance
53 with the provisions of this subsection as well as other applicable
54 provisions of law.

55 (2) [Prior to any such filing or application by or on behalf of a
56 corporation for an increase or decrease in premiums for such contracts,

1 such corporation, when directed by the superintendent, shall conduct a
2 public hearing with respect to the terms of such filing or application.
3 Notice of such hearing shall be published on three successive days in at
4 least two newspapers having general circulation within the territory or
5 district wherein such corporation seeking approval of the filing is
6 authorized to do business. The date specified for the hearing shall be
7 not less than ten nor more than thirty days from the date of the first
8 publication of the hearing. The notice of hearing shall state the
9 purpose thereof, the time when and the place where the public hearing
10 will be held. The public hearing shall be held at a time and location
11 deemed by the superintendent to be most convenient to the greatest
12 number of persons affected by such filing. At such hearing any person
13 may be heard in favor of, or against, the terms of the filing or appli-
14 cation.

15 (3) Following the public hearing held pursuant to paragraph two of
16 this subsection, a transcript of the testimony therein shall be submit-
17 ted together with a rate filing or application, to the superintendent.
18 Upon receipt of such filing or application by or on behalf of a corpo-
19 ration, the superintendent shall order that a public hearing be held
20 with respect to the terms of such filing or application. Notice of such
21 hearing shall be published on three successive days in at least two
22 newspapers having general circulation within the territory or district
23 wherein such corporation seeking approval of the filing or application
24 is authorized to do business. For a corporation writing more than three
25 billion dollars in premiums as of December thirty-first, nineteen
26 hundred ninety-six and whose service territory is greater than ten coun-
27 ties, such notice is to be published in at least one newspaper having
28 general circulation in each county where persons in the service territo-
29 ry are affected by the proposed change. The date specified for the hear-
30 ing shall be not less than ten nor more than thirty days from the date
31 of the last publication of the hearing. The notice of hearing shall also
32 state the purpose thereof, the time when and the place where the public
33 hearing will be held. For those corporations writing more than three
34 billion dollars in premiums as of December thirty-first, nineteen
35 hundred ninety-six, and whose territory is greater than ten counties,
36 the notice of hearing shall also state the changes proposed, the
37 contracts to be affected and the time when such changes would take
38 effect. The notice of hearing shall state, in prominent display, a toll-
39 free telephone number of the insurance department that may be contacted
40 to receive additional information on the subject rate application. The
41 public hearing shall be held at a time and location deemed by the super-
42 intendent to be most convenient to the greatest number of persons
43 affected by such filing or application. A copy of such notice of hearing
44 shall be forwarded by the superintendent by registered or certified mail
45 to the principal address of the corporation seeking approval of such
46 filing or application. The hearing may be continued or adjourned from
47 day to day within the discretion of the superintendent. At such hearing
48 any person may be heard in favor of, or against, the terms of the filing
49 or application. After conclusion of the public hearing the superinten-
50 dent shall render a written decision determining whether the filing or
51 application shall become effective as filed, shall become effective as
52 modified, or shall be disapproved. If, subsequent to the hearing, but
53 prior to the issuing of the superintendent's written decision on a rate
54 increase request, the corporation increases its requested rate for any
55 contract by two percent or more, a re-hearing shall be held. The time,

1 location, and notice requirements for such re-hearing shall be deter-
2 mined by the superintendent.

3 (4)] (A) A CORPORATION DESIRING TO INCREASE OR DECREASE PREMIUMS FOR
4 ANY CONTRACT SUBJECT TO THIS SUBSECTION SHALL SUBMIT A RATE FILING OR
5 APPLICATION TO THE SUPERINTENDENT. A CORPORATION SHALL SEND WRITTEN
6 NOTICE OF THE PROPOSED RATE ADJUSTMENT, INCLUDING THE SPECIFIC CHANGE
7 REQUESTED, TO EACH CONTRACT HOLDER AND SUBSCRIBER AFFECTED BY THE
8 ADJUSTMENT BETWEEN NINETY AND ONE HUNDRED FIVE DAYS PRIOR TO THE
9 PROPOSED EFFECTIVE DATE OF SUCH ADJUSTMENT. THE NOTICE SHALL PROMINENT-
10 LY INCLUDE MAILING AND WEBSITE ADDRESSES FOR BOTH THE INSURANCE DEPART-
11 MENT AND THE CORPORATION THROUGH WHICH A PERSON MAY CONTACT THE INSUR-
12 ANCE DEPARTMENT OR CORPORATION TO RECEIVE ADDITIONAL INFORMATION OR TO
13 SUBMIT WRITTEN COMMENTS TO THE INSURANCE DEPARTMENT ON THE RATE FILING
14 OR APPLICATION. THE SUPERINTENDENT SHALL DETERMINE WHETHER THE FILING
15 OR APPLICATION SHALL BECOME EFFECTIVE AS FILED, SHALL BECOME EFFECTIVE
16 AS MODIFIED, OR SHALL BE DISAPPROVED. THE SUPERINTENDENT MAY MODIFY OR
17 DISAPPROVE THE RATE FILING OR APPLICATION IF THE SUPERINTENDENT FINDS
18 THAT THE PREMIUMS ARE UNREASONABLE, EXCESSIVE, INADEQUATE, OR UNFAIRLY
19 DISCRIMINATORY, AND MAY CONSIDER THE FINANCIAL CONDITION OF THE CORPO-
20 RATION IN APPROVING, MODIFYING OR DISAPPROVING ANY PREMIUM ADJUSTMENT.
21 A CORPORATION SHALL NOT IMPLEMENT A RATE ADJUSTMENT UNLESS THE CORPO-
22 RATION PROVIDES AT LEAST FORTY-FIVE DAYS ADVANCE WRITTEN NOTICE OF THE
23 PREMIUM RATE ADJUSTMENT APPROVED BY THE SUPERINTENDENT TO EACH CONTRACT
24 HOLDER AND SUBSCRIBER AFFECTED BY THE RATE ADJUSTMENT.

25 (B) UPON RECEIPT OF A RATE FILING OR APPLICATION BY OR ON BEHALF OF A
26 CORPORATION THAT, TOGETHER WITH ANY OTHER RATE ADJUSTMENTS IMPOSED
27 DURING A CONTINUOUS TWELVE-MONTH PERIOD, WOULD CAUSE AN AGGREGATE
28 INCREASE IN PREMIUMS FOR THAT CONTRACT FORM OF MORE THAN TEN PERCENT,
29 THE SUPERINTENDENT SHALL ORDER THAT A PUBLIC HEARING BE HELD AT THE
30 CORPORATION'S EXPENSE. THE WRITTEN NOTICE REQUIRED BY SUBPARAGRAPH (A)
31 OF THIS PARAGRAPH SHALL INCLUDE NOTICE OF THE PUBLIC HEARING. THE
32 CORPORATION SHALL ALSO PUBLISH NOTICE OF SUCH HEARING ON THREE SUCCE-
33 SSIVE DAYS IN AT LEAST ONE NEWSPAPER HAVING GENERAL CIRCULATION IN EACH
34 COUNTY WHERE PERSONS AFFECTED BY THE PROPOSED CHANGE RESIDE. THE NOTICE
35 OF HEARING SHALL BE SUBJECT TO THE SUPERINTENDENT'S PRIOR APPROVAL, AND
36 SHALL STATE THE DATE, TIME AND PLACE OF THE HEARING (AS SCHEDULED BY THE
37 SUPERINTENDENT), THE PURPOSE THEREOF, THE CHANGES PROPOSED, THE
38 CONTRACTS AFFECTED, AND THE PROPOSED EFFECTIVE DATE OF THE CHANGES. THE
39 NOTICE OF HEARING SHALL ALSO PROMINENTLY INCLUDE TOLL-FREE TELEPHONE
40 NUMBERS AND MAILING AND WEBSITE ADDRESSES FOR BOTH THE INSURANCE DEPART-
41 MENT AND THE CORPORATION THROUGH WHICH A PERSON MAY CONTACT THE INSUR-
42 ANCE DEPARTMENT OR CORPORATION TO RECEIVE ADDITIONAL INFORMATION OR TO
43 SUBMIT WRITTEN COMMENTS TO THE INSURANCE DEPARTMENT ON THE RATE FILING
44 OR APPLICATION. THE DATE SPECIFIED FOR THE HEARING SHALL NOT BE LESS
45 THAN TEN NOR MORE THAN THIRTY DAYS FROM THE DATE OF THE LAST PUBLICATION
46 OF THE NOTICE OF THE HEARING. UPON CONCLUSION OF THE PUBLIC HEARING, THE
47 SUPERINTENDENT SHALL RENDER A WRITTEN DETERMINATION AS TO WHETHER THE
48 RATE FILING OR APPLICATION SHALL BECOME EFFECTIVE AS FILED, SHALL BECOME
49 EFFECTIVE AS MODIFIED, OR SHALL BE DISAPPROVED.

50 (3)(A) THE EXPECTED MINIMUM LOSS RATIO FOR A CONTRACT FORM SUBJECT TO
51 THIS SUBSECTION FOR WHICH A RATE FILING OR APPLICATION IS MADE PURSUANT
52 TO THIS PARAGRAPH, OTHER THAN A MEDICARE SUPPLEMENTAL INSURANCE
53 CONTRACT, OR, WITH THE APPROVAL OF THE SUPERINTENDENT, AN AGGREGATION OF
54 CONTRACT FORMS THAT ARE COMBINED INTO ONE COMMUNITY RATING EXPERIENCE
55 POOL AND RATED CONSISTENT WITH COMMUNITY RATING REQUIREMENTS, SHALL NOT
56 BE LESS THAN EIGHTY-FIVE PERCENT. IN REVIEWING A RATE FILING OR APPLICA-

1 TION, THE SUPERINTENDENT MAY MODIFY THE EIGHTY-FIVE PERCENT EXPECTED
2 MINIMUM LOSS RATIO REQUIREMENT IF THE SUPERINTENDENT DETERMINES THE
3 MODIFICATION TO BE IN THE INTERESTS OF THE PEOPLE OF THIS STATE. NO
4 LATER THAN JUNE THIRTIETH OF EACH YEAR, EVERY CORPORATION SUBJECT TO
5 THIS SUBPARAGRAPH SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR THE
6 PREVIOUS CALENDAR YEAR IN A FORMAT ACCEPTABLE TO THE SUPERINTENDENT. IF
7 AN EXPECTED LOSS RATIO IS NOT MET, THE SUPERINTENDENT MAY DIRECT THE
8 CORPORATION TO TAKE CORRECTIVE ACTION, WHICH MAY INCLUDE THE SUBMISSION
9 OF A RATE FILING TO REDUCE FUTURE PREMIUMS, OR TO ISSUE DIVIDENDS,
10 PREMIUM REFUNDS OR CREDITS, OR ANY COMBINATION OF THESE.

11 (B) THE EXPECTED MINIMUM LOSS RATIO FOR A MEDICARE SUPPLEMENTAL INSUR-
12 ANCE CONTRACT FORM SHALL NOT BE LESS THAN EIGHTY PERCENT. NO LATER THAN
13 MAY FIRST OF EACH YEAR, EVERY CORPORATION SUBJECT TO THIS SUBPARAGRAPH
14 SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR EACH CONTRACT FORM
15 SUBJECT TO THIS SECTION FOR THE PREVIOUS CALENDAR YEAR IN A FORMAT
16 ACCEPTABLE TO THE SUPERINTENDENT. IN EACH CASE WHERE THE LOSS RATIO FOR
17 THE CONTRACT FORM FAILS TO COMPLY WITH THE EIGHTY PERCENT LOSS RATIO
18 REQUIREMENT, THE CORPORATION SHALL SUBMIT A CORRECTIVE ACTION PLAN TO
19 THE SUPERINTENDENT FOR ASSURING COMPLIANCE WITH THE APPLICABLE MINIMUM
20 LOSS RATIO STANDARD. THE CORRECTIVE ACTION PLAN SHALL BE SUBMITTED TO
21 THE SUPERINTENDENT WITHIN SIXTY DAYS OF THE CORPORATION'S SUBMISSION OF
22 THE ANNUAL REPORT REQUIRED BY THIS SUBPARAGRAPH. THE CORPORATION'S PLAN
23 MAY UTILIZE PREMIUM REFUNDS OR CREDITS, SUBJECT TO THE APPROVAL OF THE
24 SUPERINTENDENT.

25 (4) In case of conflict between this subsection and any other
26 provision of law, this subsection shall prevail.

27 (d) The superintendent shall order an independent management and
28 financial audit of corporations subject to the provisions of this arti-
29 cle with a combined premium volume exceeding two billion dollars annual-
30 ly in order to develop a detailed understanding of such corporation's
31 financial status and to determine the viability of such corporation's
32 products. Such audit shall be performed by an organization upon
33 submission of a program plan in response to a request for proposal
34 approved by the superintendent in consultation with the commissioner of
35 health and the state comptroller. Such audit shall not be performed by
36 any organization that has in any way performed or furnished services of
37 any kind to the corporation within the past five years, unless it is
38 adequately demonstrated that such services would not compromise that
39 organization's performance and objectivity. The audit shall be completed
40 and a report submitted by May first, nineteen hundred ninety-three to
41 the superintendent, the commissioner of health, and the chairs of the
42 senate and assembly committees on health and insurance. The scope of the
43 audit shall include, but not be limited to, financial and competitive
44 position, corporate structure and governance, organization and manage-
45 ment, strategic direction, rate adequacy, and the regulatory and compet-
46 itive environment in the state of New York. Specifically, the audit
47 shall include, but not be limited to:

48 (i) determining the corporation's financial and market position,
49 including its reserves, trends in membership, market share, and profit-
50 ability by market segment;

51 (ii) evaluating the corporation's product offerings with respect to
52 market requirements and trends, the corporation's responses to the New
53 York health care market, and its management of medical claims costs;

54 (iii) assessing the effectiveness of the organizational and management
55 structure and performance, including, but not limited to, possible
56 improvement in the size, structure, composition and operation of the

1 board of directors, productivity improvement, information systems,
2 management development, personnel practices, mix and level of skills,
3 personnel turnover, investment practices and rate of return upon invest-
4 ment activities;

5 (iv) analyzing the corporation's strategic directions, its adequacy to
6 meet competitive, market, and existing regulatory trends, including an
7 evaluation of the use of brokers in marketing products, and the impact
8 of those strategies on the corporation's future financial performance
9 and on the health care system of New York;

10 (v) evaluating the adequacy of rates for existing products, partic-
11 ularly (but not limited to) small group, medicare supplemental, and
12 direct payment to identify areas that may need immediate remedial atten-
13 tion;

14 (vi) identifying any changes to the regulatory and legislative envi-
15 ronment that may need to be made to ensure that the corporation can
16 continue to be financially viable and competitive;

17 (vii) identifying and assessing specific transactions such as the
18 procurement of reinsurance, sale of real property and the sale of future
19 investment income to improve the financial condition of the corporation;
20 and

21 (viii) evaluating and identifying possible improvements in the corpo-
22 ration's managed care strategies, operations and claims handling.

23 (e) Notwithstanding any other provision of law, the superintendent
24 shall have the power to require independent management and financial
25 audits of corporations subject to the provisions of this article whenever
26 in the judgment of the superintendent, losses sustained by a corpo-
27 ration jeopardize its ability to provide meaningful coverage at afforda-
28 ble rates or when such audit would be necessary to protect the interests
29 of subscribers. The audit shall include, but not be limited to, an
30 investigation of the corporation's provision of benefits to senior citi-
31 zens, individual and family, and small group and small business
32 subscribers in relation to the needs of those subscribers. The audit
33 shall also include an evaluation of the efficiency of the corporation's
34 management, particularly with respect to lines of business which are
35 experiencing losses. In every case in which the superintendent chooses
36 to require an audit provided for in this subsection, the superintendent
37 shall have the authority to select the auditor. Any costs incurred as a
38 result of the operation of this subsection shall be assessed on all
39 domestic insurers in the same manner as provided for in section three
40 hundred thirty-two of this chapter.

41 (f) The results of any audit conducted pursuant to subsections (d) and
42 (e) of this section shall be provided to the corporation and each member
43 of its board of directors. The superintendent shall have the authority
44 to direct the corporation in writing to implement any recommendations
45 resulting from the audit that the superintendent finds to be necessary
46 and reasonable; provided, however, that the superintendent shall first
47 consider any written response submitted by the corporation or the board
48 of directors prior to making such finding. Upon any application for a
49 rate adjustment by the corporation, the superintendent shall review the
50 corporation's compliance with the directions and recommendations made
51 previously by the superintendent, as a result of the most recently
52 completed management or financial audit and shall include such findings
53 in any written decision concerning such application.

54 (g)(1) [Beginning January first, nineteen hundred ninety-six] UNTIL
55 SEPTEMBER THIRTIETH, TWO THOUSAND TEN, as an alternate procedure to the
56 requirements of subsection (c) of this section, a corporation subject to

1 the provisions of this article desiring to increase or decrease premiums
2 for any contract subject to this section may instead submit a rate
3 filing or application to the superintendent and such application or
4 filing shall be deemed approved, provided that (A) the anticipated
5 incurred loss ratio for a contract form shall not be less than eighty-
6 five percent for individual direct payment contracts or [seventy-five]
7 EIGHTY-FIVE percent for small group and small group remittance
8 contracts, nor, except in the case of individual direct payment
9 contracts with a loss ratio of greater than one hundred five percent
10 during nineteen hundred ninety-four, shall the loss ratio for any direct
11 payment, group or group remittance contract be more than one hundred
12 five percent of the anticipated earned premium, and (B) the corporation
13 submits, as part of such filing, a certification by a member of the
14 American Academy of Actuaries or other individual acceptable to the
15 superintendent that that corporation is in compliance with the
16 provisions of this subsection, based upon that person's examination,
17 including a review of the appropriate records and of the actuarial
18 assumptions and methods used by the corporation in establishing premium
19 rates for contracts subject to this section. A CORPORATION SHALL NOT
20 UTILIZE THE ALTERNATE PROCEDURE PURSUANT TO THIS SUBSECTION TO IMPLEMENT
21 A CHANGE IN RATES TO BE EFFECTIVE ON OR AFTER OCTOBER FIRST, TWO THOU-
22 SAND TEN. For purposes of this section, a small group is any group whose
23 contract is subject to the requirements of section forty-three hundred
24 seventeen of this article.

25 (2) Prior to January first, two thousand, no rate increase or decrease
26 may be deemed approved under this subsection if that increase or
27 decrease, together with any other rate increases or decreases imposed on
28 the same contract form, would cause the aggregate rate increase or
29 decrease for that contract form to exceed ten percent during any contin-
30 uous twelve month period. No rate increase may be imposed PURSUANT TO
31 THIS SUBSECTION unless at least thirty days advance written notice of
32 such increase has been provided to each contract holder and subscriber.

33 (h)(1) Each calendar year, a corporation subject to the provisions of
34 this article shall return, in the form of aggregate benefits incurred
35 for each contract form filed pursuant to the alternate procedure set
36 forth in subsection (g) of this section, at least eighty-five percent
37 for individual direct payment contracts or [seventy-five] EIGHTY-FIVE
38 percent for small group and small group remittance contracts, but,
39 except in the case of individual direct payment contracts with a loss
40 ratio of greater than one hundred five percent in nineteen hundred nine-
41 ty-four, for any direct payment, group or group remittance contract, not
42 in excess of one hundred five percent of the aggregate premiums earned
43 for the contract form during that calendar year. Corporations subject to
44 the provisions of this article shall annually report, no later than [May
45 first] JUNE THIRTIETH of each year, the loss ratio calculated pursuant
46 to this subsection for each such contract form for the previous calendar
47 year.

48 (2) In each case where the loss ratio for a contract form fails to
49 comply with the eighty-five percent minimum loss ratio requirement for
50 individual direct payment contracts, or the [seventy-five] EIGHTY-FIVE
51 percent minimum loss ratio requirement for small group and small group
52 remittance contracts, as set forth in paragraph one of this subsection,
53 the corporation shall issue a dividend or credit against future premiums
54 for all contract holders with that contract form in an amount sufficient
55 to assure that the aggregate benefits incurred in the previous calendar
56 year plus the amount of the dividends and credits shall equal no less

1 than eighty-five percent for individual direct payment contracts, or
2 [seventy-five] EIGHTY-FIVE percent for small group and small group
3 remittance contracts, of the aggregate premiums earned for the contract
4 form in the previous calendar year. The dividend or credit shall be
5 issued to each contract holder or subscriber who had a contract that was
6 in effect at any time during the applicable year. The dividend or credit
7 shall be prorated based on the direct premiums earned for the applicable
8 year among all contract holders or subscribers eligible to receive such
9 dividend or credit. A corporation shall make a reasonable effort to
10 identify the current address of, and issue dividends or credits to,
11 former contract holders or subscribers entitled to the dividend or cred-
12 it. A corporation shall, with respect to dividends or credits to which
13 former contract holders that the corporation is unable to identify after
14 a reasonable effort would otherwise be entitled, have the option, as
15 deemed acceptable by the superintendent, of prospectively adjusting
16 premium rates by the amount of such dividends or credits, issuing the
17 amount of such dividends or credits to existing contract holders, depos-
18 iting the amount of such dividends or credits in the fund established
19 pursuant to section four thousand three hundred twenty-two-a of this
20 article, or utilizing any other method which offsets the amount of such
21 dividends or credits. All dividends and credits must be distributed by
22 September thirtieth of the year following the calendar year in which the
23 loss ratio requirements were not satisfied. The annual report required
24 by paragraph one of this subsection shall include a corporation's calcu-
25 lation of the dividends and credits, as well as an explanation of the
26 corporation's plan to issue dividends or credits. The instructions and
27 format for calculating and reporting loss ratios and issuing dividends
28 or credits shall be specified by the superintendent by regulation. Such
29 regulations shall include provisions for the distribution of a dividend
30 or credit in the event of cancellation or termination by a contract
31 holder or subscriber.

32 (3) In each case where the loss ratio for a contract form fails to
33 comply with the one hundred five percent maximum loss ratio requirement
34 of paragraph one of this subsection, the corporation shall institute a
35 premium rate increase in an amount sufficient to assure that the aggre-
36 gate benefits incurred in the previous calendar year shall equal no more
37 than one hundred five percent of the sum of the aggregate premiums
38 earned for the contract form in the previous calendar year and the
39 aggregate premium rate increase. The rate increase shall be applied to
40 each contract that was in effect as of December thirty-first of the
41 applicable year and remains in effect as of the date the rate increase
42 is imposed. All rate increases must be imposed by September thirtieth of
43 the year following the calendar year in which the loss ratio require-
44 ments were not satisfied. The annual report required by paragraph one of
45 this subsection shall include a corporation's calculation of the premium
46 rate increase, as well as an explanation of the corporation's plan to
47 implement the rate increase. The instructions and format for calculating
48 and reporting loss ratios and implementing rate increases shall be spec-
49 ified by the superintendent by regulation.

50 (i) The alternate procedure described in subsections (g) and (h) of
51 this section shall apply to individual direct payment contracts issued
52 pursuant to sections four thousand three hundred twenty-one and four
53 thousand three hundred twenty-two of this article on and after January
54 first, nineteen hundred ninety-seven. SUCH ALTERNATE PROCEDURE SHALL NOT
55 BE UTILIZED TO IMPLEMENT A CHANGE IN RATES TO BE EFFECTIVE ON OR AFTER
56 OCTOBER FIRST, TWO THOUSAND TEN.

1 [(j) The eighty-five percent minimum loss ratio for individual direct
2 payment contracts described in subsections (g) and (h) of this section
3 shall be reduced to eighty-two and one-half percent as of January first,
4 nineteen hundred ninety-seven and shall be further reduced to eighty
5 percent as of January first, nineteen hundred ninety-eight and thereaft-
6 er. The refund or credit requirements for failure to meet minimum loss
7 ratios will continue, but at these reduced percentages.]

8 (J) ALL COMMUNITY RATED CONTRACTS, OTHER THAN MEDICARE SUPPLEMENTAL
9 INSURANCE CONTRACTS, ISSUED OR IN EFFECT DURING CALENDAR YEAR TWO THOU-
10 SAND TEN SHALL BE SUBJECT TO A MINIMUM LOSS RATIO REQUIREMENT OF EIGHT-
11 Y-FIVE PERCENT. CORPORATIONS MAY USE THE ALTERNATE PROCEDURE SET FORTH
12 IN SUBSECTION (G) OF THIS SECTION TO ADJUST PREMIUM RATES IN ORDER TO
13 MEET THE REQUIRED MINIMUM LOSS RATIO FOR CALENDAR YEAR TWO THOUSAND TEN.
14 THE RATE FILING OR APPLICATION SHALL BE SUBMITTED NO LATER THAN SEPTEM-
15 BER THIRTIETH, TWO THOUSAND TEN.

16 S 3. If any clause, sentence, paragraph, section or part of this act
17 shall be adjudged by any court of competent jurisdiction to be invalid,
18 the judgment shall not affect, impair or invalidate the remainder there-
19 of, but shall be confined in its operation to the clause, sentence,
20 paragraph, section or part thereof directly involved in the controversy
21 in which such judgment shall have been rendered.

22 S 4. This act shall take effect immediately.

23 PART E

24 Section 1. The first undesignated paragraph of section 29.23 of the
25 mental hygiene law is amended to read as follows:

26 The commissioner may authorize the directors of department facilities,
27 to receive or obtain funds or other personal property, excepting jewel-
28 ry, due or belonging to a patient who has no [committee] GUARDIAN
29 AUTHORIZED TO RECEIVE SUCH FUNDS OR PROPERTY, up to an amount or value
30 not exceeding five thousand dollars EXCEPTING FEDERAL OR STATE BENEFITS
31 PAID TO THE DIRECTOR AS REPRESENTATIVE PAYEE; and also from [a commit-
32 tee] SUCH GUARDIAN upon his discharge when the final order so provides
33 where the balance remaining in the hands of such [committee] GUARDIAN
34 does not exceed such amount. Such personal property, excepting jewelry,
35 other than moneys shall be retained by the director for the benefit of
36 the patient for whom received until sold as hereinafter provided. FEDER-
37 AL BENEFITS, INCLUDING BENEFITS FOR WHICH THERE IS A STATE SHARE, PAID
38 TO THE DIRECTOR AS REPRESENTATIVE PAYEE SHALL BE USED IN ACCORDANCE WITH
39 APPLICABLE FEDERAL LAW AND REGULATIONS. Such funds and the proceeds of
40 the sale of other personal property so received shall be placed to the
41 credit of the patient for whom received and disbursed on the order of
42 the director, to provide, in the first instance, for luxuries, comforts,
43 and necessities for such patient, including burial expenses, and, if
44 funds are thereafter available, for the support of such patient. The
45 commissioner may authorize directors, on behalf of any such patient, to
46 give receipts, execute releases and other documents required by law or
47 court order, to endorse checks and drafts, and to convert personal prop-
48 erty excepting jewelry into money by sale for an adequate consideration,
49 and to execute bills of sale or to permit such patient to do so, in
50 order that the proceeds may be deposited to the credit of such patient
51 in accordance with the provisions of this section.

52 S 2. Subdivision (e) of section 33.07 of the mental hygiene law, as
53 added by chapter 709 of the laws of 1986, is amended to read as follows:

(e) A mental hygiene facility which is a representative payee for a patient pursuant to designation by the social security administration or OTHER FEDERAL AGENCY AND which assumes management responsibility over the funds of a patient, INCLUDING BENEFITS FOR WHICH THERE IS A STATE SHARE, shall maintain such funds in [a fiduciary capacity to the patient] ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS. The commissioners of mental health and mental retardation and developmental disabilities [shall] ARE AUTHORIZED TO develop standards regarding the management of patient funds.

S 3. This act shall take effect immediately.

PART F

Section 1. Chapter 119 of the laws of 2007, directing the commissioner of mental health to study, evaluate and report on the unmet mental health service needs of traditionally underserved populations, is REPEALED.

S 2. This act shall take effect immediately.

PART G

Section 1. 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 OTHER THAN A TRIAL CONDUCTED PURSUANT TO SECTION 10.07 OF 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. IT SHALL CONSTITUTE GOOD CAUSE 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 (A) 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 (B) 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. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO PROHIBIT THE RESPONDENT OR ANY WITNESS FROM MAKING AN ELECTRONIC APPEARANCE IN THE COURT AT A TRIAL CONDUCTED PURSUANT TO SECTION 10.07 OF THIS ARTICLE BY MEANS OF AN INDEPENDENT AUDIO-VISUAL SYSTEM, UPON GOOD CAUSE SHOWN AND CONSENT OF THE PARTIES.

S 2. This act shall take effect immediately.

PART H

Section 1. (a) 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 in state fiscal year 2010-11 to reduce inpatient capacity in the aggregate by no more than 250 beds through closure of wards not to exceed 175 beds, or

1 through conversion of such beds to transitional placement programs,
2 provided, however, that nothing in this section shall be interpreted as
3 restricting the ability of the office of mental health to reduce inpa-
4 tient bed capacity beyond 250 beds in state fiscal year 2010-11, but
5 such reductions shall be subject to the provisions of subdivision (e) of
6 section 7.17 and section 41.55 of the mental hygiene law. Determi-
7 nations concerning the closure of such wards in fiscal year 2010-11
8 shall be made by the office of mental health based on data related to
9 inpatient census, indicating nonutilization or under utilization of
10 beds, and the efficient operation of facilities. Determinations
11 concerning the conversion of such wards to transitional placement
12 programs in fiscal year 2010-11 shall be made by the office of mental
13 health based upon the identification of patients who have received inpa-
14 tient care and who are clinically determined to be appropriate for a
15 less restrictive level of mental health treatment. The office of mental
16 health shall provide notice to the legislature as soon as possible, but
17 no later than two weeks prior to the anticipated closure or conversion
18 of wards pursuant to this act.

19 (b) For the purposes of this act, the term "transitional placement
20 program" shall be defined to include, but not be limited to, a super-
21 vised residential program that provides outpatient services, treatment
22 and training, and which supports the transition of patients to more
23 integrated community settings.

24 S 2. Section 7 of part R2 of chapter 62 of the laws of 2003, amending
25 the mental hygiene law and the state finance law relating to the commu-
26 nity mental health support and workforce reinvestment program, the
27 membership of subcommittees for mental health of community services
28 boards and the duties of such subcommittees and creating the community
29 mental health and workforce reinvestment account, as amended by section
30 1 of part E of chapter 58 of the laws of 2004, is amended to read as
31 follows:

32 S 7. This act shall take effect immediately and shall expire March 31,
33 [2010] 2011 when upon such date the provisions of this act shall be
34 deemed repealed.

35 S 3. Subdivision (e) of section 41.55 of the mental hygiene law, as
36 amended by section 1 of part N1 of chapter 63 of the laws of 2003, is
37 amended to read as follows:

38 (e) The amount of community mental health support and workforce rein-
39 vestment funds for the office of mental health shall be determined in
40 the annual budget and shall include the amount of actual state oper-
41 ations general fund appropriation reductions, including personal service
42 savings and other than personal service savings directly attributed to
43 each child and adult non-geriatric inpatient bed closure. For the
44 purposes of this section a bed shall be considered to be closed upon the
45 elimination of funding for such beds in the executive budget. The
46 appropriation reductions as a result of inpatient bed closures shall be
47 no less than seventy thousand dollars per bed on a full annual basis, as
48 annually recommended by the commissioner, subject to the approval of the
49 director of the budget, in the executive budget request prior to the
50 fiscal year for which the executive budget is being submitted. [The
51 commissioner shall report to the governor, the temporary president of
52 the senate and the speaker of the assembly no later than October first,
53 two thousand three, and annually thereafter, with an explanation of the
54 methodologies used to calculate the per bed closure savings.] The meth-
55 odologies USED TO CALCULATE THE PER BED CLOSURE SAVINGS shall be devel-
56 oped by the commissioner and the director of the budget. In no event

shall the full annual value of community mental health support and work-force 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 4. Subdivisions (h) and (l) of section 41.55 of the mental hygiene law are REPEALED and subdivisions (i), (j), (k), and (m) are relettered subdivisions (h), (i), (j) and (k).

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010, provided that the amendments to section 41.55 of the mental hygiene law made by sections three and four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART I

Section 1. The office of mental health is authorized to recover funding from community residences and family-based treatment providers licensed by the office of mental health, consistent with contractual obligations of such providers, and notwithstanding any other inconsistent provision of law to the contrary, in an amount equal to 50 percent of the income received by such providers which exceeds the fixed amount of annual Medicaid revenue limitations, as established by the commissioner of mental health. Recovery of such excess income shall be for the following fiscal periods: for programs in counties located outside of the city of New York, the applicable fiscal periods shall be January 1, 2003 through December 31, 2009; and for programs located within the city of New York, the applicable fiscal periods shall be July 1, 2003 through June 30, 2010.

S 2. This act shall take effect immediately.

PART J

Section 1. The opening paragraph of subdivision (e) of section 16.23 of the mental hygiene law, as added by chapter 786 of the laws of 1983, is amended to read as follows:

The commissioner shall establish a procedure, subject to the approval of the state comptroller, whereby payments may be made to operators of family care homes for one or more of the following needs of clients residing in such facilities, limited to [two hundred ninety dollars] SUCH AMOUNTS per client per year AS SHALL BE SET BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET and paid [semi-annually] in the manner specified by such procedures:

S 2. The opening paragraph of paragraph 8 of subdivision (h) of section 31.03 of the mental hygiene law, as added by chapter 809 of the laws of 1980, is amended to read as follows:

The commissioner shall establish a procedure, subject to the approval of the state comptroller, whereby payments may be made to operators of family care homes for one or more of the following needs of clients residing in such facilities, limited to [two hundred ninety dollars] SUCH AMOUNTS per client per year AS SHALL BE SET BY THE COMMISSIONER AND

1 APPROVED BY THE DIRECTOR OF THE BUDGET and paid [semi-annually] in the
2 manner specified by such procedures:

3 S 3. Subdivision (d) of section 16.23 of the mental hygiene law, as
4 added by chapter 786 of the laws of 1983, is amended to read as follows:

5 (d) The office shall provide substitute caretakers to each family care
6 home for a maximum of [ten] FOURTEEN days per year, either directly or
7 as a purchase of service.

8 S 4. Paragraph 7 of subdivision (h) of section 31.03 of the mental
9 hygiene law, as amended by chapter 613 of the laws of 1981, is amended
10 to read as follows:

11 (7) The department shall provide substitute caretakers to each family
12 care home for a maximum of [ten] FOURTEEN days per year, either directly
13 or as a purchase of service.

14 S 5. The opening paragraph of subdivision (n) of section 41.36 of the
15 mental hygiene law, as amended by chapter 525 of the laws of 1985, is
16 amended to read as follows:

17 The commissioner shall establish a procedure, subject to the approval
18 of the state comptroller, whereby payments in addition to the client's
19 personal allowance may be made to providers of services for one or more
20 of the following needs of clients residing in such facilities, limited
21 to [two hundred fifty dollars] SUCH AMOUNTS per client per year AS SHALL
22 BE SET BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET
23 and paid [semi-annually] in the manner specified by such procedures:

24 S 6. This act shall take effect immediately.

25 PART K

26 Section 1. Paragraph 2 of subdivision (a) of section 32.05 of the
27 mental hygiene law, as added by chapter 558 of the laws of 1999, is
28 amended to read as follows:

29 2. operation of a discrete unit of a hospital or other facility
30 possessing an operating certificate pursuant to article twenty-eight of
31 the public health law for the purpose of providing residential or non-
32 residential chemical dependence services, OR THE PROVISION OF CHEMICAL
33 DEPENDENCE CRISIS SERVICES FOR THE LESSER OF TWO THOUSAND PATIENT DAYS
34 PER YEAR, OR TEN PERCENT OF TOTAL PATIENT DAYS PER YEAR, AS DETERMINED
35 BY THE COMMISSIONER, IN A HOSPITAL OR OTHER FACILITY POSSESSING AN OPER-
36 ATING CERTIFICATE PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH
37 LAW; or

38 S 2. This act shall take effect immediately and shall be deemed to
39 have been in full force and effect on and after April 1, 2010.

40 PART L

41 Section 1. Section 19.07 of the mental hygiene law is amended by
42 adding a new subdivision (i) to read as follows:

43 (I) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL DEVEL-
44 OP AN ALCOHOL AND DRUG REHABILITATION PROGRAM, CONSISTENT WITH THE
45 PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-SIX OF THE VEHICLE AND TRAF-
46 FIC LAW FOR THE PROVISION OF CHEMICAL DEPENDENCY PREVENTION, EDUCATION,
47 EVALUATION AND TREATMENT TO PERSONS REFERRED AS A RESULT OF A VIOLATION
48 OF SECTIONS ELEVEN HUNDRED NINETY-TWO AND ELEVEN HUNDRED NINETY-TWO-A OF
49 THE VEHICLE AND TRAFFIC LAW. THE COMMISSIONER OF THE OFFICE OF ALCOHOL-
50 ISM AND SUBSTANCE ABUSE SERVICES SHALL ADOPT STANDARDS, RULES AND REGU-
51 LATIONS, AND ESTABLISH FEES NECESSARY TO IMPLEMENT THE PROVISIONS OF
52 THIS SUBDIVISION.

1 S 2. Subdivisions 1, 2, 3, 4, and 6 of section 1196 of the vehicle and
2 traffic law, subdivisions 1, 2, 3 and 6 as added by chapter 47 of the
3 laws of 1988 and subdivision 4 as amended by chapter 196 of the laws of
4 1996, are amended to read as follows:

5 1. Program establishment. There is hereby established an alcohol and
6 drug rehabilitation program within the [department of motor vehicles]
7 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES. The commissioner OF
8 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES shall establish,
9 by regulation OR CONTRACT, the instructional and rehabilitative aspects
10 of the program. Such program shall [consist of at least fifteen hours
11 and] include, but need not be limited to, classroom instruction in areas
12 deemed suitable by the commissioner OF THE OFFICE OF ALCOHOLISM AND
13 SUBSTANCE ABUSE SERVICES. [No person shall be required to attend or
14 participate in such program or any aspect thereof for a period exceeding
15 eight months except upon the recommendation of the department of mental
16 hygiene or appropriate health officials administering the program on
17 behalf of a municipality.]

18 2. Curriculum. The form, content and method of presentation of the
19 various aspects of such program shall be established by the commissioner
20 OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES. In the devel-
21 opment of the form, curriculum and content of such program, the commis-
22 sioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES may
23 consult with the commissioner of mental health, [the director of the
24 division of alcoholism and alcohol abuse, the director of the division
25 of substance abuse services] THE COMMISSIONER OF MOTOR VEHICLES and any
26 other state department or agency and request and receive assistance from
27 them. The commissioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
28 SERVICES is also authorized to develop more than one curriculum and
29 course content for such program in order to meet the varying rehabilita-
30 tive needs of the participants.

31 3. Where available. A course in such program shall be available in at
32 least every county in the state, except where the commissioner OF THE
33 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES determines that there
34 is not a sufficient number of alcohol or drug-related traffic offenses
35 in a county to mandate the establishment of said course, and that
36 provisions be made for the residents of said county to attend a course
37 in another county where a course exists.

38 4. Eligibility. Participation in the program shall be limited to those
39 persons convicted of alcohol or drug-related traffic offenses or persons
40 who have been adjudicated youthful offenders for alcohol or drug-related
41 traffic offenses, or persons found to have been operating a motor vehi-
42 cle after having consumed alcohol in violation of section eleven hundred
43 ninety-two-a of this article, who choose to participate and who satisfy
44 the criteria and meet the requirements for participation as established
45 by this section and the regulations promulgated thereunder; provided,
46 however, in the exercise of discretion, the judge imposing sentence may
47 prohibit the defendant from enrolling in such program. The commissioner
48 OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES or [deputy] HIS
49 OR HER DESIGNEE may exercise discretion, to reject any person from
50 participation referred to such program and nothing herein contained
51 shall be construed as creating a right to be included in any course or
52 program established under this section. In addition, no person shall be
53 permitted to take part in such program if, during the five years imme-
54 diately preceding commission of an alcohol or drug-related traffic
55 offense or a finding of a violation of section eleven hundred ninety-
56 two-a of this article, such person has participated in a program estab-

lished pursuant to this article or been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article other than a violation committed prior to November first, nineteen hundred eighty-eight, for which such person did not participate in such program. In the exercise of discretion, the commissioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES or [a deputy] HIS OR HER DESIGNEE shall have the right to expel any participant from the program who fails to satisfy the requirements for participation in such program or who fails to satisfactorily participate in or attend any aspect of such program. Notwithstanding any contrary provisions of this chapter, satisfactory participation in and completion of a course in such program shall result in the termination of any sentence of imprisonment that may have been imposed by reason of a conviction therefor; provided, however, that nothing contained in this section shall delay the commencement of such sentence.

6. Fees. The commissioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES shall establish a schedule of fees to be paid by or on behalf of each participant in the program, and may, from time to time, modify same. Such fees shall defray the ongoing expenses of the program. Provided, however, that pursuant to an agreement with the [department] OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, a municipality, department thereof, or other agency may conduct a course in such program with all or part of the expense of such course and program being borne by such municipality, department or agency. In no event shall such fee be refundable, either for reasons of the participant's withdrawal or expulsion from such program or otherwise.

S 3. Paragraph (d) of subdivision 7 of section 1196 of the vehicle and traffic law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

(d) The commissioner OF MOTOR VEHICLES shall require applicants for a conditional license to pay a fee of seventy-five dollars for processing costs. Such fees assessed under this subdivision shall be paid to the commissioner OF MOTOR VEHICLES for deposit to the general fund and shall be in addition to any fees established by the commissioner OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES pursuant to subdivision six of this section to defray the costs of the alcohol and drug rehabilitation program.

S 4. This act shall take effect January 1, 2011.

38

PART M

Section 1. Paragraph 1 of subdivision (a) of section 9.60 of the mental hygiene law, as amended by chapter 158 of the laws of 2005, is amended to read as follows:

(1) "assisted outpatient treatment" shall mean categories of outpatient services which have been ordered by the court pursuant to this section. Such treatment shall include case management services or assertive community treatment team services to provide care coordination, and may also include any of the following categories of services: medication; periodic blood tests or urinalysis to determine compliance with prescribed medications; individual or group therapy; day or partial day programming activities; educational and vocational training or activities; alcohol or substance abuse treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for persons with a history of alcohol or substance abuse; supervision of living arrangements; and any other services within a local [or unified] services plan developed pursuant to article forty-one of this chapter,

1 prescribed to treat the person's mental illness and to assist the person
2 in living and functioning in the community, or to attempt to prevent a
3 relapse or deterioration that may reasonably be predicted to result in
4 suicide or the need for hospitalization.

5 S 2. Paragraph 2 of subdivision (b) of section 31.27 of the mental
6 hygiene law, as added by chapter 723 of the laws of 1989, is amended to
7 read as follows:

8 (2) The commissioner of mental health shall require that each compre-
9 hensive psychiatric emergency program submit a plan. The plan must be
10 approved by the commissioner prior to the issuance of an operating
11 certificate pursuant to this article. Each plan shall include: (i) a
12 description of the program's catchment area; (ii) a description of the
13 program's psychiatric emergency services, including crisis intervention
14 services, crisis outreach services, crisis residence services, extended
15 observation beds, and triage and referral services, whether or not
16 provided directly or through agreement with other providers of services;
17 (iii) agreements or affiliations with hospitals, as defined in section
18 1.03 of this chapter, to receive and admit persons who require inpatient
19 psychiatric services; (iv) agreements or affiliations with general
20 hospitals to receive and admit persons who have been referred by the
21 comprehensive psychiatric emergency program and who require medical or
22 surgical care which cannot be provided by the comprehensive psychiatric
23 emergency program; (v) a description of local resources available to the
24 program to prevent unnecessary hospitalizations of persons, which shall
25 include agreements with local mental health, health, substance abuse,
26 alcoholism or alcohol abuse, mental retardation and developmental disa-
27 bilities, or social services agencies to provide appropriate services;
28 (vi) a description of the program's linkages with local police agencies,
29 emergency medical services, ambulance services, and other transportation
30 agencies; (vii) a description of local resources available to the
31 program to provide appropriate community mental health services upon
32 release or discharge, which shall include case management services and
33 agreements with state or local mental health and other human service
34 providers; (viii) written criteria and guidelines for the development of
35 appropriate discharge planning for persons in need of post emergency
36 treatment or services[,]; (ix) a statement indicating that the program
37 has been included in an approved local [or unified] services plan devel-
38 oped pursuant to article forty-one of this chapter for each local
39 government located within the program's catchment area; and (x) any
40 other information or agreements required by the commissioner.

41 S 3. Subdivision (d) of section 33.13 of the mental hygiene law, as
42 amended by chapter 408 of the laws of 1999, is amended to read as
43 follows:

44 (d) Nothing in this section shall prevent the electronic or other
45 exchange of information concerning patients or clients, including iden-
46 tification, between and among (i) facilities or others providing
47 services for such patients or clients pursuant to an approved local [or
48 unified] services plan, as defined in article forty-one of this chapter,
49 or pursuant to agreement with the department, and (ii) the department or
50 any of its licensed or operated facilities. Furthermore, subject to the
51 prior approval of the commissioner of mental health, hospital emergency
52 services licensed pursuant to article twenty-eight of the public health
53 law shall be authorized to exchange information concerning patients or
54 clients electronically or otherwise with other hospital emergency
55 services licensed pursuant to article twenty-eight of the public health
56 law and/or hospitals licensed or operated by the office of mental

health; provided that such exchange of information is consistent with standards, developed by the commissioner of mental health, which are designed to ensure confidentiality of such information. Additionally, information so exchanged shall be kept confidential and any limitations on the release of such information imposed on the party giving the information shall apply to the party receiving the information.

S 4. Subdivision (d) of section 33.13 of the mental hygiene law, as amended by chapter 912 of the laws of 1984, is amended to read as follows:

(d) Nothing in this section shall prevent the exchange of information concerning patients or clients, including identification, between (i) facilities or others providing services for such patients or clients pursuant to an approved local [or unified] services plan, as defined in article forty-one, or pursuant to agreement with the department and (ii) the department or any of its facilities. Information so exchanged shall be kept confidential and any limitations on the release of such information imposed on the party giving the information shall apply to the party receiving the information.

S 5. The article heading of article 41 of the mental hygiene law, as added by chapter 978 of the laws of 1977, is amended to read as follows:

LOCAL [AND UNIFIED] SERVICES

S 6. The second undesignated paragraph and closing paragraph of section 41.01 of the mental hygiene law, as amended by chapter 978 of the laws of 1977, are amended to read as follows:

[In order to further the development, for each community in this state, of a unified system for the delivery of such services, this article gives to a local governmental unit the opportunity to participate in the state-local development of such services by means of a unified services plan. Such a plan is designed to be a mechanism whereby the department, department facilities, and local government can jointly plan for and deliver unified services to meet the needs of the consumers of such services. The unified services system will strengthen state and local partnership in the determination of the need for and the allocation of services and more easily provide for the most effective and economical utilization of new and existing state, local governmental, and private resources to provide services. A uniform ratio of state and local government responsibility for financing services under a unified services plan is established by this article to eliminate having the types of services provided in a community be determined by the local government's share of the cost of a particular program rather than the needs of the community.

It] EFFECTIVE IMPLEMENTATION OF THIS ARTICLE requires the direction and administration, by each local governmental unit, of a local comprehensive planning process for its geographic area in which all providers of services shall participate and cooperate in the provision of all necessary information. It also initiates a planning effort involving the state, local governments and other providers of service for the purpose of promoting continuity of care through the development of integrated systems of care and treatment for the mentally ill, mentally retarded and developmentally disabled, and for those suffering from the diseases of alcoholism and substance abuse.

S 7. Subdivisions 4 and 14 of section 41.03 of the mental hygiene law are REPEALED, and subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15 of

1 such section, such section as renumbered by chapter 978 of the laws of
2 1977, are renumbered subdivisions 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

3 S 8. Subdivision 5 of section 41.03 of the mental hygiene law, as
4 amended by chapter 588 of the laws of 1973 and as renumbered by section
5 seven of this act, is amended to read as follows:

6 5. "local governmental unit" means the unit of local government given
7 authority in accordance with this chapter by local government to provide
8 local [or unified] services.

9 S 9. Subdivision (b) of section 41.04 of the mental hygiene law, as
10 added by chapter 978 of the laws of 1977, is amended to read as follows:

11 (b) Guidelines for the operation of local [and unified] services plans
12 and financing shall be adopted only by rule or regulation. Such rules
13 and regulations shall be submitted at least twenty-one days prior to the
14 effective date thereof to the New York state conference of local mental
15 hygiene directors for comment thereon; provided, however, if a commis-
16 sioner finds that the public health, welfare or safety requires the
17 prompt adoption of rules and regulations, he may dispense with such
18 submission prior to the effective date thereof but, in such case, such
19 commissioner shall submit such rules and regulations to the conference
20 as soon as possible for their review within sixty days after the effec-
21 tive date thereof.

22 S 10. Subdivisions (a) and (c) of section 41.07 of the mental hygiene
23 law, as amended by chapter 588 of the laws of 1973 and such section as
24 renumbered by chapter 978 of the laws of 1977, are amended to read as
25 follows:

26 (a) Local governmental units may provide local [or unified] services
27 and facilities directly or may contract for the provision of those
28 services by other units of local or state government, by voluntary agen-
29 cies, or by professionally qualified individuals.

30 (c) Local governments may provide joint local [or unified] services
31 and facilities through agreements, made pursuant to law, which may
32 provide either that one local government provide and supervise these
33 services for other local governments or that a joint board or a joint
34 local department be established to administer these services for the
35 populations of all contracting local governments.

36 S 11. Subdivision (f) of section 41.10 of the mental hygiene law, as
37 added by chapter 978 of the laws of 1977, is amended to read as follows:

38 (f) The conference shall have the following powers:

39 1. To review and comment upon rules or regulations proposed by any of
40 the offices of the department for the operation of local [and unified]
41 service plans and programs. Comments on rules or regulations approved by
42 the conference shall be given to the appropriate commissioner or commis-
43 sioners for review and consideration; and

44 2. To propose rules or regulations governing the operation of the
45 local [and unified] services programs, and to forward such proposed
46 rules or regulations to the appropriate commissioner or commissioners
47 for review and consideration.

48 S 12. Subdivisions (a) and (b) of section 41.11 of the mental hygiene
49 law, as amended by section 5 of part R2 of chapter 62 of the laws of
50 2003, are amended to read as follows:

51 (a) In all local governments with a population less than one hundred
52 thousand, community services boards, at the option of the local govern-
53 ment, shall have either nine or fifteen members appointed by the local
54 government. In all other local governments, a community services board
55 shall have fifteen members appointed by the local government.

1 Whenever practicable at least one member shall be a licensed physician
2 and one member shall be a certified psychologist and otherwise at least
3 two members shall be licensed physicians, such members to have demon-
4 strated an interest in the field of services for the mentally disabled.
5 The other members shall represent the community interest in all the
6 problems of the mentally disabled and shall include representatives from
7 community agencies for the mentally ill, the mentally retarded and
8 developmentally disabled, and those suffering from alcoholism and
9 substance abuse. The community services board shall have separate
10 subcommittees for mental health, mental retardation and developmental
11 disabilities, and alcoholism or, at the discretion of the local govern-
12 ment, alcoholism and substance abuse. Each separate subcommittee shall
13 have no more than nine members appointed by the local government, except
14 that each subcommittee for mental health shall have no more than eleven
15 members appointed by the local government. Three of each such subcommit-
16 tee shall be members of the board. Each separate subcommittee shall be
17 composed of persons who have demonstrated an interest in the field of
18 services for the particular class of mentally disabled and shall include
19 former patients, parents or relatives of such mentally disabled persons
20 and community agencies serving the particular class of mentally disa-
21 bled, except that each subcommittee for mental health shall include at
22 least two members who are or were consumers of mental health services,
23 and at least two members who are parents or relatives of persons with
24 mental illness. Each separate subcommittee shall advise the community
25 services board and the director of community services regarding the
26 exercise of all policy-making functions vested in such board or direc-
27 tor, as such functions pertain to the field of services for the partic-
28 ular class of mentally disabled individuals represented by such subcom-
29 mittee. In addition, each subcommittee for mental health shall be
30 authorized to annually evaluate the local services plan [or the unified
31 services plan, as appropriate], and shall be authorized to report on the
32 consistency of such [plans] PLAN with the needs of persons with serious
33 mental illness, including children and adolescents with serious
34 emotional disturbances. Any such report shall be forwarded annually to
35 the community services board and the director of community services and
36 a copy shall also be sent to the commissioner prior to the submission of
37 the local services plan [or unified services plan. Provided], PROVIDED,
38 however, that the provisions of this paragraph shall not apply to cities
39 of over a million in population.

40 (b) In cities of over a million a community services board shall
41 consist of fifteen members to be appointed by the mayor. There shall be
42 at least two residents of each county within such cities on the board.
43 At least one shall be a licensed physician and at least one shall be a
44 certified psychologist. The other members shall represent the community
45 interest in all of the problems of the mentally disabled and shall
46 include representatives from community agencies for the mentally ill,
47 the mentally retarded and developmentally disabled, and those suffering
48 from alcoholism and substance abuse. The community services board shall
49 have separate subcommittees for mental health, mental retardation and
50 developmental disabilities, and alcoholism or, at the discretion of the
51 local government, alcoholism and substance abuse. Each separate subcom-
52 mittee shall have no more than nine members appointed by the local
53 government, except that each subcommittee for mental health shall have
54 no more than eleven members appointed by the local government. Three
55 members of each such subcommittee shall be members of the board. Each
56 separate subcommittee shall be composed of persons who have demonstrated

1 an interest in the field of services for the particular class of mental-
2 ly disabled and shall include former patients, parents or relatives of
3 such mentally disabled persons and community agencies serving the
4 particular class of mentally disabled, except that each subcommittee for
5 mental health shall include at least two members who are or were consum-
6 ers of mental health services, and two members who are parents or rela-
7 tives of persons with mental illness. Each separate subcommittee shall
8 advise the community services board and the director of community
9 services regarding the exercise of all policy-making functions vested in
10 such board or director, as such functions pertain to the field of
11 services for the particular class of mentally disabled individuals
12 represented by such subcommittee. In addition, each subcommittee for
13 mental health shall be authorized to annually evaluate the local
14 services plan [or the unified services plan, as appropriate], and shall
15 be authorized to report on the consistency of such [plans] PLAN with the
16 needs of persons with serious mental illness, including children and
17 adolescents with serious emotional disturbances. Any such report shall
18 be forwarded annually to the community services board and the director
19 of community services, and a copy shall also be sent to the commissioner
20 prior to the submission of the local services plan [or unified services
21 plan].

22 S 13. Paragraphs 5, 6, 7 and 12 of subdivision (a) of section 41.13 of
23 the mental hygiene law, paragraphs 5 and 7 as amended by chapter 588 of
24 the laws of 1973, paragraph 6 as amended by chapter 746 of the laws of
25 1986, paragraph 12 as amended by chapter 24 of the laws of 1985 and such
26 section as renumbered by chapter 978 of the laws of 1977, are amended to
27 read as follows:

28 5. submit annually to the department for its approval and subsequent
29 state aid, a report of long range goals and specific intermediate range
30 plans as modified since the preceding report, along with a local
31 services plan [or unified services plan] for the next local fiscal year.

32 6. have the power, with the approval of local government, to enter
33 into contracts for the provision of services, including the provision of
34 community support services, and the construction of facilities [includ-
35 ing contracts executed pursuant to subdivision (e) of section 41.19 of
36 this article and have the power, when necessary, to approve construction
37 projects].

38 7. establish procedures for execution of the local services plan [or
39 the unified services plan] as approved by the local government and the
40 commissioner, including regulations to guide the provision of services
41 by all organizations and individuals within its program.

42 12. seek the cooperation and cooperate with other aging, public health
43 and social services agencies, public and private, in advancing the
44 program of local [or unified] services.

45 S 14. Section 41.14 of the mental hygiene law is REPEALED.

46 S 15. Subdivisions (a), (b), (c) and (e) of section 41.15 of the
47 mental hygiene law, subdivisions (a), (c) and (e) as amended by chapter
48 978 of the laws of 1977 and subdivision (b) as amended by chapter 707 of
49 the laws of 1988, are amended to read as follows:

50 (a) Net operating costs of programs incurred pursuant to [either] an
51 approved local services plan [or an approved unified services plan] in
52 accordance with the regulations of the commissioner or commissioners of
53 the office or offices of the department having jurisdiction of the
54 services and approved by the commissioner or commissioners of the office
55 or offices of the department having jurisdiction of the services shall
56 be eligible for state aid.

1 (b) Long range goals, intermediate range plans, and annual plans shall
2 meet requirements for comprehensive services set for each local govern-
3 ment by the commissioners of the offices of the department after taking
4 into consideration local needs and available resources. These services
5 shall be concerned with diagnosis, care, treatment, social and voca-
6 tional rehabilitation, community residential services licensed by the
7 department of mental hygiene, research, consultation and public educa-
8 tion, education and training of personnel, control and prevention of
9 mental disabilities, and the general furtherance of mental capability
10 and health. As part of the local services [or unified services plans]
11 PLAN required to establish eligibility for state aid in accordance with
12 the provisions herein, each local governmental unit shall submit a five-
13 year plan and annual implementation plans and budgets which shall
14 reflect local needs and resources, including the needs and resources
15 available for the provision of community support services, and the role
16 of facilities in the department in the provision of required services.
17 [If the local government has developed community services assessments
18 and plans pursuant to subdivision four of section four hundred nine-d
19 and paragraph (b) of subdivision three of section four hundred twenty-
20 three of the social services law covering the same time period covered
21 by the five year plan and annual implementation plans and budgets
22 required by this subdivision, then the five year plan and annual imple-
23 mentation plans and budget shall include those portions of the community
24 services assessments and plans relating to the provision of mental
25 health, alcoholism and substance abuse services and an estimate of funds
26 to be made available by the social services district for the provision
27 or purchase of these services.]

28 (c) Subject to regulations for special circumstances as established by
29 the commissioner or commissioners of the office or offices of the
30 department having jurisdiction of the services, no annual plan or inter-
31 mediate range plan of the local governmental unit shall be approved
32 unless it indicates that reasonable efforts are being made to extend or
33 improve local [or unified] services in each succeeding local fiscal year
34 in accordance with the statewide long range goals and objectives of the
35 department for the development and integration of state, regional, and
36 local services for the mentally disabled.

37 (e) Capital costs incurred by a local government or by a voluntary
38 agency, pursuant to [either] an approved local services plan [or an
39 approved unified services plan] and in accordance with the regulations
40 of the commissioner or commissioners of the office or offices of the
41 department having jurisdiction of the services and with the approval of
42 the commissioner or commissioners having jurisdiction of the services,
43 shall be eligible for state aid pursuant to the provisions of this arti-
44 cle. Capital costs incurred by a voluntary agency shall be eligible for
45 state aid only if incurred pursuant to an agreement between the volun-
46 tary agency and the local governmental unit where the construction is
47 located. Such agreement shall contain the approval by the local govern-
48 mental unit of such construction and an agreement by such unit to
49 include the program of the voluntary agency in its plans and proposals.

50 S 16. Subdivisions (b), (c), (d) and paragraph 2 of subdivision (e) of
51 section 41.16 of the mental hygiene law, as added by chapter 978 of the
52 laws of 1977, paragraph 1 of subdivision (b) as amended by chapter 55 of
53 the laws of 1992 and subdivision (c) as amended by chapter 99 of the
54 laws of 1999, are amended to read as follows:

55 (b) In accordance with regulations established by the commissioner or
56 commissioners of the offices of the department having jurisdiction of

1 the services, which shall provide for prompt action on proposed local
2 services [and unified services] plans, each local governmental unit
3 shall:

4 1. establish long range goals and objectives consistent with statewide
5 goals and objectives developed pursuant to section 5.07 of this chapter
6 and develop or annually update the local services [or unified services]
7 plan of the local governmental unit or units listing providers, esti-
8 mated costs and proposed utilization of state resources, including
9 facilities and manpower, which shall be used in part to formulate state-
10 wide comprehensive plans for services.

11 2. submit one local services plan [or a unified services plan] to the
12 single agent of the department jointly designated by the commissioners
13 of the offices of the department annually for approval by the commis-
14 sioner or commissioners of the office or offices of the department
15 having jurisdiction of the services.

16 (c) A local services plan [or unified services plan] shall be devel-
17 oped, in accordance with the regulations of the commissioner or commis-
18 sioners of the office or offices of the department having jurisdiction
19 of the services by the local governmental unit or units which shall
20 direct and administer a local comprehensive planning process for its
21 geographic area, consistent with statewide goals and objectives estab-
22 lished pursuant to section 5.07 of this chapter. The planning process
23 shall involve the directors of any department facilities, directors of
24 hospital based mental health services, directors of community mental
25 health centers, consumers, consumer groups, voluntary agencies, other
26 providers of services, and local correctional facilities and other local
27 criminal justice agencies. The local governmental unit, or units, shall
28 determine the proposed local services plan [or unified services plan] to
29 be submitted for approval. If any provider of services including facili-
30 ties in the department, or any representative of the consumer or commu-
31 nity interests within the local planning process, disputes any element
32 of the proposed plan for the area which it serves, the objection shall
33 be presented in writing to the director of the local governmental unit.
34 If such dispute cannot be resolved to the satisfaction of all parties,
35 the director shall determine the plan to be submitted. If requested and
36 supplied by the objecting party, a written objection to the plan shall
37 be appended thereto and transmitted to the single agent of the depart-
38 ment jointly designated by the commissioners.

39 (d) Each commissioner of an office in the department shall review the
40 portion of the local services plan [or unified services plan] submitted
41 over which his office has jurisdiction and approve or disapprove such
42 plan in accordance with the procedures of subdivision (e) [hereof] OF
43 THIS SECTION.

44 2. A commissioner of an office of the department shall not disapprove
45 any portion of the local services plan [or unified services plan] with-
46 out providing the local governmental unit an opportunity to be heard
47 regarding the proposed disapproval and to propose any modification of
48 the plan. Pending the resolution of any dispute over approval of a
49 portion of the plan, by final determination of the commissioner having
50 jurisdiction over the services, new programs proposed shall not be
51 implemented and programs previously implemented shall continue to be
52 funded at existing levels. If a portion of the plan is disapproved, the
53 commissioner of the office having jurisdiction over such portion shall
54 notify the local governmental unit in writing stating reasons for such
55 action.

1 S 17. Sections 41.19, 41.21 and 41.23 of the mental hygiene law are
2 REPEALED.

3 S 18. Subdivision (d) of section 41.36 of the mental hygiene law, as
4 amended by chapter 262 of the laws of 1992, is amended to read as
5 follows:

6 (d) Each local governmental unit shall include in its annual local [or
7 unified services] plan a review of existing community residential facil-
8 ities providing reimbursable services and a recommendation of antic-
9 ipated needs for the development of such facilities, consistent with the
10 needs of the mentally retarded and developmentally disabled within the
11 jurisdiction of the local governmental unit.

12 S 19. Subdivision (b) of section 41.39 of the mental hygiene law, as
13 amended by chapter 515 of the laws of 1992, is amended to read as
14 follows:

15 (b) Notwithstanding any other provisions of this article, income real-
16 ized by a voluntary not-for-profit agency from industrial contracts
17 entered into pursuant to its operation of a sheltered workshop shall be
18 matched dollar for dollar by an office of the department of mental
19 hygiene through direct contract with the agency provided that no part of
20 the expenses of such sheltered workshop are claimed through a contract
21 with the local governmental unit which is receiving funding for
22 reimbursement of such expenses from the same office of the department
23 provided that such sheltered workshop is operating in accordance with an
24 approved local [or unified] services plan. In no event shall any combi-
25 nation of income including state aid exceed the total cost of operation
26 of such sheltered workshop.

27 S 20. Paragraph 2 of subdivision (e), paragraph 6 of subdivision (f),
28 and subdivisions (g), (h) and (i) of section 41.47 of the mental hygiene
29 law, as added by chapter 746 of the laws of 1986, are amended to read as
30 follows:

31 (2) The commissioner shall establish revenue goals for services,
32 provided, however, the commissioner may approve local [or unified]
33 services plans or may enter into direct contracts with providers of
34 services which substitute alternative revenue goals for individual
35 providers of services based upon appropriate documentation and justi-
36 fication, as required by the commissioner.

37 (6) the extent to which the community support services authorized by
38 the contract are consistent and integrated with the applicable local [or
39 unified] services plan of the area to be served; and

40 (g) The commissioner may enter into a direct contract for the
41 provision of community support services when the commissioner deter-
42 mines, after the approval of the local [or unified] services plan and
43 the allocation of state aid therefore, that such direct contract is
44 necessary to assure that additional community support services are
45 available to persons who are functionally disabled as a result of mental
46 illness and are eligible for community support services. Before entering
47 into a direct contract with a provider located within the geographic
48 area of a local governmental unit which receives state aid for community
49 support services pursuant to this section, the commissioner shall notify
50 the local governmental unit and give the director of the local govern-
51 mental unit an opportunity to appeal the need for such direct contract.
52 Such appeals shall be informal in nature and the rules of evidence shall
53 not apply.

54 (h) In order to qualify for one hundred percent state aid pursuant to
55 this section in any local fiscal year local governmental units shall
56 assure that the local tax levy share of expenditures for net operating

1 costs pursuant to an approved local services plan for services provided
2 to mentally ill persons pursuant to section 41.18 of this article[, when
3 applicable,] shall be equal to or greater than the local tax levy share
4 of such expenditures under an approved local services plan in the last
5 complete local fiscal year preceding the effective date of this section,
6 [and when applicable, such local tax levy share of net operating costs
7 for local governmental units submitting unified services plans pursuant
8 to section 41.23 of this article, as adjusted to reflect changes in the
9 rate of state reimbursement for approved expenditures, shall be equal to
10 or greater than the local tax levy share of the net operating costs for
11 expenditures under the approved unified services plan in the last
12 complete local fiscal year preceding the effective date of this
13 section,] provided, however, any such required maintenance of expendi-
14 tures under this subdivision for local governmental units may be reduced
15 to reflect the local governmental share of revenue applicable to
16 increased payments made by governmental agencies pursuant to title elev-
17 en of article five of the social services law, which are a result of
18 increased efficiencies in the collection of such revenue and which
19 represent an increased proportion of the total local [or unified]
20 services operating costs from the prior local fiscal year. The commis-
21 sioner shall be authorized to reduce payments made to local governmental
22 units pursuant to this article, in the following local fiscal year, for
23 failure to maintain expenditures in accordance with this subdivision.

24 (i) The provisions of subdivision (h) of this section shall not apply
25 to a local governmental unit in any local fiscal year in which the total
26 amount of state aid granted to the local governmental unit for net oper-
27 ating costs under section 41.18 [or section 41.23] of the article is
28 less than such amount of state aid granted in the local fiscal year
29 preceding the effective date of this section, or in any local fiscal
30 year in which the total amount of state aid granted to the local govern-
31 mental unit under this section, plus the total amount of direct
32 contracts entered into between the commissioner and providers of
33 services for the provision of community support services to eligible
34 residents of such local governmental unit, shall be less than the total
35 amount of such aid and direct contracts in the first local fiscal year
36 following the effective date of this section.

37 S 21. Subdivision 4 of section 41.49 of the mental hygiene law, as
38 added by chapter 499 of the laws of 1988, is amended to read as follows:

39 4. Notwithstanding any other provision of this article, in order to
40 qualify for one hundred percent state aid pursuant to this section,
41 local governmental units shall assure that local contributions for
42 expenditures in any local fiscal year for local [or unified] services
43 provided to mentally ill persons made pursuant to this article, as
44 applicable, shall be equal to or greater than the amount expended by
45 such local governmental unit in the last complete local fiscal year
46 preceding the effective date of this section. The commissioner shall be
47 authorized to reduce payments made to local governmental units which
48 have received grants pursuant to this section, in the following local
49 fiscal year, for failure to maintain expenditures in accordance with
50 this subdivision.

51 S 22. Subdivision (d) of section 41.53 of the mental hygiene law, as
52 amended by chapter 223 of the laws of 1992, is amended to read as
53 follows:

54 (d) No such grant will be awarded unless the community residence is
55 consistent with the local services plan [or the unified services plan,
56 as appropriate], pursuant to this article.

1 S 23. This act shall take effect July 1, 2010; provided, however, that
2 the amendments made to sections 9.60 and 31.27 of the mental hygiene law
3 by sections one and two of this act shall not affect the repeal of such
4 sections and shall be deemed repealed therewith; the amendments to
5 subdivision (d) of section 33.13 of the mental hygiene law made by
6 section three of this act shall be subject to the expiration and rever-
7 sion of such subdivision pursuant to section 18 of chapter 408 of the
8 laws of 1999, as amended when upon such date the provisions of section
9 four of this act shall take effect; and the amendments to subdivisions
10 (a) and (b) of section 41.11 of the mental hygiene law made by section
11 twelve of this act shall not affect the expiration of such subdivisions
12 and shall be deemed to expire therewith.

13 PART N

14 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
15 57 of the laws of 2006, relating to establishing a cost of living
16 adjustment for designated human services programs, subdivision 3-b as
17 added and subdivision 3-c as amended by section 1 of part L of chapter
18 58 of the laws of 2009, are amended to read as follows:

19 3-b. Notwithstanding any inconsistent provision of law, beginning
20 April 1, 2009 and ending March 31, [2010] 2011, the commissioners shall
21 not include a COLA for the purpose of establishing rates of payments,
22 contracts or any other form of reimbursement.

23 3-c. Notwithstanding any inconsistent provision of law, beginning
24 April 1, [2010] 2011 and ending March 31, [2013] 2014, the commissioners
25 shall develop the COLA under this section using the actual U.S. consumer
26 price index for all urban consumers (CPI-U) published by the United
27 States department of labor, bureau of labor statistics for the twelve
28 month period ending in July of the budget year prior to such state
29 fiscal year, for the purpose of establishing rates of payments,
30 contracts or any other form of reimbursement.

31 S 2. Section 4 of part C of chapter 57 of the laws of 2006, relating
32 to establishing a cost of living adjustment for designated human
33 services programs, as amended by section 7 of part F of chapter 497 of
34 the laws of 2008, is amended to read as follows:

35 S 4. This act shall take effect immediately and shall be deemed to
36 have been in full force and effect on and after April 1, 2006; provided
37 section one of this act shall expire and be deemed repealed April 1,
38 [2012] 2014; provided, further, that sections two and three of this act
39 shall expire and be deemed repealed December 31, 2009.

40 S 3. This act shall take effect immediately and shall be deemed to
41 have been in full force and effect on and after April 1, 2010; provided,
42 however, that the amendments to section 1 of part C of chapter 57 of the
43 laws of 2006 made by section one of this act shall not affect the repeal
44 of such section and shall be deemed repealed therewith.

45 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
46 sion, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

1 S 3. This act shall take effect immediately provided, however, that
2 the applicable effective date of Parts A through N of this act shall be
3 as specifically set forth in the last section of such Parts.