

S. 6608--A

A. 9708--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

AN ACT to amend the public health law, the 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

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

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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 orthodontia, 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); 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); to amend chapter 119 of the laws of 1997, relating to authorizing the department of health to establish certain payments to general hospitals in relation thereto (Part O); and to increase Medicaid payments to providers through managed care organizations and provide equivalent fees through an ambulatory patient group methodology relating thereto (Part P)

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 P. 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.

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

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

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

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

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

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

50 (I) THE LOCATION WHERE SERVICES ARE PROVIDED;

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

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

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

1 [(c)] (D) Any right of subrogation to benefits which a municipality is
 2 entitled in accordance with paragraph (d) of subdivision three of
 3 section twenty-five hundred fifty-nine of the public health law shall be
 4 valid and enforceable to the extent benefits are available under any
 5 accident and health insurance policy. The right of subrogation does not
 6 attach to insurance benefits paid or provided under any accident and
 7 health insurance policy prior to receipt by the insurer of written
 8 notice from the municipality. UPON THE INSURER'S RECEIPT OF WRITTEN
 9 NOTICE FROM THE MUNICIPALITY, THE INSURER SHALL PROVIDE THE MUNICIPALITY
 10 WITH INFORMATION ON THE EXTENT OF BENEFITS AVAILABLE TO AN INSURED UNDER
 11 THE POLICY OR CONTRACT.

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

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

21 S 2557-A. PARENTAL PARTICIPATION IN PAYMENT FOR EARLY INTERVENTION
 22 SERVICES. 1. PARENTAL PARTICIPATION IN THE PAYMENT FOR EARLY INTER-
 23 VENTION SERVICES SHALL BE ESTABLISHED ANNUALLY ON A PROSPECTIVE BASIS
 24 BASED ON A SLIDING SCHEDULE OF FEES AS SET FORTH IN SUBDIVISION THREE OF
 25 THIS SECTION. THE FEE SHALL BE PAID PROSPECTIVELY ON A QUARTERLY BASIS
 26 TO THE COMMISSIONER AND SHALL BE DEPOSITED INTO THE EARLY INTERVENTION
 27 PROGRAM ACCOUNT ESTABLISHED IN SECTION NINETY-NINE-T OF THE STATE
 28 FINANCE LAW. AFTER PAYING THE COSTS OF THE STATE'S ADMINISTRATION OF
 29 PARENTAL PARTICIPATION, THE COMMISSIONER SHALL PAY EACH MUNICIPALITY A
 30 PORTION OF THE PARENTAL FEES COLLECTED IN ACCORDANCE WITH THIS SECTION
 31 FROM PARENTS OF ELIGIBLE CHILDREN FOR WHICH THE MUNICIPALITY HAS FINAN-
 32 CIAL RESPONSIBILITY IN AN AMOUNT EQUAL TO THE MUNICIPALITY'S PROPOR-
 33 TIONAL SHARE OF COSTS OF EARLY INTERVENTION SERVICES. NO PARENTAL FEES
 34 MAY BE CHARGED FOR IMPLEMENTING CHILD FIND, EVALUATION AND ASSESSMENT,
 35 SERVICE COORDINATION, DEVELOPMENT, REVIEW, AND EVALUATION OF INDIVIDUAL-
 36 IZED FAMILY SERVICES PLANS, OR THE IMPLEMENTATION OF PROCEDURAL SAFE-
 37 GUARDS AND OTHER ADMINISTRATIVE COMPONENTS OF THE EARLY INTERVENTION
 38 SYSTEM.

39 2. PARENTS SHALL PAY A QUARTERLY FEE DETERMINED PURSUANT TO THE SCHED-
 40 ULE OF FEES SET FORTH IN SUBDIVISION THREE OF THIS SECTION FOR EACH
 41 CHILD IN THE FAMILY RECEIVING EARLY INTERVENTION SERVICES. IF A PARENT
 42 HAS MORE THAN THREE CHILDREN RECEIVING SERVICES IN THE EARLY INTER-
 43 VENTION PROGRAM, THE PARENTAL FEE SHALL BE LIMITED TO THE QUARTERLY FEE
 44 CHARGED FOR PARENTS WHO HAVE THREE CHILDREN RECEIVING SERVICES IN THE
 45 EARLY INTERVENTION PROGRAM. PARENTAL FEES SHALL APPLY WITHOUT REGARD TO
 46 WHETHER PAYMENT FOR SERVICES IS AVAILABLE THROUGH THIRD PARTY INSURANCE.

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

49 GROSS HOUSEHOLD INCOME	PARENTAL FEE PER CHILD
	50 /PER QUARTER
51 251% OF FEDERAL POVERTY LEVEL (FPL) TO 400% FPL	\$45.00
52 401% FPL TO 600% FPL	\$90.00
53 601% FPL TO 700% FPL	\$180.00
54 701% FPL TO 800% FPL	\$270.00
55 801% FPL TO 900% FPL	\$360.00

1	901% FPL TO 1000% FPL	\$450.00
2	1001% FPL AND ABOVE	\$540.00

3 4. A PARENT SHALL PROVIDE DOCUMENTATION AS SPECIFIED IN PARAGRAPH (A)
 4 OF THIS SUBDIVISION, AS NECESSARY AND SUFFICIENT TO DETERMINE THE
 5 PARENTAL FEE UNDER THIS SECTION. IF A PARENT FAILS TO PROVIDE DOCUMENTA-
 6 TION SUFFICIENT TO DETERMINE THE GROSS HOUSEHOLD INCOME, IT SHALL BE
 7 PRESUMED THAT THE PARENT FALLS WITHIN THE HIGHEST GROSS HOUSEHOLD INCOME
 8 BRACKET FOR THE PURPOSES OF ESTABLISHING THE PARENTAL FEE OBLIGATION.
 9 THE COMMISSIONER MAY VERIFY THE ACCURACY OF SUCH INCOME INFORMATION
 10 PROVIDED BY THE PARENT BY MATCHING IT AGAINST INCOME INFORMATION
 11 CONTAINED IN DATABASES TO WHICH THE COMMISSIONER HAS ACCESS, INCLUDING
 12 THE STATE'S WAGE REPORTING SYSTEM PURSUANT TO SUBDIVISION FIVE OF
 13 SECTION ONE HUNDRED SEVENTY-ONE-A OF THE TAX LAW AND BY MEANS OF AN
 14 INCOME VERIFICATION PERFORMED PURSUANT TO A COOPERATIVE AGREEMENT WITH
 15 THE DEPARTMENT OF TAXATION AND FINANCE.

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

20 (I) CURRENT ANNUAL INCOME TAX RETURNS;

21 (II) PAYCHECK STUBS;

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

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

26 (B) ANY INCOME VERIFICATION RESPONSE BY THE DEPARTMENT OF TAXATION AND
 27 FINANCE PURSUANT TO THIS SUBDIVISION SHALL NOT BE A PUBLIC RECORD AND
 28 SHALL NOT BE RELEASED BY THE COMMISSIONER. INFORMATION DISCLOSED PURSU-
 29 ANT TO THIS SUBDIVISION SHALL BE LIMITED TO INFORMATION NECESSARY FOR
 30 VERIFICATION. INFORMATION SO DISCLOSED SHALL BE KEPT CONFIDENTIAL.

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

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

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

52 (C) IF PAYMENT HAS NOT BEEN RECEIVED WITHIN THIRTY DAYS OF ITS DUE
 53 DATE OR AN AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSIONER AND
 54 THE PARENT IN RELATION TO THE PARENT'S PAYMENT OF THE PAST DUE FEE, THE
 55 CHILD'S ELIGIBILITY FOR THE PROGRAM SHALL CEASE, EXCEPT FOR THOSE
 56 SERVICES SET FORTH IN SUBDIVISION ONE OF THIS SECTION FOR WHICH NO

1 PARENTAL FEE MAY BE CHARGED. THE COMMISSIONER SHALL NOTIFY THE MUNICI-
2 PALITY THAT THE CHILD AND FAMILY ARE NO LONGER ELIGIBLE AND THAT
3 SERVICES SHOULD CEASE WITHIN FIFTEEN DAYS OF SUCH NOTICE TO THE MUNICI-
4 PALITY. THE MUNICIPALITY SHALL NOTIFY ALL PROVIDERS CURRENTLY PROVIDING
5 SERVICES TO THE CHILD THAT THE CHILD IS NO LONGER AUTHORIZED TO RECEIVE
6 SERVICES.

7 7. THE INABILITY OF THE PARENT OF AN ELIGIBLE CHILD TO PAY PARENTAL
8 FEES DUE TO CATASTROPHIC CIRCUMSTANCES OR EXTRAORDINARY EXPENSES SHALL
9 NOT RESULT IN THE DENIAL OF SERVICES TO THE CHILD OR THE CHILD'S FAMILY.
10 IN SUCH A CIRCUMSTANCE:

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

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

16 (II) OTHER EXTRAORDINARY EXPENSES OR CATASTROPHIC CIRCUMSTANCES CAUS-
17 ING DIRECT OUT-OF-POCKET LOSSES IN EXCESS OF FIFTEEN PERCENT OF GROSS
18 INCOME.

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

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

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

30 S 99-T. EARLY INTERVENTION PROGRAM ACCOUNT. 1. THERE IS HEREBY ESTAB-
31 LISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSION-
32 ER OF THE DEPARTMENT OF TAXATION AND FINANCE AN ACCOUNT IN THE MISCELLA-
33 NEOUS SPECIAL REVENUE FUND TO BE KNOWN AS THE "EARLY INTERVENTION
34 PROGRAM ACCOUNT".

35 2. SUCH ACCOUNT SHALL CONSIST OF MONIES RECEIVED FROM EARLY INTER-
36 VENTION FEES.

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

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

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

48 S 6. Section 2405 of the public health law, as added by chapter 328 of
49 the laws of 1989, subdivision 1 as amended by chapter 554 of the laws of
50 2002 and paragraphs (a) and (d) of subdivision 2 as amended by chapter
51 515 of the laws of 2003, is amended to read as follows:

52 S 2405. [Breast cancer] CANCER detection and education program; estab-
53 lishment. 1. There is hereby created within the department the [breast]
54 cancer detection and education program, also known as the [healthy women
55 partnership] CANCER SERVICES PROGRAM. This program is established to
56 promote screening and detection of [breast] cancer among unserved or

1 underserved populations, to educate the public regarding [breast] cancer
2 and the benefits of early detection, and to provide counseling and
3 referral services. For purposes of this section, "unserved or under-
4 served populations" shall mean persons having inadequate access and
5 financial resources to obtain [breast] cancer screening and detection
6 services, including persons who lack health insurance or whose health
7 insurance coverage is inadequate or who cannot meet their deductible
8 obligations for purposes of accessing coverage under their health insur-
9 ance.

10 2. The program shall include:

11 (a) establishment of a statewide public education and outreach
12 campaign to publicize [breast] EVIDENCE BASED cancer detection and
13 education services, such campaign shall include: general community
14 education, outreach to specific underserved populations, EVIDENCE BASED
15 clinical [breast] cancer screening services [and follow-up care, infor-
16 mation on the extent of coverage for such services by health insurance,
17 the medical assistance program and other public and private programs],
18 and an informational summary that shall include an explanation of the
19 importance of clinical [breast] examinations[, breast-self-examinations
20 and mammography,] AND what to expect during [a] clinical [breast exam-
21 ination] EXAMINATIONS and [mammography, and how to perform breast-self-
22 examinations] CANCER SCREENING SERVICES;

23 (b) provision of grants to approved organizations under section twen-
24 ty-four hundred six of this title;

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

27 (d) development of professional education programs including the bene-
28 fits of early detection of [breast] cancer[, AND clinical [breast]
29 examinations [and breast-self-examinations], the recommended frequency
30 of clinical [breast] examinations[, breast-self-examinations,] and
31 [mammography] CANCER SCREENING SERVICES, and professionally recognized
32 best practices guidelines.

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

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

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

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

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

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

50 S 10. Subdivisions 1, 4, 5 and 6 of section 2406 of the public health
51 law, subdivision 1 as amended by chapter 176 of the laws of 2006, subdi-
52 vision 4 as amended and subdivision 5 as renumbered by chapter 334 of
53 the laws of 1990, subdivision 5 as added by chapter 328 of the laws of
54 1989, and subdivision 6 as added by chapter 323 of the laws of 1995, are
55 amended to read as follows:

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

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

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

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

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

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

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

26 [4.] 2. The commissioner[, in consultation with the breast cancer
27 detection and education program advisory council,] shall give notice and
28 provide opportunity [for organizations described in subdivision three of
29 this section] to submit applications to provide [breast] cancer
30 detection and education programs. In order to be considered for a grant
31 to provide [breast] cancer detection and education programs, applicants
32 must show evidence of the following:

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

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

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

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

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

43 Applications shall be made on forms provided by the commissioner. [The
44 breast cancer detection and education program advisory council shall
45 review and evaluate applications and make recommendations to the commis-
46 sioner for approval of grants to organizations to provide breast cancer
47 detection and education programs.]

48 [5.] 3. The commissioner[, in consultation with the breast cancer
49 detection and education program advisory council,] shall develop stand-
50 ards for the implementation of [breast] cancer detection and education
51 programs by approved organizations which shall ensure the following:

52 (a) integration of the approved organization with existing health care
53 providers;

54 (b) maximizing third party reimbursement;

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

1 [6.] 4. Within the amounts of state or federal funds appropriated for
2 [cervical] cancer early detection and diagnosis, approved organizations
3 may be authorized by the department to provide such services for popu-
4 lations served pursuant to this title. Early detection services shall
5 include, but not be limited to, complete [pelvic] examinations, [pap
6 smears,] EVIDENCE BASED SCREENING, patient education, counseling,
7 follow-up and referral.

8 S 11. Section 2406-a of the public health law, as added by chapter
9 623 of the laws of 2007, is amended to read as follows:

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

17 2. For the purposes of this section, "community-based organizations"
18 shall mean grass roots, free-standing organizations in which breast
19 cancer survivors hold significant decision-making responsibility, and
20 which offer a broad range of breast cancer education and support
21 services free of charge.

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

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

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

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

1 air conditioners must be operated in occupied resident rooms consistent
2 with requirements applicable to common areas.

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

5 (III) FUNDS SHALL BE RESERVED AND ACCUMULATED FROM YEAR TO YEAR AND
6 SHALL BE AVAILABLE, INCLUDING INCOME FROM INVESTED FUNDS, FOR PURPOSES
7 OF AWARDING GRANTS TO OPERATORS OF ADULT HOMES, ENRICHED HOUSING
8 PROGRAMS AND RESIDENCES FOR QUALITY IMPROVEMENTS IN ADULT HOMES,
9 ENRICHED HOUSING PROGRAMS AND RESIDENCES, IN AN AMOUNT UP TO FOUR
10 MILLION THREE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED DOLLARS FOR THE
11 PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO
12 THOUSAND ELEVEN.

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

14 S 14-a. Subparagraph 1 of paragraph (a) of subdivision 2 of section
15 214 of the elder law is amended to read as follows:

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

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

32 S 2799-f. Comprehensive care centers for eating disorders; estab-
33 lished. [1.] The commissioner shall [facilitate the development, and]
34 provide for the public identification[,] of comprehensive care centers
35 for persons with eating disorders[. The development and identification
36 of such centers shall be] for the purposes of:

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

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

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

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

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

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

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

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

8 2. The commissioner's [written notice to applicants, which shall be
9 provided no later than ninety days following the receipt of a satisfac-
10 tory application, shall identify the applicant as a state-identified]
11 IDENTIFICATION OF A comprehensive care center for eating disorders under
12 this article[, provided however that such notice] shall be valid for not
13 more than a two year period from the date of issuance. The commissioner
14 may reissue such [written notices] IDENTIFICATIONS for subsequent peri-
15 ods of up to two years, provided that the comprehensive care center has
16 notified the commissioner of any material changes in structure or opera-
17 tion based on its original [RFA submission] APPLICATION, or since its
18 last written notice by the commissioner, and that the commissioner is
19 satisfied that the center continues to meet the criteria required pursu-
20 ant to this article.

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

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

25 S 20. Intentionally omitted.

26 S 21. Intentionally omitted.

27 S 22. Intentionally omitted.

28 S 23. Intentionally omitted.

29 S 24. Intentionally omitted.

30 S 25. Intentionally omitted.

31 S 26. Section 207 of the public health law, as added by chapter 414 of
32 the laws of 2005, subdivision 1 as amended by chapter 471 of the laws of
33 2007, paragraph (f) of subdivision 1 as added by chapter 570 of the laws
34 of 2008 and paragraph (f) of subdivision 1 as added by chapter 573 of
35 the laws of 2008, is amended to read as follows:

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

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

46 (b) Recommended preventative and wellness practices and services,
47 including EVIDENCE BASED age and gender appropriate testing and screen-
48 ing exams and immunization schedules.

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

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

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

9 (f) Uterine fibroids, an abnormal growth that occurs in the uterus,
10 including the causes and symptoms of uterine fibroids, the value of
11 early detection, possible options for treatment including their benefits
12 and risks, information on the elevated risk for minority women and other
13 relevant information.

14 [(f)] (G) Improving birth outcomes, including the importance of
15 preconceptional care, early prenatal care, considerations of health
16 risks during pregnancy, considerations of benefits and risks of labor
17 and delivery options including, but not limited to, vaginal and cesarean
18 section delivery, elective or repeat cesarean sections, and appropriate
19 use of drugs during delivery.

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

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

24 (b) public service announcements and advertisements; and

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

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

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

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

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

48 7. In addition to state funds appropriated for programs under this
49 section, the commissioner may accept grants from public or private
50 sources for these programs. The commissioner, in administering this
51 section, shall seek to coordinate the department's programs with other
52 public and private programs, and may undertake joint or cooperative
53 programs with other public or private entities.

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

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

4 (m) supervise and regulate the sanitary aspects of camps, hotels,
5 boarding houses, public eating and drinking establishments, swimming
6 pools, bathing establishments and other businesses and activities
7 affecting public health and [where inspections otherwise occur under the
8 state uniform fire prevention and building code, respond to complaints
9 relating], IN RELATION to hotels, boarding houses and temporary resi-
10 dences as defined in the state sanitary code [and], inspect such facili-
11 ties (I) WHERE INSPECTIONS DO NOT OTHERWISE OCCUR UNDER THE STATE
12 UNIFORM FIRE PREVENTION AND BUILDING CODE, (II) TO RESPOND TO
13 COMPLAINTS, OR (III) when otherwise necessary;

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

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

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

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

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

1 (f) As a condition of [continued] eligibility for benefits under this
2 title, if a program participant is eligible for Medicare part D drug
3 coverage under section 1860D of the federal social security act, the
4 participant is required to enroll in Medicare part D at the first avail-
5 able enrollment period and to maintain such enrollment. This requirement
6 shall be waived if such enrollment would [result in significant addi-
7 tional financial liability by the participant, including, but not limit-
8 ed to, individuals in a Medicare advantage plan whose cost sharing would
9 be increased, or if such enrollment would] result in the loss of any
10 health coverage through a union or employer plan for the participant,
11 the participant's spouse or other dependent. The elderly pharmaceutical
12 insurance coverage program shall provide premium assistance for all
13 participants enrolled in Medicare part D as follows:

14 (i) for participants with comprehensive coverage under section two
15 hundred forty-seven of this title, the elderly pharmaceutical insurance
16 coverage program shall pay for the portion of the part D monthly premium
17 that is the responsibility of the participant. Such payment shall be
18 limited to the low-income benchmark premium amount established by the
19 federal centers for Medicare and Medicaid services and any other amount
20 which such agency establishes under its de minimus premium policy[,
21 except that such payments made on behalf of participants enrolled in a
22 Medicare advantage plan may exceed the low-income benchmark premium
23 amount if determined to be cost effective to the program].

24 (ii) for participants with catastrophic coverage under section two
25 hundred forty-eight of this title, the elderly pharmaceutical insurance
26 coverage program shall credit the participant's annual personal covered
27 drug expenditure amount required under this title by an amount equal to
28 the annual low-income benchmark premium amount established by the
29 centers for Medicare and Medicaid services, prorated for the remaining
30 portion of the participant's elderly pharmaceutical insurance coverage
31 program coverage period. The elderly pharmaceutical insurance coverage
32 program shall, at appropriate times, notify participants with
33 catastrophic coverage under section two hundred forty-seven of this
34 title of their right to coordinate the annual coverage period with that
35 of Medicare part D, along with the possible advantages and disadvantages
36 of doing so.

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

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

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

54 (ii) enrollment in a prescription drug plan or MA-PD plan; the elderly
55 pharmaceutical insurance coverage program shall provide program partic-
56 ipants with prior written notice of, and the opportunity to decline such

1 facilitated enrollment subject, however, to the provisions of paragraph
2 (f) of this subdivision;

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

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

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

8 (5) environmental health, which shall include activities that promote
9 health and prevent illness by ensuring sanitary conditions in water
10 supplies, food service establishments, and other permit sites, and by
11 [abating] ASSURING THE ABATEMENT OF public health nuisances BY RESPONSI-
12 BLE PARTIES.

13 The commissioner shall promulgate rules and regulations that define
14 the specific activities within each of the five categories. The commis-
15 sioner prior to promulgation of rules and regulations defining the
16 nature of the specific activities, shall consult with the public health
17 council and county health commissioners, boards and public health direc-
18 tors. The list of specific activities may be altered by the commissioner
19 as necessary and after his consultation with the council, commissioners,
20 boards and public health directors named herein.

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

23 9. WHEN REQUIRED FOR OFFICIAL PURPOSES OF THE STATE DEPARTMENT OF
24 HEALTH, THE STATE COMMISSIONER OF HEALTH OR HIS OR HER DESIGNEE MAY
25 REQUEST COPIES OF ALL REPORTS AND RECORDS RELATED TO A DEATH, INCLUDING
26 BUT NOT LIMITED TO AUTOPSY REPORTS AND TOXICOLOGY REPORTS. UPON RECEIPT
27 OF THE WRITTEN REQUEST OF THE STATE COMMISSIONER OF HEALTH OR HIS OR HER
28 DESIGNEE, A CORONER, CORONER'S PHYSICIAN OR MEDICAL EXAMINER, SHALL,
29 WITHIN THREE BUSINESS DAYS OF THEIR COMPLETION, PROVIDE TO SUCH COMMIS-
30 SIONER OR HIS OR HER DESIGNEE A COPY OF ALL REPORTS AND RECORDS, INCLUD-
31 ING BUT NOT LIMITED TO AUTOPSY REPORTS AND TOXICOLOGY REPORTS, RELATED
32 TO THE DEATH.

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

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

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

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

51 1-A. EACH PHYSICIAN LICENSED AND REGISTERED TO PRACTICE IN THIS STATE
52 SHALL WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS
53 SUBDIVISION AND UPON ENTERING OR UPDATING HIS OR HER PROFILE INFORMA-
54 TION:

55 (A) REGISTER AND MAINTAIN AN ACCOUNT WITH THE DEPARTMENT'S HEALTH
56 PROVIDER NETWORK AND ANY SUCCESSOR ELECTRONIC SYSTEM ESTABLISHED TO

1 FACILITATE COMMUNICATIONS BETWEEN THE DEPARTMENT AND LICENSED HEALTH
2 CARE PROVIDERS; OR

3 (B) PROVIDE AN E-MAIL ADDRESS TO THE DEPARTMENT WHICH SHALL BE USED BY
4 THE DEPARTMENT TO COMMUNICATE WITH THE PHYSICIAN. LICENSEES SHALL
5 PROVIDE NOTICE TO THE DEPARTMENT OF CHANGED E-MAIL ADDRESSES WITHIN
6 THIRTY DAYS OF THE CHANGE. LICENSEE E-MAIL ADDRESSES SHALL BE CONFIDEN-
7 TIAL AND SHALL NOT BE PUBLISHED AS PART OF THE LICENSEE'S PROFILE. THE
8 E-MAIL ADDRESSES MAY BE USED FOR DEPARTMENT PURPOSES ONLY.

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

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

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

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

20 2. NOTWITHSTANDING ARTICLES SIX AND SIX-A OF THE PUBLIC OFFICERS LAW,
21 THE COMMISSIONER MAY COLLECT AND MAINTAIN CARDIAC SERVICES INFORMATION
22 AND PREPARE AND RELEASE CARDIAC DATA SETS FOR USE IN RESEARCH PROJECTS
23 AS SET FORTH IN THIS SUBDIVISION. ANY CARDIAC DATA SET RELEASED SHALL
24 CONTAIN THE MINIMUM AMOUNT OF PERSONALLY IDENTIFIABLE INFORMATION WHICH
25 THE COMMISSIONER DETERMINES IS NECESSARY TO CONDUCT THE RESEARCH PROJECT
26 PROVIDED, HOWEVER, THAT NO CARDIAC DATA SET SHALL BE RELEASED THAT
27 CONTAINS PATIENT NAMES, SOCIAL SECURITY NUMBERS, OR OTHER DATA ELEMENTS
28 THAT DIRECTLY IDENTIFY ANY PATIENT.

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

31 (A) THE RESEARCH PROJECT'S POTENTIAL CONTRIBUTION TO IMPROVING THE
32 QUALITY OF CARE AND OUTCOMES EXPERIENCED BY PATIENTS RECEIVING CARDIAC
33 SERVICES, THE APPROPRIATENESS OF CARDIAC SERVICES, ACCESS TO CARDIAC
34 SERVICES, AND/OR THE COST EFFECTIVENESS OF CARDIAC SERVICES;

35 (B) THE TECHNICAL FEASIBILITY OF PREPARING THE CARDIAC DATA SET
36 REQUESTED;

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

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

39 (E) THE RESEARCH PROJECT'S FEASIBILITY;

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

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

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

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

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

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

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

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

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

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

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

10 S 39. Paragraph (iv) of subdivision 4 of section 1 of part C of chap-
11 ter 57 of the laws of 2006, relating to establishing a cost of living
12 adjustment for designated human services programs, as amended by section
13 7 of part F of chapter 497 of the laws of 2008, is amended to read as
14 follows:

15 (iv) Programs eligible for the cost of living adjustments under the
16 auspice of the department of health include: [HIV/AIDS adolescent
17 services/ACT for youth; HIV/AIDS adolescent service/general; HIV/AIDS
18 adolescent services/schools; HIV/AIDS clinical education; HIV/AIDS clin-
19 ical guidelines development; HIV/AIDS clinical scholars; HIV/AIDS clin-
20 ical trials experimental treatment; HIV/AIDS community development
21 initiative; HIV/AIDS community HIV prevention and primary care; HIV/AIDS
22 community services programs; HIV/AIDS criminal justice; HIV/AIDS educa-
23 tion and training; HIV/AIDS evaluation and research; HIV/AIDS expanded
24 syringe access program; HIV/AIDS families in transition; HIV/AIDS family
25 centered care; HIV/AIDS harm reduction/general; HIV/AIDS harm
26 reduction/syringe exchange; HIV/AIDS HIV health care and support
27 services for women and kids; HIV/AIDS HIV prevention/primary
28 care/support services for substance abusers; HIV/AIDS homeless shelters;
29 HIV/AIDS legal services and advocacy; HIV/AIDS lesbian, gay, bisexual,
30 transgender/adolescent; HIV/AIDS lesbian, gay, bisexual, transgender/
31 general; HIV/AIDS lesbian, gay, bisexual, transgender/substance use;
32 HIV/AIDS multiple service agency; HIV/AIDS nutritional services;
33 HIV/AIDS pediatric centers of excellence; HIV/AIDS permanency planning;
34 HIV/AIDS racial and ethnic minority; HIV/AIDS social day care; HIV/AIDS
35 specialized care centers for youth; HIV/AIDS specialty; HIV/AIDS
36 supportive housing; HIV/AIDS treatment adherence; HIV/AIDS women's
37 services/general; HIV/AIDS women's services/peer; HIV/AIDS women's
38 services/supportive services; HIV/AIDS youth access program,] REGIONAL
39 AND TARGETED HIV, STD AND HEPATITIS C SERVICES; HIV, STD AND HEPATITIS C
40 PREVENTION; HIV HEALTH CARE AND SUPPORTIVE SERVICES; HEPATITIS C
41 PROGRAMS; HIV, STD AND HEPATITIS C CLINICAL AND PROVIDER EDUCATION
42 PROGRAMS; office of minority health; center for community health
43 program; red cross emergency preparedness; nutrition outreach and educa-
44 tion; obesity prevention AND DIABETES RELATED PROGRAMS; women, infants,
45 and children; hunger prevention and nutrition assistance; Indian health;
46 asthma; prenatal care assistance program; rape crisis; [health and human
47 services sexuality related; maternity/early childhood foundation;]
48 comprehensive adolescent pregnancy prevention; family planning; school
49 health; sudden infant death syndrome; childhood lead poisoning
50 prevention; [enhanced services for kids; act for youth;] children with
51 special health care needs; regional perinatal [data] centers; migrant
52 health; dental services; osteoporosis prevention; [eating disorders;]
53 cancer services PROGRAMS; [cancer registry;] healthy heart; alzheimer's
54 disease assistance centers; alzheimer's disease - research and educa-
55 tion; [diabetes screening, education and prevention;] tobacco control;
56 rabies; tick-borne DISEASE; immunization; universal prenatal and post-

1 partum home visitation public health campaign; sexually transmitted
2 disease; and tuberculosis control.

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

6 18-a. (A) Health information technology demonstration program. [1.]

7 (I) The commissioner is authorized to issue grant funding to one or more
8 organizations broadly representative of physicians licensed in this
9 state, from funds made available for the purpose of funding research and
10 demonstration projects under [subdivision two of this section] SUBPARA-
11 GRAPH (II) OF THIS PARAGRAPH designed to promote the development of
12 electronic health information exchange technologies in order to facili-
13 tate the adoption of interoperable health records.

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

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

20 [(b)] (B) interconnection of physicians through regional collab-
21 orations;

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

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

27 [3.] (III) The department shall issue a report to the governor, the
28 temporary president of the senate and the speaker of the assembly within
29 one year following the issuance of the grants. Such report shall
30 contain, at a minimum, the following information: the demonstration
31 projects implemented pursuant to this [section] PARAGRAPH, their date of
32 implementation, their costs and the appropriateness of a broader appli-
33 cation of the health information technology program to increase the
34 quality and efficiency of health care across the state.

35 (B) THE COMMISSIONER SHALL MAKE SUCH RULES AND REGULATIONS AS MAY BE
36 NECESSARY TO IMPLEMENT FEDERAL POLICIES AND DISBURSE FUNDS AS REQUIRED
37 BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND TO PROMOTE THE
38 DEVELOPMENT OF A STATEWIDE HEALTH INFORMATION NETWORK OF NEW YORK
39 (SHIN-NY) TO ENABLE WIDESPREAD INTEROPERABILITY AMONG DISPARATE HEALTH
40 INFORMATION SYSTEMS, INCLUDING ELECTRONIC HEALTH RECORDS, PERSONAL
41 HEALTH RECORDS AND PUBLIC HEALTH INFORMATION SYSTEMS, WHILE PROTECTING
42 PRIVACY AND SECURITY. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT
43 BE LIMITED TO, REQUIREMENTS FOR ORGANIZATIONS COVERED BY 42 U.S.C. 17938
44 OR ANY OTHER ORGANIZATIONS THAT EXCHANGE HEALTH INFORMATION THROUGH THE
45 SHIN-NY.

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

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

48 (b) sections thirty, thirty-two and thirty-seven of this act and the
49 amendments to paragraph (g) of subdivision 3 of section 242 of the elder
50 law made by section thirty-one of this act shall take effect July 1,
51 2010;

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

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

1 (e) the amendments to section 1 of part C of chapter 57 of the laws of
2 2006 made by section thirty-nine of this act shall not affect the repeal
3 of such section and shall be deemed repealed therewith.

4 PART B

5 Section 1. 1. Notwithstanding paragraph (c) of subdivision 10 of
6 section 2807-c of the public health law, subdivision 2-b of section 2808
7 of the public health law, section 21 of chapter 1 of the laws of 1999,
8 and any other contrary provision of law, in determining rates of
9 payments by state governmental agencies effective for services provided
10 on and after April 1, 2010, for inpatient and outpatient services
11 provided by general hospitals, for inpatient services and adult day
12 health care outpatient services provided by residential health care
13 facilities pursuant to article 28 of the public health law, except for
14 residential health care facilities that provide extensive nursing,
15 medical, psychological and counseling support services to children, for
16 home health care services provided pursuant to article 36 of the public
17 health law by certified home health agencies, long term home health care
18 programs and AIDS home care programs, and for personal care services
19 provided pursuant to section 365-a of the social services law, the
20 commissioner of health shall apply zero trend factor projections attrib-
21 utable to the 2010 calendar year in accordance with paragraph (c) of
22 subdivision 10 of section 2807-c of the public health law, provided,
23 however, that such zero trend factor projections for such 2010 calendar
24 year shall also be applied to rates of payment for personal care
25 services provided in those local social services districts, including
26 New York city, whose rates of payment for such services are established
27 by such local social services districts pursuant to a rate-setting
28 exemption issued by the commissioner of health to such local social
29 services districts in accordance with applicable regulations, and
30 provided further, however, that for rates of payment for assisted living
31 program services provided on and after April 1, 2010, trend factor
32 projections attributable to the 2010 calendar year shall be established
33 at zero percent.

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

37 S 2. Subparagraph (vi) of paragraph (a) of subdivision 2 of section
38 2807-d of the public health law, as added by section 49 of part B of
39 chapter 58 of the laws of 2009, is amended to read as follows:

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

1 OPERATING INCOME ON A CASH BASIS AND SHALL NOT BE ASSESSED WITH REGARD
2 TO GROSS RECEIPTS FOR OUTPATIENT SERVICES.

3 S 3. Subparagraph (v) of paragraph (b) of subdivision 35 of section
4 2807-c of the public health law, as added by section 2 of part C of
5 chapter 58 of the laws of 2009, is amended to read as follows:

6 (v) Such regulations [may] SHALL incorporate quality related measures
7 pertaining to potentially preventable complications and re-admissions;
8 PROVIDED THAT RATE ADJUSTMENTS MADE IN ACCORDANCE WITH A METHODOLOGY
9 SPECIFIED IN SUCH REGULATIONS SHALL RESULT IN AN AGGREGATE REDUCTION IN
10 MEDICAID PAYMENTS OF NO LESS THAN FORTY-NINE MILLION DOLLARS FOR THE
11 PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO
12 THOUSAND ELEVEN AND NO LESS THAN ONE HUNDRED EIGHT MILLION DOLLARS FOR
13 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
14 TWO THOUSAND TWELVE, NET OF ANY REINVESTMENT FOR HOSPITALS WITH IMPROVED
15 OR CONTINUED HIGH PERFORMANCE IN RELATION TO THE ESTABLISHED READMISSION
16 BENCHMARKS AND INITIATIVES FOR BEHAVIORAL HEALTH ADMISSION DIVERSION AND
17 POST-DISCHARGE LINKAGE PAYMENTS;

18 S 4. Intentionally omitted.

19 S 5. Intentionally omitted.

20 S 6. Intentionally omitted.

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

23 5-C. (A) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND SUBJECT TO
24 THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PERIOD
25 APRIL FIRST, TWO THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOU-
26 SAND TEN, DISTRIBUTIONS PURSUANT TO THIS SECTION AND SECTION
27 TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE, SHALL REFLECT AN AGGREGATE
28 REDUCTION OF ONE HUNDRED FORTY MILLION DOLLARS, BASED ON THE PROPORTION
29 OF EACH HOSPITAL'S INDIGENT CARE ALLOCATION TO THE TOTAL ALLOCATIONS OF
30 ALL HOSPITALS' INDIGENT CARE ALLOCATIONS PRIOR TO APPLICATION OF THIS
31 REDUCTION, PROVIDED, HOWEVER, THAT SUCH REDUCTIONS SHALL NOT BE APPLIED
32 TO DISTRIBUTIONS TO MAJOR PUBLIC HOSPITALS, INCLUDING MAJOR PUBLIC
33 HOSPITALS OPERATED BY PUBLIC BENEFIT CORPORATIONS, AND SHALL ALSO NOT BE
34 APPLIED TO DISTRIBUTIONS MADE PURSUANT TO SUBPARAGRAPHS (II), (III) OR
35 (IV) OF PARAGRAPH (B) OF SUBDIVISION FIVE-B OF THIS SECTION.

36 (B) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND SUBJECT TO THE
37 AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PERIOD JANUARY
38 FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND
39 ELEVEN AND EACH CALENDAR YEAR THEREAFTER, DISTRIBUTIONS PURSUANT TO THIS
40 SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE SHALL
41 REFLECT AN AGGREGATE REDUCTION OF ONE HUNDRED EIGHTY-SIX MILLION SIX
42 HUNDRED THOUSAND DOLLARS, BASED ON THE PROPORTION OF EACH HOSPITAL'S
43 INDIGENT CARE ALLOCATION TO THE TOTAL ALLOCATIONS OF ALL HOSPITALS'
44 INDIGENT CARE ALLOCATIONS PRIOR TO APPLICATION OF THIS REDUCTION,
45 PROVIDED, HOWEVER, THAT SUCH REDUCTIONS SHALL NOT BE APPLIED TO DISTRIB-
46 UTIONS TO MAJOR PUBLIC HOSPITALS, INCLUDING MAJOR PUBLIC HOSPITALS OPER-
47 ATED BY PUBLIC BENEFIT CORPORATIONS, AND SHALL ALSO NOT BE APPLIED TO
48 DISTRIBUTIONS MADE PURSUANT TO SUBPARAGRAPHS (II), (III) OR (IV) OF
49 PARAGRAPH (B) OF SUBDIVISION FIVE-B OF THIS SECTION.

50 S 8. Paragraph (b-1) of subdivision 1 of section 2807-c of the public
51 health law, as added by chapter 639 of the laws of 1996 and subparagraph
52 (i) as amended by section 7 of part 00 of chapter 47 of the laws of
53 2008, is amended to read as follows:

54 (b-1) (i) For patients discharged on and after January first, nineteen
55 hundred ninety-seven and prior to January first, two thousand and on and
56 after January first, two thousand, payments to general hospitals for

1 reimbursement of inpatient hospital services provided to patients eligi-
2 ble for payments pursuant to the workers' compensation law, the volun-
3 teer firefighters' benefit law, the volunteer ambulance workers' benefit
4 law, and the comprehensive motor vehicle insurance reparations act shall
5 be at the rates of payment determined pursuant to this section for state
6 governmental agencies, excluding adjustments pursuant to subdivision
7 fourteen-f of this section and subdivision thirty-three of this section
8 AND EXCLUDING SUCH FURTHER REDUCTIONS TO SUCH PAYMENTS AS ARE ENACTED AS
9 PART OF THE STATE BUDGET FOR THE STATE FISCAL YEAR COMMENCING APRIL
10 FIRST, TWO THOUSAND TEN.

11 (ii) The provisions of paragraph (d) of subdivision eleven of this
12 section shall continue to apply to such payors for payments determined
13 pursuant to this paragraph.

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

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

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

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

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

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

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

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

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

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

1 S 13. Subparagraph (ii) of paragraph (b) of subdivision 9 of section
2 367-a of the social services law, as amended by section 4 of part C of
3 chapter 58 of the laws of 2008, is amended to read as follows:

4 (ii) if the drug dispensed is a multiple source prescription drug or a
5 brand-name prescription drug for which no specific upper limit has been
6 set by such federal agency, the lower of the estimated acquisition cost
7 of such drug to pharmacies, or the dispensing pharmacy's usual and
8 customary price charged to the general public. For sole and multiple
9 source brand name drugs, estimated acquisition cost means the average
10 wholesale price of a prescription drug based upon the package size
11 dispensed from, as reported by the prescription drug pricing service
12 used by the department, less sixteen and twenty-five one hundredths
13 percent thereof, and updated monthly by the department[; or, for a
14 specialized HIV pharmacy, as defined in paragraph (f) of this subdivi-
15 sion, acquisition cost means the average wholesale price of a
16 prescription drug based upon the package size dispensed from, as
17 reported by the prescription drug pricing service used by the depart-
18 ment, less twelve percent thereof, and updated monthly by the depart-
19 ment]. For multiple source generic drugs, estimated acquisition cost
20 means the lower of the average wholesale price of a prescription drug
21 based on the package size dispensed from, as reported by the
22 prescription drug pricing service used by the department, less twenty-
23 five percent thereof, or the maximum acquisition cost, if any, estab-
24 lished pursuant to paragraph (e) of this subdivision[; or, for a
25 specialized HIV pharmacy, as defined in paragraph (f) of this subdivi-
26 sion, acquisition cost means the lower of the average wholesale price of
27 a prescription drug based on the package size dispensed from, as
28 reported by the prescription drug pricing service used by the depart-
29 ment, less twelve percent thereof, or the maximum acquisition cost, if
30 any, established pursuant to paragraph (e) of this subdivision].

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

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

35 (V) ADMINISTRATION OF VACCINATIONS IN A PHARMACY BY A CERTIFIED PHAR-
36 MACIST WITHIN HIS OR HER SCOPE OF PRACTICE.

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

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

53 (B) SUCH PAYMENTS SHALL BE MADE AND REPORTED AT THE SAME TIME AND IN
54 THE SAME MANNER AS THE PAYMENTS AND REPORTS WHICH ARE OTHERWISE SUBMIT-
55 TED BY EACH THIRD PARTY PAYOR TO THE COMMISSIONER OR THE COMMISSIONER'S
56 DESIGNEE IN ACCORDANCE WITH THIS SECTION. SUCH PAYMENTS SHALL BE SUBJECT

1 TO AUDIT BY THE COMMISSIONER IN THE SAME MANNER AS THE OTHER PAYMENTS
2 OTHERWISE SUBMITTED AND REPORTED PURSUANT TO THIS SECTION. THE COMMIS-
3 SIONER MAY TAKE ALL MEASURES TO COLLECT DELINQUENT PAYMENTS DUE PURSUANT
4 TO THIS SUBDIVISION AS ARE OTHERWISE PERMITTED WITH REGARD TO DELINQUENT
5 PAYMENTS DUE PURSUANT TO OTHER SUBDIVISIONS OF THIS SECTION.

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

11 S 17. Subparagraphs (vii) and (viii) of paragraph (uu) of subdivision
12 1 of section 2807-v of the public health law, as amended by section 120
13 of part C of chapter 58 of the laws of 2009, are amended to read as
14 follows:

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

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

23 S 18. Intentionally omitted.

24 S 19. Intentionally omitted.

25 S 20. Intentionally omitted.

26 S 21. Paragraph (jj) of subdivision 1 of section 2807-v of the public
27 health law, as amended by section 5 of part B of chapter 58 of the laws
28 of 2008, is amended to read as follows:

29 (jj) Funds shall be reserved and accumulated from year to year and
30 shall be available, including income from invested funds, for the
31 purposes of a grant program to improve access to infertility services,
32 treatments and procedures, from the tobacco control and insurance initi-
33 atives pool established for the period January first, two thousand two
34 through December thirty-first, two thousand two in the amount of nine
35 million one hundred seventy-five thousand dollars, for the period April
36 first, two thousand six through March thirty-first, two thousand seven
37 in the amount of five million dollars, for the period April first, two
38 thousand seven through March thirty-first, two thousand eight in the
39 amount of five million dollars, for the period April first, two thousand
40 eight through March thirty-first, two thousand nine in the amount of
41 five million dollars, AND for the period April first, two thousand nine
42 through March thirty-first, two thousand ten in the amount of five
43 million dollars, and for the period April first, two thousand ten
44 through March thirty-first, two thousand eleven in the amount of [five]
45 TWO million TWO HUNDRED THOUSAND dollars.

46 S 22. Subparagraphs (vii) and (viii) of paragraph (qq) of subdivision
47 1 of section 2807-v of the public health law, as amended by section 5 of
48 part B of chapter 58 of the laws of 2008, are amended to read as
49 follows:

50 (vii) up to [five million] FOUR HUNDRED EIGHTY-EIGHT THOUSAND dollars
51 for the period January first, two thousand ten through [December] MARCH
52 thirty-first, two thousand ten; of such funds [one million nine] FOUR
53 hundred [fifty] EIGHTY-EIGHT thousand dollars shall be made available to
54 the department for the purpose of developing, implementing and adminis-
55 tering the long-term care insurance education and outreach program [and
56 three million fifty thousand dollars shall be made available to the

1 office for the aging for the purpose of providing the long-term care
2 insurance resource centers with the necessary resources to carry out
3 their operations; and

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

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

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

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

24 S 24. Subparagraph (iv) of paragraph (c) of subdivision 1 of section
25 2807-1 of the public health law, as amended by section 4 of part B of
26 chapter 58 of the laws of 2008, is amended to read as follows:

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

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

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

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

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

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

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

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

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

36 DISCLOSURE

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

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

53 6. (a) As applicable federal law, rules and regulations so provide, a
54 recipient of supplemental security income benefits or medical assistance
55 in the state of New York or any other state may establish an irrevocable
56 trust fund for the exclusive purpose of their OR A FAMILY MEMBER'S

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

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

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

36 DISCLOSURE

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

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

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

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

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

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

22 S 31. Section 365-h of the social services law, as added by chapter
23 81 of the laws of 1995, subdivision 3 as amended by section 26 of part B
24 of chapter 1 of the laws of 2002, is amended to read as follows:

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

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

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

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

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

52 4. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ASSUME RESPONSIBILITY
53 FROM A LOCAL SOCIAL SERVICES OFFICIAL FOR THE PROVISION AND REIMBURSE-
54 MENT OF TRANSPORTATION COSTS UNDER THIS SECTION. IF THE COMMISSIONER
55 ELECTS TO ASSUME SUCH RESPONSIBILITY, THE COMMISSIONER SHALL NOTIFY THE
56 LOCAL SOCIAL SERVICES OFFICIAL IN WRITING AS TO THE ELECTION, THE DATE

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

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

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

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

41 2-B. (A) EFFECTIVE JULY FIRST, TWO THOUSAND TEN, FOR PURPOSES OF
42 CLAIMING FEDERAL FINANCIAL PARTICIPATION UNDER PARAGRAPH NINE OF
43 SUBSECTION (C) OF SECTION TWENTY-ONE HUNDRED FIVE OF THE FEDERAL SOCIAL
44 SECURITY ACT, FOR INDIVIDUALS DECLARING TO BE CITIZENS AT INITIAL APPLI-
45 CATION, A HOUSEHOLD SHALL PROVIDE:

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

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

52 (B) PENDING RECEIPT OF THE INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF
53 PARAGRAPH (A) OF THIS SUBDIVISION, AN INITIAL APPLICATION SHALL CONTINUE
54 TO BE PROCESSED BY AN APPROVED ORGANIZATION OR ENROLLMENT FACILITATOR
55 AND A CHILD SHALL BE PRESUMPTIVELY ENROLLED IN THE PROGRAM IN ACCORDANCE
56 WITH PROCEDURES AND TIMEFRAMES CURRENTLY SPECIFIED IN CONTRACTS.

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

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

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

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

41 (a) Notwithstanding subdivisions two and five of this section, infor-
42 mation concerning income and resources of applicants for and recipients
43 of medical assistance may be verified by matching client information
44 with information contained in the wage reporting system established by
45 section one hundred seventy-one-a of the tax law and in similar systems
46 operating in other geographically contiguous states, by means of an
47 income verification performed [by] PURSUANT TO A MEMORANDUM OF UNDER-
48 STANDING WITH the department of taxation and finance [pursuant to subdivi-
49 sion four of section one hundred seventy-one-b of the tax law,] and,
50 to the extent required by federal law, with information contained in the
51 non-wage income file maintained by the United States internal revenue
52 service, in the beneficiary data exchange maintained by the United
53 States department of health and human services, and in the unemployment
54 insurance benefits file. Such matching shall provide for procedures
55 which document significant inconsistent results of matching activities.
56 Nothing in this section shall be construed to prohibit activities the

1 department reasonably believes necessary to conform with federal
2 requirements under section one thousand one hundred thirty-seven of the
3 social security act.

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

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

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

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

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

43 (3) Nothing herein shall be construed to prohibit the department, its
44 officers or employees from furnishing information to the office of
45 temporary and disability assistance relating to the payment of the cred-
46 it for certain household and dependent care services necessary for gain-
47 ful employment under subsection (c) of section six hundred six of this
48 article and the earned income credit under subsection (d) of section six
49 hundred six of this article, or pursuant to a local law enacted by a
50 city having a population of one million or more pursuant to subsection
51 (f) of section thirteen hundred ten of this chapter, only to the extent
52 necessary to calculate qualified state expenditures under paragraph
53 seven of subdivision (a) of section four hundred nine of the federal
54 social security act or to document the proper expenditure of federal
55 temporary assistance for needy families funds under section four hundred
56 three of such act. The office of temporary and disability assistance may

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

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

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

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

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

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

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

54 2-C. EXPRESS LANE ELIGIBILITY. (A) NOTWITHSTANDING ANY INCONSISTENT
55 PROVISION OF LAW, RULE OR REGULATION, THE COMMISSIONER IS AUTHORIZED TO
56 (I) ESTABLISH STANDARDS AND PROCEDURES FOR EXPRESS LANE ENROLLMENT AND

1 RENEWAL IMPLEMENTED IN ACCORDANCE WITH SECTION 2107(E)(1)(B) OF THE
2 FEDERAL SOCIAL SECURITY ACT, INCLUDING BUT NOT LIMITED TO RELIANCE ON A
3 FINDING MADE BY AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION
4 1902(E)(13)(F) OF THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE WHETHER
5 A CHILD MEETS ONE OR MORE OF THE ELIGIBILITY CRITERIA SET FORTH IN
6 SUBDIVISION TWO OF THIS SECTION; (II) SPECIFY SUCH STANDARDS AND PROCE-
7 DURES IN THE STATE CHILD HEALTH PLAN ESTABLISHED UNDER TITLE XXI OF THE
8 FEDERAL SOCIAL SECURITY ACT AND APPLICABLE CONTRACTS WITH APPROVED
9 ORGANIZATIONS AND ENROLLMENT FACILITATORS; AND (III) WAIVE ANY INFORMA-
10 TION AND DOCUMENTATION REQUIREMENTS SET FORTH IN THIS SECTION NECESSARY
11 TO IMPLEMENT EXPRESS LANE ELIGIBILITY PURSUANT TO STANDARDS AND PROCE-
12 DURES ESTABLISHED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH;
13 PROVIDED, HOWEVER, THAT INFORMATION AND DOCUMENTATION REQUIRED PURSUANT
14 TO SUBDIVISION TWO-B OF THIS SECTION MAY NOT BE WAIVED.

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

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

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

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

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

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

50 (D) FOR PURPOSES OF A MEDICAL ASSISTANCE ELIGIBILITY DETERMINATION
51 MADE IN ACCORDANCE WITH THIS SUBDIVISION, A CHILD SHALL BE DEEMED TO
52 SATISFY THE INCOME ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE IF AN
53 EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) AND (H) OF THE
54 FEDERAL SOCIAL SECURITY ACT AND SPECIFIED IN THE STANDARDS AND PROCE-
55 DURES ESTABLISHED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, HAS
56 DETERMINED THAT: THE CHILD'S FAMILY HAS INCOME THAT DOES NOT EXCEED A

1 SCREENING THRESHOLD AMOUNT, AS DETERMINED BY THE COMMISSIONER OF HEALTH,
2 EQUAL TO A PERCENTAGE OF THE FEDERAL POVERTY LINE (AS DEFINED AND ANNU-
3 ALLY REVISED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
4 SERVICES) THAT EXCEEDS BY THIRTY PERCENTAGE POINTS THE HIGHEST INCOME
5 ELIGIBILITY LEVEL APPLICABLE TO A FAMILY OF THE SAME SIZE UNDER THE
6 MEDICAL ASSISTANCE PROGRAM.

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

9 3-A. (A) INDIVIDUALS ENROLLED IN FAMILY HEALTH PLUS PLANS UNDER THIS
10 SECTION WHO ARE NOT OTHERWISE ELIGIBLE FOR FAMILY HEALTH PLUS UNDER
11 SECTION THREE HUNDRED SIXTY-NINE-EE OF THIS TITLE SHALL BE RESPONSIBLE
12 TO MAKE CO-PAYMENTS IN ACCORDANCE WITH THE TERMS OF PARAGRAPH (B) OF
13 THIS SUBDIVISION.

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

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

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

19 (III) THE CO-PAYMENT CHARGED FOR EACH PRIMARY CARE PHYSICIAN OFFICE
20 VISIT, FOR EACH DENTAL SERVICE VISIT, FOR EACH LABORATORY SERVICE, FOR
21 EACH RADIOLOGY SERVICE, FOR EACH OUTPATIENT MENTAL HEALTH SERVICE, AND
22 FOR EACH OUTPATIENT SUBSTANCE ABUSE SERVICE SHALL BE TEN DOLLARS;

23 (IV) THE CO-PAYMENT CHARGED FOR EACH PHYSICIAN SPECIALIST SERVICE
24 OFFICE VISIT, FOR EACH PHYSICAL THERAPY SERVICE, FOR EACH OCCUPATIONAL
25 THERAPY SERVICE, FOR EACH SPEECH THERAPY SERVICE, FOR EACH HEARING
26 SERVICE, FOR EACH VISION SERVICE, AND FOR EACH PODIATRIC SERVICE SHALL
27 BE THIRTY-FIVE DOLLARS;

28 (V) THE CO-PAYMENT CHARGED FOR EACH GENERIC PRESCRIPTION DRUG
29 DISPENSED SHALL BE FIVE DOLLARS AND FOR EACH BRAND NAME PRESCRIPTION
30 DRUG DISPENSED SHALL BE FIFTEEN DOLLARS.

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

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

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

47 2. AS USED IN THIS SECTION:

48 (A) "BIOLOGIC" MEANS A VIRUS, THERAPEUTIC SERUM, TOXIN, ANTITOXIN,
49 VACCINE, BLOOD, BLOOD COMPONENT OR DERIVATIVE, ALLERGENIC PRODUCT, IMMU-
50 NOGLOBULIN PRODUCT, OR ANALOGOUS PRODUCT, AS DEFINED BY THE PUBLIC
51 HEALTH SERVICE ACT, APPLICABLE TO THE PREVENTION, TREATMENT, OR CURE OF
52 A DISEASE OR CONDITION OF HUMAN BEINGS AND REGULATED AS A DRUG UNDER THE
53 FEDERAL FOOD, DRUG, AND COSMETIC ACT.

54 (B) "BONA FIDE CONSULTING SERVICES" MEANS AN ARRANGEMENT WITH ONE OR
55 MORE HEALTH CARE PROFESSIONALS FOR THE PROVISION OF CONSULTING SERVICES

1 BY SUCH PROFESSIONAL OR PROFESSIONALS, WHERE THE ARRANGEMENT IS CHARAC-
2 TERIZED BY THE FOLLOWING FACTORS:

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

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

8 (III) THE CRITERIA FOR SELECTING CONSULTANTS ARE DIRECTLY RELATED TO
9 THE IDENTIFIED PURPOSE AND THE PERSONS RESPONSIBLE FOR SELECTING THE
10 CONSULTANTS HAVE THE EXPERTISE NECESSARY TO EVALUATE WHETHER THE PARTIC-
11 ULAR HEALTH CARE PROFESSIONALS MEET THOSE CRITERIA;

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

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

16 (VI) THE VENUE AND CIRCUMSTANCES OF ANY MEETING WITH CONSULTANTS ARE
17 CONDUCIVE TO THE CONSULTING SERVICES AND ACTIVITIES RELATED TO THE
18 SERVICES ARE THE PRIMARY FOCUS OF THE MEETING.

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

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

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

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

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

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

30 (D) "CONTINUING MEDICAL EDUCATION" MEANS COURSE WORK OR TRAINING
31 PROVIDED IN THE STATE TO HEALTH CARE PROFESSIONALS LICENSED HEALTH CARE
32 PROVIDERS AUTHORIZED BY LAW TO PRESCRIBE DRUGS, BIOLOGICS OR DEVICES,
33 WHICH PERTAINS TO THE PRACTICE OF THEIR PROFESSION AND FOR WHICH CONTIN-
34 UING MEDICAL EDUCATION OR CONTINUING PROFESSIONAL EDUCATION CREDITS MAY
35 BE AWARDED.

36 (E) "DRUGS" MEANS:

37 (I) ARTICLES RECOGNIZED IN THE OFFICIAL UNITED STATES PHARMACOPOEIA,
38 OFFICIAL HOMEOPATHIC PHARMACOPOEIA OF THE UNITED STATES, OR OFFICIAL
39 NATIONAL FORMULARY;

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

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

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

47 (F) "FINANCIAL SUPPORT" MEANS ANYTHING WITH AN ECONOMIC VALUE, INCLUD-
48 ING BUT NOT LIMITED TO MONEY, GOODS AND SERVICES, OR A PROMISE OR AGREE-
49 MENT TO PROVIDE SUCH FINANCIAL SUPPORT IN THE FUTURE, REGARDLESS OF THE
50 FORM OF SUCH FINANCIAL SUPPORT, WHICH MAY INCLUDE BUT IS NOT LIMITED TO
51 PAYMENT, COMPENSATION, REIMBURSEMENT, REBATE, DISCOUNT, FEE REDUCTION,
52 GRANT, SCHOLARSHIP OR GIFT.

53 (G) "HEALTH CARE PROFESSIONAL" MEANS A PHYSICIAN, DENTIST, PHYSICIAN
54 ASSISTANT, SPECIALIST'S ASSISTANT, NURSE PRACTITIONER, MIDWIFE, OPTOME-
55 TRIST OR OTHER PERSON WHO IS LICENSED, REGISTERED OR CERTIFIED PURSUANT

1 TO TITLE EIGHT OF THE EDUCATION LAW AND IS AUTHORIZED UNDER SUCH TITLE
2 TO PRESCRIBE DRUGS OR MEDICAL DEVICES.

3 (H) "HOSPITAL SETTING" MEANS:

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

6 (II) ACADEMIC MEDICAL CENTER; OR

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

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

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

18 (II) INTENDED FOR USE IN THE DIAGNOSIS OF DISEASE OR OTHER CONDITIONS
19 OR IN THE CURE, MITIGATION, TREATMENT OR PREVENTION OF DISEASE, IN
20 PERSONS OR ANIMALS; OR

21 (III) INTENDED TO AFFECT THE STRUCTURE OR FUNCTION OF THE BODY OF A
22 PERSON OR ANIMAL, AND WHICH DOES NOT ACHIEVE ITS PRIMARY INTENDED
23 PURPOSES THROUGH CHEMICAL ACTION WITHIN OR ON SUCH BODY AND WHICH IS NOT
24 DEPENDENT UPON BEING METABOLIZED FOR THE ACHIEVEMENT OF ITS PRIMARY
25 INTENDED PURPOSES.

26 (J) "PHARMACEUTICAL COMPANY" MEANS:

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

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

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

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

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

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

49 (M) "SPEAKER" MEANS ANY HEALTH CARE PROFESSIONAL ENGAGED BY A PHARMA-
50 CEUTICAL COMPANY TO PARTICIPATE IN EXTERNAL PROMOTIONAL PROGRAMS THAT
51 PROVIDE MEDICAL OR SCIENTIFIC INFORMATION TO OTHER HEALTH CARE PROFES-
52 SIONALS ON BEHALF OF THE COMPANY.

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

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

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

6 (I) ANY FINANCIAL SUPPORT, INCLUDING BUT NOT LIMITED TO ANY GRANT,
7 SCHOLARSHIP, SUBSIDY, SUPPORT, CONSULTING CONTRACT, SPEAKER CONTRACT OR
8 EDUCATIONAL OR PRACTICE-RELATED ITEMS TO REWARD THE PROFESSIONAL FOR
9 HAVING PRESCRIBED PARTICULAR DRUGS, BIOLOGICS OR MEDICAL DEVICES IN THE
10 PAST, OR TO INDUCE THE PROFESSIONAL TO PRESCRIBE OR CONTINUE PRESCRIBING
11 PARTICULAR DRUGS, BIOLOGICS OR MEDICAL DEVICES IN THE FUTURE;

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

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

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

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

24 (II) THE PROVISION OF PRESCRIPTION DRUGS BY A PHARMACEUTICAL COMPANY
25 TO A HEALTH CARE PROFESSIONAL WITHOUT CHARGE SOLELY AND EXCLUSIVELY FOR
26 THE PURPOSE OF PERMITTING THE PROFESSIONAL TO DISTRIBUTE SUCH DRUGS TO
27 HIS OR HER PATIENTS WITHOUT CHARGE, TO THE EXTENT SUCH PROVISION AND
28 DISTRIBUTION COMPLY WITH APPLICABLE LAWS AND REGULATIONS INCLUDING THE
29 PRESCRIPTION DRUG MARKETING ACT; OR

30 (III) THE INVESTMENT OF A PHARMACEUTICAL COMPANY IN A BUSINESS VENTURE
31 IN THE PHARMACEUTICAL OR BIOTECHNOLOGY FIELD IN WHICH A HEALTH CARE
32 PROFESSIONAL IS A PRINCIPAL, OR OTHER JOINT ARRANGEMENT BETWEEN A PHAR-
33 MACEUTICAL COMPANY OR HEALTH CARE PROFESSIONAL IN SUCH A VENTURE,
34 PROVIDED THAT THE RELATIONSHIP BETWEEN THE COMPANY AND THE PROFESSIONAL
35 CHIEFLY RELATES TO SUCH VENTURE AND IS NOT INTENDED TO INFLUENCE THE
36 PROFESSIONAL'S PRESCRIBING DECISIONS.

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

39 (A) ARE ACCURATE AND NOT MISLEADING;

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

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

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

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

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

50 5. (A) NO PHARMACEUTICAL COMPANY MAY OFFER OR PROVIDE MEALS TO HEALTH
51 CARE PROFESSIONALS, AND NO HEALTH CARE PROFESSIONAL MAY ACCEPT OR PERMIT
52 HIS OR HER STAFF MEMBERS TO ACCEPT SUCH MEALS FROM A PHARMACEUTICAL
53 COMPANY, UNLESS SUCH MEALS:

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

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

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

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

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

11 (VI) ARE NOT PROVIDED AS PART OF AN ENTERTAINMENT OR RECREATIONAL
12 EVENT;

13 (VII) ARE PROVIDED IN A MANNER AND LOCATION CONDUCIVE TO INFORMATIONAL
14 COMMUNICATION; AND

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

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

25 (I) ARE INCIDENTAL TO A SUBSTANTIVE INTERACTION WITH THE HEALTH CARE
26 PROFESSIONAL;

27 (II) ARE NOT PROVIDED AS PART OF AN ENTERTAINMENT OR RECREATIONAL
28 EVENT;

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

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

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

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

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

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

41 (III) WHETHER THE ENTERTAINMENT OR RECREATION IS SECONDARY TO AN
42 EDUCATIONAL PURPOSE.

43 (B) NOTHING CONTAINED IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE
44 CONSTRUED TO PROHIBIT A PHARMACEUTICAL COMPANY FROM PROVIDING TO A
45 HEALTH CARE PROFESSIONAL, OR TO PROHIBIT A HEALTH CARE PROFESSIONAL FROM
46 ACCEPTING, ENTERTAINMENT OR RECREATIONAL BENEFITS IF THE HEALTH CARE
47 PROFESSIONAL IS EMPLOYED BY THE PHARMACEUTICAL COMPANY ON A FULL-TIME,
48 SALARIED BASIS.

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

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

54 (I) HAS SEPARATED ITS CONTINUING MEDICAL EDUCATION GRANT-MAKING FUNC-
55 TIONS FROM ITS SALES AND MARKETING DEPARTMENTS AND DOES NOT PERMIT ITS

1 SALES AND MARKETING DEPARTMENTS TO HAVE ANY INVOLVEMENT IN ITS CONTINU-
2 ING MEDICAL EDUCATION GRANT-MAKING ACTIVITIES;

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

8 (III) AGREES TO RESPECT THE INDEPENDENT JUDGMENT OF THE CONTINUING
9 MEDICAL EDUCATION PROVIDER AND TO FOLLOW STANDARDS FOR COMMERCIAL
10 SUPPORT ESTABLISHED BY THE ACCREDITATION COUNCIL FOR CONTINUING MEDICAL
11 EDUCATION OR AN EQUIVALENT NATIONAL ENTITY THAT ACCREDITS CONTINUING
12 MEDICAL EDUCATION AND IS INDEPENDENT OF ANY SPONSOR OR ORGANIZATION OF
13 SPONSORS.

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

16 (I) PROVIDE ANY ADVICE OR GUIDANCE TO THE CONTINUING MEDICAL EDUCATION
17 PROVIDER, EVEN IF ASKED BY THE PROVIDER, REGARDING THE CONTENT OR FACUL-
18 TY FOR A PARTICULAR CONTINUING MEDICAL EDUCATION PROGRAM FUNDED BY THE
19 COMPANY; OR

20 (II) PROVIDE ANY VERBAL OR WRITTEN INFORMATION TO A HEALTH CARE
21 PROFESSIONAL WHO IS EXPECTED TO SERVE AS A PRESENTER AT SUCH CONTINUING
22 MEDICAL EDUCATION PROGRAM REGARDING ANY DRUG, BIOLOGIC OR DEVICE MANU-
23 FACTURED, DISTRIBUTED OR MARKETED BY OR ON BEHALF OF THE COMPANY UNLESS
24 SUCH INFORMATION IS CONSISTENT WITH THE CRITERIA SET FORTH IN SUBDIVI-
25 SION FOUR OF THIS SECTION.

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

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

41 (F) A PHARMACEUTICAL COMPANY SHALL NOT PROVIDE MEALS DIRECTLY AT
42 CONTINUING MEDICAL EDUCATION PROGRAMS, EXCEPT THAT A CONTINUING MEDICAL
43 EDUCATION PROVIDER AT ITS OWN DISCRETION MAY APPLY THE FINANCIAL SUPPORT
44 PROVIDED BY A COMPANY FOR A CONTINUING MEDICAL EDUCATION PROGRAM TO
45 PROVIDE MODEST MEALS FOR ALL PARTICIPANTS. IN SUCH CASE, NOTWITHSTAND-
46 ING PARAGRAPH (D) OF THIS SUBDIVISION, HEALTH CARE PROFESSIONALS MAY
47 ACCEPT SUCH MEALS.

48 (G) NOTWITHSTANDING PARAGRAPH (D) OF THIS SUBDIVISION, A PHARMACEU-
49 TICAL COMPANY MAY PROVIDE FINANCIAL SUPPORT FOR THE COSTS OF TRAVEL,
50 LODGING, OR OTHER PERSONAL EXPENSES TO A HEALTH CARE PROFESSIONAL
51 ATTENDING OR PRESENTING AT A CONTINUING MEDICAL EDUCATION PROGRAM WHO IS
52 A FULL-TIME SALARIED EMPLOYEE OF THE PHARMACEUTICAL COMPANY, OR WHO IS
53 ENGAGED BY THE COMPANY AS A SPEAKER OR CONSULTANT PURSUANT TO A BONA
54 FIDE AGREEMENT AND SUCH FINANCIAL SUPPORT IS PROVIDED PURSUANT TO SUCH
55 AGREEMENT.

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

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

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

14 (II) REPRESENT TO ATTENDEES OF SUCH CONTINUING MEDICAL EDUCATION
15 PROGRAM THAT HE OR SHE AUTHORED ANY MATERIALS DISCUSSED, DISTRIBUTED OR
16 OTHERWISE PRESENTED DURING HIS OR HER PRESENTATION AT SUCH CONTINUING
17 MEDICAL EDUCATION PROGRAM UNLESS HE OR SHE MADE SUBSTANTIAL CONTRIB-
18 UTIONS TO THE INTELLECTUAL CONTENT OF SUCH MATERIALS; OR

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

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

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

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

45 (D) A PHARMACEUTICAL COMPANY MAY PROVIDE MODEST MEALS OR RECEPTIONS
46 DURING COMPANY-SPONSORED MEETINGS TO HEALTH CARE PROFESSIONALS WITH WHOM
47 THEY HAVE BONA FIDE CONSULTING OR SPEAKER ARRANGEMENTS, BUT MAY NOT
48 PROVIDE RECREATIONAL OR ENTERTAINMENT EVENTS IN CONJUNCTION WITH SUCH
49 MEETINGS.

50 9. NO PHARMACEUTICAL COMPANY SHALL PROVIDE FINANCIAL SUPPORT TO A
51 HEALTH CARE PROFESSIONAL PURSUANT TO A CONSULTING AGREEMENT, AND NO
52 HEALTH CARE PROFESSIONAL SHALL ACCEPT SUCH FINANCIAL SUPPORT, UNLESS:

53 (A) THE CONSULTING ARRANGEMENT IS A BONA FIDE CONSULTING AGREEMENT;
54 AND

55 (B) SUCH FINANCIAL SUPPORT CONSTITUTES REASONABLE COMPENSATION FOR THE
56 PROFESSIONAL'S CONSULTING SERVICES AND REASONABLE REIMBURSEMENT FOR

1 REASONABLE TRAVEL, LODGING, AND MEAL EXPENSES INCURRED AS PART OF
2 PROVIDING SUCH SERVICES, AND IS BASED ON FAIR MARKET VALUE.

3 10. (A) NO PHARMACEUTICAL COMPANY SHALL PROVIDE FINANCIAL SUPPORT TO A
4 HEALTH CARE PROFESSIONAL AS A SPEAKER PURSUANT TO A SPEAKER AGREEMENT,
5 AND NO HEALTH CARE PROFESSIONAL SHALL ACCEPT SUCH FINANCIAL SUPPORT,
6 UNLESS:

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

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

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

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

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

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

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

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

31 (V) SPEAKER TRAINING SESSIONS ARE HELD IN VENUES THAT ARE APPROPRIATE
32 AND CONDUCIVE TO INFORMATIONAL COMMUNICATION AND TRAINING ABOUT MEDICAL
33 INFORMATION.

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

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

43 11. (A) NO PHARMACEUTICAL COMPANY SHALL RETAIN AS A SPEAKER OR
44 CONSULTANT ANY HEALTH CARE PROFESSIONAL WHO IS A MEMBER OF A COMMITTEE
45 THAT SETS FORMULARIES OR DEVELOPS CLINICAL GUIDELINES UNLESS THE COMPANY
46 REQUIRES THAT THE PROFESSIONAL DISCLOSE TO SUCH COMMITTEE THE EXISTENCE
47 AND NATURE OF HIS OR HER RELATIONSHIP WITH THE COMPANY, FOR AS LONG AS
48 SUCH RELATIONSHIP LASTS AND FOR AT LEAST TWO YEARS AFTER SUCH RELATION-
49 SHIP IS TERMINATED.

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

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

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

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

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

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

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

16 (A) MAINTAIN THE CONFIDENTIAL NATURE OF PRESCRIBER DATA AND COMPLY
17 WITH ALL APPLICABLE LAWS AND REGULATIONS THAT PROTECT THE CONFIDENTIALI-
18 TY OF PATIENT INFORMATION;

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

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

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

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

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

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

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

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

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

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

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

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

48 16. (A) NO PHARMACEUTICAL COMPANY SHALL SELL OR MARKET PRESCRIPTION
49 DRUGS, BIOLOGICS OR MEDICAL DEVICES TO HEALTH CARE PROFESSIONALS PRAC-
50 TICING IN THIS STATE UNLESS THE REPRESENTATIVES WHO ARE EMPLOYED BY OR
51 ACT ON BEHALF OF THE COMPANY AND WHO VISIT HEALTH CARE PROFESSIONALS
52 PRACTICING IN THIS STATE ARE:

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

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

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

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

11 17. THE COMMISSIONER MAY ASSESS A CIVIL PENALTY:

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

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

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

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

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

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

26 S 39. The opening paragraphs of paragraphs (d) and (e) of subdivision
27 5-a of section 2807-m of the public health law, as amended by section 98
28 of part C of chapter 58 of the laws of 2009, are amended to read as
29 follows:

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

47 Four million nine hundred thousand dollars for the period January
48 first, two thousand eight through December thirty-first, two thousand
49 eight, four million nine hundred thousand dollars [annually] for the
50 period January first, two thousand nine through December thirty-first,
51 two thousand [ten] NINE, SIX MILLION SEVEN HUNDRED THOUSAND DOLLARS FOR
52 THE PERIOD JANUARY FIRST, TWO THOUSAND TEN THROUGH DECEMBER
53 THIRTY-FIRST, TWO THOUSAND TEN, and one million [two] SIX hundred [twen-
54 ty-five] NINETY-SEVEN thousand dollars for the period January first, two
55 thousand eleven through March thirty-first, two thousand eleven, shall
56 be set aside and reserved by the commissioner from the regional pools

1 established pursuant to subdivision two of this section and shall be
2 available for purposes of physician practice support. Such funding shall
3 be allocated regionally with one-third of available funds going to New
4 York city and two-thirds of available funds going to the rest of the
5 state and shall be distributed in a manner to be determined by the
6 commissioner as follows:

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

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

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

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

46 1. Notwithstanding any other provision of law to the contrary, the
47 commissioner is authorized to approve up to [five] TEN general hospitals
48 within the state to operate transitional care units by and within such
49 general hospitals. For purposes of this section, "transitional care"
50 shall mean sub acute care services provided to patients of a general
51 hospital who no longer require acute care general hospital inpatient
52 services, but continue to need specialized medical, nursing and other
53 hospital ancillary services and are not yet appropriate for discharge.

54 S 41. Subdivision 2 of section 105 of part B of chapter 58 of the
55 laws of 2005, amending the public health law and other laws relating to

1 implementing the state fiscal plan for the 2005-2006 state fiscal year,
2 is amended to read as follows:

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

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

9 1-A. (A) ANY PERSON WHO, WITH THE INTENT TO DEFRAUD, KNOWINGLY AND
10 WILLFULLY VIOLATES, DISOBEYS OR DISREGARDS ANY MATERIAL TERM OR
11 PROVISION OF THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER SECTION
12 THREE HUNDRED SIXTY-THREE-A OF THE SOCIAL SERVICES LAW OR OF ANY LAWFUL
13 NOTICE, ORDER OR REGULATION PURSUANT THEREOF SHALL BE LIABLE TO THE
14 PEOPLE OF THE STATE FOR A CIVIL PENALTY OF TEN THOUSAND DOLLARS FOR
15 EVERY SUCH VIOLATION.

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

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

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

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

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

48 S 43-a. Paragraph (f) of section 1 of part C of chapter 58 of the laws
49 of 2005, amending the public health law and other laws relating to
50 authorizing reimbursements for expenditures made by social services
51 districts for medical assistance, as amended by section 62 of part C of
52 chapter 58 of the laws of 2007, is amended to read as follows:

53 (f) Subject to paragraph (g) of this section, the state fiscal year
54 social services district expenditure cap amount calculated for each
55 social services district pursuant to paragraph (d) of this section shall
56 be allotted to each district during that fiscal year and paid to the

1 department in equal weekly amounts in a manner to be determined by the
2 commissioner and communicated to such districts and, SUBJECT TO THE
3 PROVISIONS OF SUBDIVISION FOUR OF SECTION SIX OF THIS PART, shall repre-
4 sent each district's maximum responsibility for medical assistance
5 expenditures governed by this section.

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

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

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

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

50 (f) The commissioner may enter into agreements with designated provid-
51 ers of services, and with third-party payors, in regard to which audit
52 findings have been made pursuant to this section or section twenty-eight
53 hundred seven-s of this article, extending and applying such audit find-
54 ings or a portion thereof in settlement and satisfaction of potential
55 audit liabilities for subsequent un-audited periods through the two
56 thousand [five] NINE calendar year. The commissioner may waive payment

1 of interest and penalties otherwise applicable to such subsequent unau-
2 dited periods when such amounts due as a result of such agreement, other
3 than waived penalties and interest, are paid in full to the commissioner
4 or the commissioner's designee within sixty days of execution of such
5 agreement by all parties to the agreement.

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

8 3-B. "ELIGIBLE SECURED HOSPITAL BORROWER". A NOT-FOR-PROFIT HOSPITAL
9 CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS FINANCED
10 OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO THE FORMER SECTION
11 SEVEN-A OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE LAWS
12 OF NINETEEN HUNDRED SEVENTY-THREE AND FOR WHICH SPECIAL HOSPITAL PROJECT
13 BONDS (AS DEFINED IN FORMER PARAGRAPH (D) OF SUBDIVISION THREE OF
14 SECTION THREE OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE
15 LAWS OF NINETEEN HUNDRED SEVENTY-THREE) REMAIN OUTSTANDING.

16 S 46-a. The public health law is amended by adding a new section
17 2874-b to read as follows:

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

1 INCLUDED IN REIMBURSEMENT RATES OF PAYMENT UNDER ARTICLE TWENTY-EIGHT OF
2 THIS CHAPTER.

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

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

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

14 6-C. "ELIGIBLE SECURED HOSPITAL BORROWER" SHALL MEAN A NOT-FOR-PROFIT
15 HOSPITAL CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS
16 FINANCED OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO FORMER SECTION
17 SEVEN-A OF THIS ACT, AND FOR WHICH SPECIAL HOSPITAL PROJECT BONDS, AS
18 DEFINED IN FORMER PARAGRAPH D OF SUBDIVISION THREE OF THIS SECTION,
19 REMAIN OUTSTANDING.

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

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

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

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

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

51 12. "Mortgage loan" shall mean a loan made by the agency to an eligi-
52 ble borrower in an amount not to exceed the total hospital project cost
53 and secured by a first mortgage lien on the real property of which the
54 hospital project consists and the personal property attached to or used
55 in connection with the construction, acquisition, reconstruction, reha-
56 bilitation, improvement or operation of the hospital project. Such loan

1 may be further secured by such a lien upon other real property owned by
2 the eligible borrower. Notwithstanding the foregoing provisions of this
3 subdivision or any other provisions of this act to the contrary, any
4 personal property may be excluded from the lien of the mortgage provided
5 (a) the commissioner [of health] finds that such property is not essen-
6 tial for the rendition of required hospital services as such term is
7 defined in article [twenty-eight] 28 of the public health law, and (b)
8 the agency consents to such exclusion.

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

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

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

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

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

42 S 7-C. SECURED HOSPITAL PROJECTS RESERVE FUNDS AND APPROPRIATIONS. 1.
43 SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDI-
44 VISION THREE OF SECTION THREE OF THIS ACT, ISSUED TO REFINANCE THE
45 PROJECTS OF ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVI-
46 SION SIX-C OF SECTION THREE OF THIS ACT, SHALL BE SECURED BY (A) A MORT-
47 GAGE LIEN, (B) FUNDS AND ACCOUNTS ESTABLISHED UNDER THE BOND RESOLUTION,
48 (C) THE SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS, (D)
49 THE SECURED HOSPITAL CAPITAL RESERVE FUND OR FUNDS, AND (E) SUCH SERVICE
50 CONTRACT OR CONTRACTS ENTERED INTO IN ACCORDANCE WITH THE PROVISIONS OF
51 SUBDIVISION FOUR OF THIS SECTION.

52 2. (A) THE AGENCY SHALL ESTABLISH A SECURED HOSPITAL SPECIAL DEBT
53 SERVICE RESERVE FUND OR FUNDS AND PAY INTO SUCH FUND OR FUNDS MONEYS
54 FROM THE SECURED HOSPITAL FUND UP TO AN AMOUNT NOT TO EXCEED AN AMOUNT
55 NECESSARY TO ENSURE THE REPAYMENT OF PRINCIPAL AND INTEREST DUE ON ANY

1 OUTSTANDING INDEBTEDNESS ON SPECIAL HOSPITAL PROJECTS BONDS, AS DEFINED
2 IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

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

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

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

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

46 4. (A) NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW TO
47 THE CONTRARY, AND SUBJECT TO THE MAKING OF ANNUAL APPROPRIATIONS THERE-
48 FOR BY THE LEGISLATURE IN ORDER TO REFINANCE MORTGAGE LOANS TO ELIGIBLE
49 SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION
50 THREE OF THIS ACT, THE DIRECTOR OF THE BUDGET IS AUTHORIZED IN ANY STATE
51 FISCAL YEAR TO ENTER INTO ONE OR MORE SERVICE CONTRACTS, WHICH SERVICE
52 CONTRACTS SHALL NOT EXCEED THE TERM OF THE SPECIAL HOSPITAL PROJECT
53 BONDS, ISSUED FOR THE BENEFIT OF THE ELIGIBLE SECURED HOSPITAL BORROWER,
54 UPON SUCH TERMS AS THE DIRECTOR OF THE BUDGET AND THE AGENCY AGREE, SO
55 AS TO PROVIDE ANNUALLY TO THE AGENCY IN THE AGGREGATE SUCH SUM, IF ANY,
56 AS NECESSARY TO MEET THE DEBT SERVICE PAYMENTS DUE ON OUTSTANDING

1 SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDI-
2 VISION THREE OF SECTION THREE OF THIS ACT, IN ANY YEAR IF THE FUNDS
3 PROVIDED FOR IN THIS SECTION ARE INADEQUATE.

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

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

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

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

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

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

44 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-
45 SION, AN INDIVIDUAL MAY ATTEST TO THE AMOUNT OF INTEREST INCOME GENER-
46 ATED BY HIS OR HER ACCUMULATED RESOURCES IF THE AMOUNT OF SUCH INTEREST
47 INCOME IS EXPECTED TO BE IMMATERIAL TO ELIGIBILITY UNDER THIS SECTION,
48 AS DETERMINED BY THE COMMISSIONER OF HEALTH. IN THE EVENT THERE IS AN
49 INCONSISTENCY BETWEEN THE INFORMATION REPORTED BY THE INDIVIDUAL AND ANY
50 INFORMATION OBTAINED BY THE COMMISSIONER OF HEALTH FROM OTHER SOURCES
51 AND SUCH INCONSISTENCY IS MATERIAL TO ELIGIBILITY UNDER THIS SECTION,
52 THE COMMISSIONER OF HEALTH SHALL REQUEST THAT THE INDIVIDUAL PROVIDE
53 ADEQUATE DOCUMENTATION TO VERIFY HIS OR HER INTEREST INCOME.

54 S 48. Paragraph (d) of subdivision 5 of section 366-a of the social
55 services law, as amended by section 1 of part R of chapter 58 of the
56 laws of 2009, is amended to read as follows:

1 (d) In order to establish place of residence and income eligibility
2 under this title at recertification, a recipient of assistance under
3 this title shall attest to place of residence and to all information
4 regarding the household's income that is necessary and sufficient to
5 determine such eligibility; provided, however, that this paragraph shall
6 not apply to persons described in subparagraph two of paragraph (a) of
7 subdivision one of section three hundred sixty-six of this title, or to
8 persons receiving long term care services, as defined in paragraph (b)
9 of subdivision two of this section; and provided, further, that a non-
10 applying legally responsible relative recertifying on behalf of a recip-
11 ient of assistance who is under the age of twenty-one years shall be
12 permitted to attest to household income under this paragraph only if the
13 social security numbers of all legally responsible relatives are
14 provided to the district. Provided, however, for purposes of recertif-
15 ication OF ELIGIBILITY for assistance under this title [for a recipient
16 of], PERSONS RECEIVING medicaid COMMUNITY COVERAGE WITH COMMUNITY-BASED
17 LONG TERM CARE, INCLUDING BUT NOT LIMITED TO waiver services provided or
18 authorized by the office of mental retardation and developmental disa-
19 bilities, beginning on or after January first, two thousand ten, [such
20 recipient] may be permitted, as determined by the commissioner of
21 health, to attest to place of residence and to all information regarding
22 the household's income and/or resources that are necessary to [deter-
23 mine] RECERTIFY such eligibility.

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

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

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

51 S 50. Paragraph (b) of subdivision 4 of section 366 of the social
52 services law, as added by chapter 453 of the laws of 1990, subparagraph
53 (i) as amended by section 60 of part B of chapter 436 of the laws of
54 1997, is amended to read as follows:

55 (b) (i) Upon giving notice of termination of medical assistance
56 provided pursuant to subparagraph eight or nine of paragraph (a) of

1 subdivision one of this section, the department shall notify each such
2 family of its rights to extended benefits under paragraph (a) of this
3 subdivision and describe [any reporting requirements and] the conditions
4 under which such extension may be terminated. [The department shall also
5 provide subsequent notices of the option to extend coverage pursuant to
6 paragraph (a) of this subdivision in the third and sixth months of the
7 initial six month extended coverage period and notices of the reporting
8 requirements under such paragraph in each of the third and sixth months
9 of the initial six month extended coverage period and in the third month
10 of the additional extended coverage period.]

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

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

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

48 S 17. 1. Notwithstanding any inconsistent provision of law, rule or
49 regulation, for payments made by a state governmental agency to a gener-
50 al hospital for specialty inpatient AND OUTPATIENT hospital services
51 provided to patients eligible for payments pursuant to title 11 of arti-
52 cle 5 of the social services law discharged on or after April 1, 2005
53 through March 31, [2010] 2015, the commissioner of health, subject to
54 the approval of the director of the budget, may:

55 (a) after a hospital has agreed to participate in a program selected
56 pursuant to subdivision two of this section, establish rates of payment

1 or special payment rate methodologies for specialty [inpatient] hospital
2 services selected in accordance with subdivision two of this section
3 provided to patients eligible for payments pursuant to title 11 of arti-
4 cle 5 of the social services law through negotiations with hospitals in
5 any area of the state. Such negotiated rates, if any, shall be negoti-
6 ated with each individual selected hospital. Such negotiation shall
7 include a process for the commissioner of health and each selected
8 hospital to mutually identify services for which such negotiated rates
9 shall apply. Such rates shall be reasonable and adequate to reimburse
10 the costs of an economically and efficiently operated provider of
11 services. The commissioner of health may establish adjusted rates of
12 payment pursuant to an administrative rate appeal process to hospitals
13 that participate in such negotiations and agree to receive the negoti-
14 ated payment rates established under this paragraph for the patients
15 described in this paragraph in lieu of rates of payment otherwise appli-
16 cable pursuant to section 2807-c of the public health law without a
17 competitive bid or request for proposal process; and/or

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

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

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

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

33 (c) identification of such services and the implementation of this
34 section with respect to such services is consistent with other initi-
35 atives to enhance the quality and patient outcomes of [inpatient] HOSPI-
36 TAL services and procedures that are or are being planned to be under-
37 taken by the department of health, including but not limited to projects
38 that identify centers of excellence for particular services; and

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

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

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

49 (F) CRITERIA UTILIZED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID
50 SERVICES WITH REGARD TO PAYMENT METHODOLOGIES UTILIZED WITH REGARD TO
51 CENTERS OF EXCELLENCE PURSUANT TO TITLE XVIII OF THE FEDERAL SOCIAL
52 SECURITY ACT (MEDICARE).

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

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

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

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

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

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

12 (f) Such other criteria that the commissioner of health may deem
13 appropriate.

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

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

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

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

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

53 (q) diabetes self-management training services for persons diagnosed
54 with diabetes when such services are ordered by a physician, registered
55 [physician's] PHYSICIAN assistant, registered nurse practitioner, or
56 licensed midwife and provided by a licensed, registered, or certified

1 health care professional, as determined by the commissioner of health,
2 who is certified as a diabetes educator by the National Certification
3 Board for Diabetes Educators, or a successor national certification
4 board, OR PROVIDED BY SUCH A PROFESSIONAL WHO IS AFFILIATED WITH A
5 PROGRAM CERTIFIED BY THE AMERICAN DIABETES ASSOCIATION, THE AMERICAN
6 ASSOCIATION OF DIABETES EDUCATORS, THE INDIAN HEALTH SERVICES, OR ANY
7 OTHER NATIONAL ACCREDITATION ORGANIZATION APPROVED BY THE FEDERAL
8 CENTERS FOR MEDICARE AND MEDICAID SERVICES; provided, however, that the
9 provisions of this paragraph shall not take effect unless all necessary
10 approvals under federal law and regulation have been obtained to receive
11 federal financial participation in the costs of health care services
12 provided pursuant to this paragraph. Nothing in this paragraph shall be
13 construed to modify any licensure, certification or scope of practice
14 provision under title eight of the education law.

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

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

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

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

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

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

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

51 (a) The commissioner shall adjust inpatient medical assistance rates
52 of payment established pursuant to this section for rural hospitals as
53 defined in paragraph (c) of subdivision one of section twenty-eight
54 hundred seven-w of this article in accordance with paragraph (b) of this
55 subdivision for purposes of supporting critically needed health care

1 services in rural areas in the following aggregate amounts for the
2 following periods:

3 seven million dollars for the period May first, two thousand five
4 through December thirty-first, two thousand five, seven million dollars
5 for the period January first, two thousand six through December thirty-
6 first, two thousand six, seven million dollars for the period April
7 first, two thousand seven through December thirty-first, two thousand
8 seven, [and] seven million dollars for [each] calendar year [thereafter]
9 TWO THOUSAND EIGHT, AND SIX MILLION FOUR HUNDRED SEVENTEEN THOUSAND
10 DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND NINE THROUGH NOVEMBER
11 THIRTIETH, TWO THOUSAND NINE.

12 S 58. Subparagraph (ii) of paragraph (k) of subdivision 1 of section
13 2807-c of the public health law, as amended by section 30-a of part B of
14 chapter 58 of the laws of 2008, is amended to read as follows:

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

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

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

44 (i) For rate periods on and after [December first, two thousand nine]
45 APRIL FIRST, TWO THOUSAND TEN, the commissioner, in consultation with
46 the commissioner of the office of mental health, shall promulgate regu-
47 lations, and may promulgate emergency regulations, establishing method-
48 ologies for determining the operating cost components of rates of
49 payments for services described in this paragraph. Such regulations
50 shall utilize two thousand five operating costs as submitted to the
51 department prior to [December first, two thousand eight] JULY FIRST, TWO
52 THOUSAND NINE and shall provide for methodologies establishing per diem
53 inpatient rates that utilize case mix adjustment mechanisms [and provide
54 for post-discharge referral to outpatient services]. Such regulations
55 shall contain criteria for adjustments based on length of stay.

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

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

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

17 S 61. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section
18 2807 of the public health law, as amended by section 16-a of part C of
19 chapter 58 of the laws of 2009, is amended to read as follows:

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

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

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

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

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

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

55 (F) WHEELCHAIR EVALUATION SERVICES AND EYEGLOSS DISPENSING SERVICES;
56 AND

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

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

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

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

16 S 63. Intentionally omitted.

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

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

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

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

46 (s) smoking cessation counseling services for pregnant women on any
47 day of pregnancy through the end of the month in which the one hundred
48 eightieth day following the end of the pregnancy occurs, and children
49 and adolescents ten to [nineteen] TWENTY years of age, during a medical
50 visit when provided by a general hospital outpatient department or a
51 free-standing clinic, or by a physician, registered physician's assist-
52 ant, registered nurse practitioner or licensed midwife in office-based
53 settings; provided, however, that the provisions of this paragraph
54 relating to smoking cessation counseling services shall not take effect
55 unless all necessary approvals under federal law and regulation have

1 been obtained to receive federal financial participation in the costs of
2 such services.

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

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

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

15 7-a. Sections fifty-eight, fifty-eight-a and fifty-eight-b shall take
16 effect January 1, 2007 [and shall expire and be deemed repealed January
17 1, 2011].

18 S 67-a. Paragraph (d) of subdivision 3 of section 367-a of the social
19 services law, as added by chapter 33 of the laws of 1998, subparagraphs
20 1 and 2 as amended by section 2 of part G of chapter 23 of the laws of
21 2002, is amended to read as follows:

22 (d) (1) Beginning April first, two thousand two and to the extent that
23 federal financial participation is available at a one hundred percent
24 federal Medical assistance percentage and subject to sections 1933 and
25 1902(a)(10)(E)(iv) of the federal social security act, medical assist-
26 ance shall be available for full payment of medicare part B premiums for
27 individuals (referred to as qualified individuals 1) who are entitled to
28 hospital insurance benefits under part A of title XVIII of the federal
29 social security act and whose income exceeds the income level estab-
30 lished by the state and is at least one hundred twenty percent, but less
31 than one hundred thirty-five percent, of the federal poverty level, for
32 a family of the size involved and who are not otherwise eligible for
33 medical assistance under the state plan;

34 (2) [Beginning April first, two thousand two and to the extent that
35 federal financial participation is available at a one hundred percent
36 federal Medical assistance percentage and subject to sections 1933 and
37 1902(a)(10)(E)(iv) of the federal social security act, medical assist-
38 ance shall be available for payment of that portion of the medicare part
39 B premium increase that is attributable to the operation of the amend-
40 ments made by section 4611(e)(3) of the balanced budget act of 1997, for
41 individuals (referred to as qualified individuals 2) who are entitled to
42 hospital insurance benefits under part A of title XVIII of the federal
43 social security act and whose income exceeds the income level estab-
44 lished by the state and is at least one hundred thirty-five percent, but
45 less than one hundred seventy-five percent, of the federal poverty
46 level, for a family of the size involved and who are not otherwise
47 eligible for medical assistance under the state plan;

48 (3)] Premium payments for the individuals described in [subparagraphs]
49 SUBPARAGRAPH one [and two] of this paragraph will be one hundred percent
50 federally funded up to the amount of the federal allotment. The depart-
51 ment shall discontinue enrollment into the program when the part B
52 premium payments made pursuant to [such paragraphs] SUBPARAGRAPH ONE OF
53 THIS PARAGRAPH meet the yearly federal allotment.

54 [(4)] (3) The commissioner of health shall develop a simplified appli-
55 cation form, consistent with federal law, for payments pursuant to this
56 section. The commissioner of health, in cooperation with the office for

1 the aging, shall publicize the availability of such payments to medicare
2 beneficiaries.

3 S 68. Section 2 of chapter 33 of the laws of 1998, amending the social
4 services law relating to authorizing payment of medicare part B premiums
5 to certain medicaid recipients, as amended by chapter 415 of the laws of
6 2008, is amended to read as follows:

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

11 S 69. Intentionally omitted.

12 S 70. Notwithstanding any inconsistent provision of law, rule or regu-
13 lation, for purposes of implementing the provisions of the public health
14 law and the social services law, references to titles XIX and XXI of the
15 federal social security act in the public health law and the social
16 services law shall be deemed to include and also to mean any successor
17 titles thereto under the federal social security act.

18 S 71. Notwithstanding any inconsistent provision of law, rule or regu-
19 lation, the effectiveness of the provisions of sections 2807 and 3614 of
20 the public health law, section 18 of chapter 2 of the laws of 1988, and
21 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
22 or certification of rates of payment, are hereby suspended and without
23 force or effect for purposes of implementing the provisions of this act.

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

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

36 (a) section twelve of this act shall take effect June 1, 2010;
37 sections thirty-two and thirty-three of this act shall take effect July
38 1, 2010; sections twenty-six, twenty-seven, twenty-eight, twenty-nine,
39 thirty and thirty-seven of this act shall take effect January 1, 2011;
40 and sections forty-seven and forty-seven-a of this act shall take effect
41 November 1, 2010;

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

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

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

52 (e) notwithstanding any inconsistent provision of the state adminis-
53 trative procedure act or any other provision of law, rule or regulation,
54 the commissioner of health and the superintendent of insurance and any
55 appropriate council is authorized to adopt or amend or promulgate on an

1 emergency basis any regulation he or she or such council determines
2 necessary to implement any provision of this act on its effective date;

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

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

10 (h) the amendments to subparagraph (ii) of paragraph (b) of subdivi-
11 sion 9 of section 367-a of the social services law made by section thir-
12 teen of this act shall not affect the expiration of such subdivision and
13 shall be deemed to expire therewith;

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

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

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

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

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

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

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

35

PART C

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

38 17. (A) Notwithstanding any inconsistent provision of law or regu-
39 lation to the contrary, for the period April first, nineteen hundred
40 ninety-seven through March thirty-first, nineteen hundred ninety-eight,
41 the commissioner shall not be required to revise a certified rate of
42 payment established pursuant to this article based on consideration of
43 rate appeals filed by a residential health care facility or based upon
44 adjustments to capital cost reimbursement as a result of approval by the
45 commissioner of an application for construction under section twenty-
46 eight hundred two of this article. For the period April first, nineteen
47 hundred ninety-eight, through March thirty-first, nineteen hundred nine-
48 ty-nine, the commissioner shall revise certified rates of payment in an
49 aggregate amount not to exceed twenty million dollars, state share
50 medical assistance. In cases where the commissioner determines that a
51 significant financial hardship exists, he or she may, subject to the
52 approval of the director of the budget, consider an exemption to this
53 subdivision. Beginning April first, nineteen hundred ninety-nine and

1 thereafter, the commissioner shall consider such rate appeals within a
2 reasonable period.

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

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

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

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

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

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

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

45 S 3. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
46 2807-d of the public health law, as amended by section 37 of part C of
47 chapter 58 of the laws of 2007, is amended to read as follows:

48 (vi) Notwithstanding any contrary provision of this paragraph or any
49 other provision of law or regulation to the contrary, for residential
50 health care facilities the assessment shall be six percent of each resi-
51 dential health care facility's gross receipts received from all patient
52 care services and other operating income on a cash basis for the period
53 April first, two thousand two through March thirty-first, two thousand
54 three for hospital or health-related services, including adult day
55 services; provided, however, that residential health care facilities'
56 gross receipts attributable to payments received pursuant to title XVIII

1 of the federal social security act (medicare) shall be excluded from the
2 assessment; provided, however, that for all such gross receipts received
3 on or after April first, two thousand three through March thirty-first,
4 two thousand five, such assessment shall be five percent, and further
5 provided that for all such gross receipts received on or after April
6 first, two thousand five through March thirty-first, two thousand nine,
7 and on or after April first, two thousand nine through March thirty-
8 first, two thousand [eleven] TEN, such assessment shall be six percent,
9 AND PROVIDED FURTHER, HOWEVER, THAT ON AND AFTER APRIL FIRST, TWO THOU-
10 SAND TEN, SUCH ASSESSMENT SHALL BE SEVEN PERCENT.

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

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

23 S 5. Subparagraph (i) of paragraph (b) of subdivision 2-b of section
24 2808 of the public health law, as amended by section 3 of part D of
25 chapter 58 of the laws of 2009, is amended to read as follows:

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

54 S 5-a. The opening paragraph and subparagraph (vi) of paragraph (a),
55 and subparagraph (i) of paragraph (d) of subdivision 2-c of section 2808

1 of the public health law, as added by section 5 of part D of chapter 58
2 of the laws of 2009, are amended to read as follows:

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

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

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

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

45 S 2. Notwithstanding paragraph (b) of subdivision 2-b of section 2808
46 of the public health law or any other contrary provision of law, with
47 regard to adjustments to medicaid rates of payment for inpatient
48 services provided by residential health care facilities for the period
49 April 1, 2009 through March 31, 2010, made pursuant to paragraph (b) of
50 subdivision 2-b of section 2808 of the public health law, the commis-
51 sioner of health and the director of the budget shall, upon a determi-
52 nation that such adjustments, including the application of adjustments
53 authorized by the provisions of paragraph (g) of subdivision 2-b of
54 section 2808 of the public health law, shall result in an aggregate
55 increase in total Medicaid rates of payment for such services for such
56 period that is less than or more than two hundred ten million dollars

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

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

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

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

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

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

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

52 (e) appropriate regions to be utilized;

53 (f) the reasons underlying the existing proportion of Medicaid
54 patients to non-Medicaid patients in New York facilities;

55 (g) issues related to Medicare;

56 (h) impact of planned rightsizing of the acute care system;

- 1 (i) impact of planned rightsizing of nursing home system;
2 (j) impact of using Medicaid only case mix; and
3 (k) other issues as determined by the commissioner.

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

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

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

31 S 7. Paragraph (c) of subdivision 2 of section 3614-a of the public
32 health law, as added by section 1 of part B of chapter 58 of the laws of
33 2009, is amended to read as follows:

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

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

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

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

4 (b) Notwithstanding any contrary provisions of this section or any
5 other contrary provision of law or regulation, the assessment shall be
6 thirty-five hundredths of one percent of each such licensed home care
7 services agency's gross receipts received from all personal care
8 services and other operating income on a cash basis for periods on and
9 after April first, two thousand nine, PROVIDED, HOWEVER, THAT FOR PERI-
10 ODS ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, SUCH ASSESSMENT FOR SUCH
11 SERVICES SHALL BE SEVEN TENTHS OF ONE PERCENT OF EACH SUCH LICENSED HOME
12 CARE SERVICES AGENCY'S GROSS RECEIPTS.

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

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

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

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

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

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

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

51 (e) (I) personal care services, including personal emergency response
52 services, shared aide and an individual aide, WHICH, FOR INDIVIDUALS WHO
53 HAVE ATTAINED THE AGE OF TWENTY-ONE, AND SUBJECT TO THE PROVISIONS OF
54 SUBPARAGRAPH (II) OF THIS PARAGRAPH, SHALL NOT EXCEED AN AVERAGE OF
55 TWELVE HOURS PER DAY IN ANY AUTHORIZATION PERIOD, furnished to an indi-
56 vidual who is not an inpatient or resident of a hospital, nursing facil-

1 ity, intermediate care facility for the mentally retarded, or institu-
2 tion for mental disease, as determined to meet the recipient's needs for
3 assistance [when cost effective and appropriate in accordance with
4 section three hundred sixty-seven-k and section three hundred sixty-sev-
5 en-o of this title], and when prescribed by a physician, in accordance
6 with the recipient's plan of treatment and provided by individuals who
7 are qualified to provide such services, who are supervised by a regis-
8 tered nurse and who are not members of the recipient's family, and
9 furnished in the recipient's home or other location;

10 (II) MEDICALLY NECESSARY PERSONAL CARE SERVICES THAT EXCEED AN AVERAGE
11 OF TWELVE HOURS PER DAY IN ANY AUTHORIZATION PERIOD MAY BE PROVIDED TO
12 AN INDIVIDUAL WHO IS ENROLLED IN THE CONSUMER DIRECTED PERSONAL ASSIST-
13 ANCE PROGRAM, THE LONG TERM HOME HEALTH CARE PROGRAM, A MANAGED LONG
14 TERM CARE PLAN, THE AIDS HOME CARE PROGRAM, OR THE NURSING HOME TRANSI-
15 TION AND DIVERSION WAIVER, IN ACCORDANCE WITH THE TERMS OF THOSE
16 PROGRAMS.

17 S 13-a. Intentionally Omitted.

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

20 I. NOTWITHSTANDING THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION
21 AND THE AGGREGATE COST PROVISION OF PARAGRAPH A OF THIS SUBDIVISION, A
22 PERSON MAY PARTICIPATE IN THE NURSING HOME TRANSITION AND DIVERSION
23 PROGRAM SPECIFIED IN THIS SUBDIVISION IF THE PERSON: HAS A MEDICAL NEED
24 FOR SERVICES THAT ARE DESCRIBED IN PARAGRAPH (E) OF SUBDIVISION TWO OF
25 SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE BUT THAT EXCEEDS A
26 LIMIT IMPOSED BY SUCH PARAGRAPH; AND IS OTHERWISE INELIGIBLE FOR, OR IS
27 UNABLE TO ACCESS, LONG-TERM COMMUNITY-BASED SERVICES AVAILABLE UNDER
28 THIS TITLE; AND OTHERWISE MEETS THE CRITERIA FOR PARTICIPATION SET FORTH
29 IN THIS SUBDIVISION.

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

32 12. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGU-
33 LATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTIC-
34 IPATION, EFFECTIVE JANUARY FIRST, TWO THOUSAND TWELVE, PAYMENTS BY
35 GOVERNMENT AGENCIES FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGEN-
36 CIES, EXCEPT FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS
37 OF AGE AND OTHER DISCRETE GROUPS AS MAY BE DETERMINED BY THE COMMISSION-
38 ER PURSUANT TO REGULATIONS, SHALL BE BASED ON EPISODIC PAYMENTS. IN
39 ESTABLISHING SUCH PAYMENTS, THE COMMISSIONER SHALL TAKE INTO CONSIDER-
40 ATION THE FINDINGS OF THE HOME HEALTH CARE REIMBURSEMENT WORKGROUP
41 ESTABLISHED PURSUANT TO SECTION ONE HUNDRED TWENTY-FIVE-D OF PART C OF
42 CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND NINE; PROVIDED FURTHER
43 THAT A BASE PRICE SHALL BE ESTABLISHED FOR EACH EPISODE OF CARE AND
44 ADJUSTED BY A WAGE INDEX FACTOR AND AN INDIVIDUAL PATIENT CASE MIX
45 INDEX. SUCH EPISODIC PAYMENTS MAY BE FURTHER ADJUSTED FOR LOW AND HIGH-
46 UTILIZATION CASES THAT EXCEED OUTLIER THRESHOLDS OF SUCH PAYMENTS. BASE
47 YEAR EPISODIC PAYMENTS SHALL BE FURTHER ADJUSTED TO THE APPLICABLE RATE
48 YEAR IN ACCORDANCE WITH APPLICABLE TREND FACTOR ADJUSTMENTS. THE
49 COMMISSIONER MAY REQUIRE AGENCIES TO COLLECT AND SUBMIT ANY DATA
50 REQUIRED TO IMPLEMENT THIS SUBDIVISION. THE COMMISSIONER MAY PROMULGATE
51 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

52 (B) WITHIN AMOUNTS APPROPRIATED AND SUBJECT TO THE AVAILABILITY OF
53 FEDERAL FINANCIAL PARTICIPATION, THE COMMISSIONER SHALL ESTABLISH AN
54 INCENTIVE POOL FOR RATE ADJUSTMENTS TO ELIGIBLE AGENCIES THAT MEET QUAL-
55 ITY MEASURES, AS ESTABLISHED BY THE COMMISSIONER. SUCH PAYMENTS SHALL BE

1 MADE IN THE FORM OF ADJUSTMENTS TO MEDICAID RATES OF PAYMENT FOR
2 SERVICES PROVIDED BY AGENCIES MEETING SUCH QUALITY MEASURES.

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

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

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

27 S 17. Intentionally omitted.

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

31 3. Any organization which provides or makes available any home care
32 services to the public in this state, in any organized program developed
33 or rendered under its auspices or provided under contract with any such
34 organization, shall submit annually to the commissioner a complete
35 description of its operation, including name, address, location or prin-
36 cipal place of business, ownership, identification of administrative
37 personnel responsible for home care services programs, the nature and
38 extent of such programs, and such other information as the commissioner
39 shall require. For certified home health agencies and licensed home care
40 services agencies such annual report shall include reports on the type,
41 frequency and reimbursement for services provided, including reimburse-
42 ment from federal and state governmental agencies. The commissioner
43 shall determine the form and content of the information compiled and the
44 annual date for submission of such information. The commissioner shall
45 require certified home health agencies to provide all information neces-
46 sary to a licensed home care services agency sub-contracting with such
47 certified home health agency, to allow such licensed home care services
48 agency to file its annual report. The commissioner shall make such
49 information available to the appropriate governmental agencies of the
50 state, the counties and the city of New York so as to make known the
51 availability of home care services to provide data for planning for
52 health needs of the people of the state. This information shall be
53 available to the public and to the health systems agencies. ANY ORGAN-
54 IZATION SUBJECT TO THE REPORTING REQUIREMENTS OF THIS SUBDIVISION SHALL
55 BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR
56 EACH VIOLATION OF SUCH REQUIREMENTS. SUCH PENALTY MAY BE RECOVERED BY AN

1 ACTION BROUGHT BY THE COMMISSIONER IN ANY COURT OF COMPETENT JURISDIC-
2 TION.

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

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

20 S 366-I. LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM. 1. NOTWITH-
21 STANDING ANY INCONSISTENT PROVISION OF SECTIONS THREE HUNDRED SIXTY-SIX
22 OR THREE HUNDRED SIXTY-SIX-C OF THIS TITLE, OR ANY OTHER PROVISION OF
23 LAW, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO DEVELOP THE LONG-TERM
24 CARE FINANCING DEMONSTRATION PROGRAM, AN ALTERNATIVE PROGRAM FOR THE
25 ESTABLISHMENT OF ELIGIBILITY UNDER THE MEDICAL ASSISTANCE PROGRAM FOR UP
26 TO FIVE THOUSAND PERSONS.

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

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

46 4. MEDICAL ASSISTANCE ELIGIBILITY. UPON COMPLETION OF THE DEFINED
47 PRIVATE CONTRIBUTION REQUIRED BY SUCH AGREEMENT, THE PERSON MAY APPLY
48 FOR MEDICAL ASSISTANCE UNDER THIS TITLE AND, IF OTHERWISE ELIGIBLE,
49 SHALL BE ELIGIBLE FOR SUCH ASSISTANCE EITHER: (A) IN THE CASE OF AN
50 INDIVIDUAL WHO OPTS FOR A CONTRIBUTION LEVEL UNDER PARAGRAPH (A) OF
51 SUBDIVISION THREE OF THIS SECTION, WITHOUT REGARD TO OTHERWISE APPLICA-
52 BLE RESOURCE REQUIREMENTS OF THIS TITLE; OR (B) IN THE CASE OF AN INDI-
53 VIDUAL WHO OPTS FOR A CONTRIBUTION LEVEL UNDER PARAGRAPH (B) OF SUBDIVI-
54 SION THREE OF THIS SECTION, WITHOUT REGARD TO AN AMOUNT OF RESOURCES
55 THAT IS EQUIVALENT TO THE VALUE OF THE CONTRIBUTION. IN EITHER CASE,
56 ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER THIS TITLE SHALL, WITH RESPECT

1 TO THE AMOUNT OF RESOURCES THAT ARE EXEMPT FROM CONSIDERATION UNDER THIS
2 SUBDIVISION, BE WITHOUT REGARD TO THE LIEN AND ESTATE RECOVERY
3 PROVISIONS OF SECTION THREE HUNDRED SIXTY-NINE OF THIS TITLE; PROVIDED,
4 HOWEVER, THAT NOTHING HEREIN SHALL PREVENT THE IMPOSITION OF A LIEN OR
5 RECOVERY AGAINST PROPERTY OF AN INDIVIDUAL ON ACCOUNT OF MEDICAL ASSIST-
6 ANCE INCORRECTLY PAID.

7 5. THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT WITH A
8 PRIVATE ENTITY TO ASSIST IN THE ADMINISTRATION OF THE DEMONSTRATION
9 PROGRAM ESTABLISHED BY THIS SECTION. SUCH A CONTRACT MAY INCLUDE, WITH-
10 OUT LIMITATION, ASSISTANCE IN THE DEVELOPMENT OF THE CRITERIA FOR THE
11 DEFINED PRIVATE CONTRIBUTION, DRAFTING OF THE DEFINED CONTRIBUTION
12 AGREEMENT, ACCEPTING AND PROCESSING APPLICATIONS FOR DEMONSTRATION
13 PARTICIPATION UNDER THIS SECTION, AND ACCEPTING AND PROCESSING APPLICA-
14 TIONS FOR MEDICAL ASSISTANCE FOR DEMONSTRATION PARTICIPANTS. NOTWITH-
15 STANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND
16 ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED
17 FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMIS-
18 SIONER IS AUTHORIZED TO ENTER INTO A CONTRACT UNDER THIS SUBDIVISION
19 WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

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

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

30 S 367-V. COUNTY LONG-TERM CARE FINANCING DEMONSTRATION PROGRAM. 1.
31 NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE COMMISSIONER IS
32 AUTHORIZED TO ESTABLISH A LONG-TERM CARE FINANCING DEMONSTRATION
33 PROGRAM, TO OPERATE IN UP TO FIVE COUNTIES, FOR THE PURPOSE OF CREATING
34 INCENTIVES AND FUNDING FOR THE TRANSFORMATION OF COUNTY NURSING HOME
35 BEDS INTO OTHER LONG-TERM CARE SETTINGS.

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

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

43 (I) EXPANSION OF COMMUNITY-BASED SERVICES SUCH AS THE PROGRAM FOR
44 ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE), THE LONG TERM HOME HEALTH
45 CARE PROGRAM, THE MANAGED LONG TERM CARE PROGRAM, ADULT DAY CARE
46 SERVICES, AND CAREGIVER SUPPORT SERVICES;

47 (II) EXPANSION OF SENIOR HOUSING;

48 (III) ASSISTED LIVING PROGRAM;

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

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

55 3. A COUNTY WISHING TO PARTICIPATE IN THE DEMONSTRATION PROGRAM ESTAB-
56 LISHED PURSUANT TO THIS SECTION SHALL DEVELOP A PLAN AND SUBMIT AN

1 APPLICATION FOR PARTICIPATION TO THE COMMISSIONER OF HEALTH DETAILING
2 SUCH PLAN AT A TIME AND IN A MANNER TO BE DETERMINED BY SUCH COMMISSIONER.
3 THE COMMISSIONER IS AUTHORIZED TO APPROVE OR DISAPPROVE ANY SUCH
4 APPLICATION AND TO CERTIFY THE AMOUNT OF DEMONSTRATED SAVINGS.

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

12 5. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO SUBMIT ANY AMENDMENTS
13 TO THE STATE PLAN FOR MEDICAL ASSISTANCE AND ANY WAIVERS OF THE FEDERAL
14 SOCIAL SECURITY ACT THAT SUCH COMMISSIONER DETERMINES TO BE NECESSARY TO
15 OBTAIN FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SERVICES PROVIDED
16 PURSUANT TO THIS SECTION.

17 6. THE COMMISSIONER OF HEALTH SHALL SUBMIT A REPORT TO THE GOVERNOR,
18 PRESIDENT PRO TEM OF THE SENATE AND SPEAKER OF THE ASSEMBLY BY THE FIRST
19 DAY OF NOVEMBER, TWO THOUSAND FIFTEEN, ON THE IMPLEMENTATION OF THIS
20 SECTION. SUCH REPORT SHALL INCLUDE IDENTIFICATION OF THE COUNTIES
21 APPROVED TO PARTICIPATE IN THE DEMONSTRATION, A DESCRIPTION OF SUCH
22 COUNTIES' APPROVED DEMONSTRATION PLANS, AN ANALYSIS OF THE IMPACT OF THE
23 DEMONSTRATION ON LONG-TERM CARE COSTS AND SERVICE DELIVERY, ANY RECOM-
24 MENDATIONS FOR LEGISLATIVE ACTION, AND SUCH OTHER MATTERS AS MAY BE
25 PERTINENT.

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

29 (C) THE DEPARTMENT SHALL CONDUCT A STUDY OF THE USE OF RESIDENT DATA
30 COLLECTED FROM A UNIFORM ASSESSMENT TOOL IDENTIFIED BY THE COMMISSIONER
31 WITH RESPECT TO ITS EFFECTIVENESS IN EVALUATION AND ADJUSTING RATES OF
32 PAYMENT FOR ASSISTED LIVING PROGRAMS. ON OR BEFORE JULY THIRTY-FIRST,
33 TWO THOUSAND ELEVEN, THE COMMISSIONER SHALL PROVIDE THE GOVERNOR, THE
34 SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE
35 CHAIRPERSONS OF THE ASSEMBLY AND SENATE HEALTH COMMITTEES WITH A REPORT
36 SETTING FORTH THE CONCLUSIONS OF SUCH STUDY.

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

39 2. Notwithstanding any inconsistent provision of law or regulation to
40 the contrary, a residential health care facility, as defined in section
41 twenty-eight hundred one of this article, may apply to temporarily
42 decertify or permanently convert a portion of its existing certified
43 beds to another type of program or service under the voluntary residen-
44 tial health care facility rightsizing demonstration program. The commis-
45 sioner may approve temporary decertifications and permanent conversions
46 of beds totaling no more than [two thousand five hundred] FIVE THOUSAND
47 residential health care facility beds on a statewide basis under this
48 program. Such approvals shall reflect, to the extent practicable,
49 participation by a variety of residential health care facilities based
50 on geography, size and other pertinent factors.

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

54 4. SOLVENCY. (A) THE COMMISSIONER SHALL BE RESPONSIBLE FOR EVALUATING,
55 APPROVING AND REGULATING ALL MATTERS RELATING TO FISCAL SOLVENCY,
56 INCLUDING RESERVES, SURPLUS AND PROVIDER CONTRACTS. THE COMMISSIONER MAY

1 PROMULGATE REGULATIONS TO IMPLEMENT THIS SECTION. THE COMMISSIONER, IN
2 THE ADMINISTRATION OF THIS SUBDIVISION:

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

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

10 (III) SHALL ESTABLISH REASONABLE CAPITALIZATION AND CONTINGENT RESERVE
11 REQUIREMENTS.

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

17 4-A. ROLE OF THE SUPERINTENDENT OF INSURANCE. (A) THE SUPERINTENDENT
18 OF INSURANCE SHALL DETERMINE AND APPROVE PREMIUMS IN ACCORDANCE WITH THE
19 INSURANCE LAW WHENEVER ANY POPULATION OF ENROLLEES NOT ELIGIBLE UNDER
20 TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT IS TO BE COVERED. THE
21 DETERMINATION AND APPROVAL OF THE SUPERINTENDENT OF INSURANCE SHALL
22 RELATE TO PREMIUMS CHARGED TO SUCH ENROLLEES NOT ELIGIBLE UNDER TITLE
23 XIX OF THE FEDERAL SOCIAL SECURITY ACT.

24 (B) THE SUPERINTENDENT OF INSURANCE SHALL EVALUATE AND APPROVE ANY
25 ENROLLEE CONTRACTS WHENEVER SUCH ENROLLEE CONTRACTS ARE TO COVER ANY
26 POPULATION OF ENROLLEES NOT ELIGIBLE UNDER TITLE XIX OF THE FEDERAL
27 SOCIAL SECURITY ACT.

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

32 (a) An applicant shall be issued a certificate of authority as a
33 managed long term care plan upon a determination by the commissioner[,
34 subject to any applicable evaluations, approvals, and regulations of the
35 superintendent of insurance as stated in this section,] that the appli-
36 cant complies with the operating requirements for a managed long term
37 care plan under this section. The commissioner shall issue no more than
38 fifty certificates of authority to managed long term care plans pursuant
39 to this section. For purposes of issuance of no more than fifty certif-
40 icates of authority, such certificates shall include those certificates
41 issued pursuant to paragraphs (b) and (c) of this subdivision.

42 (b) An operating demonstration shall be issued a certificate of
43 authority as a managed long term care plan upon a determination by the
44 commissioner[, subject to the necessary evaluations, approvals and regu-
45 lations of the superintendent of insurance as stated in this section,]
46 that such demonstration complies with the operating requirements for a
47 managed long term care plan under this section. Except as otherwise
48 expressly provided in paragraphs (d) and (e) of subdivision seven of
49 this section, nothing in this section shall be construed to affect the
50 continued legal authority of an operating demonstration to operate its
51 previously approved program.

52 (c) An approved managed long term care demonstration shall be issued a
53 certificate of authority as a managed long term care plan upon a deter-
54 mination by the commissioner[, subject to the necessary evaluations,
55 approvals and regulations of the superintendent of insurance set forth
56 in this section,] that such demonstration complies with the operating

1 requirements for a managed long term care plan under this section.
2 Notwithstanding any inconsistent provision of law to the contrary, all
3 authority for the operation of approved managed long term care demon-
4 strations which have not been issued a certificate of authority as a
5 managed long term care plan, shall expire one year after the adoption of
6 regulations implementing managed long term care plans.

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

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

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

23 9. Reports. The department shall provide an interim report to the
24 governor, temporary president of the senate and the speaker of the
25 assembly on or before April first, two thousand three and a final report
26 on or before April first, two thousand six on the results of the managed
27 long term care plans under this section. Such results shall be based on
28 data provided by the managed long term care plans and shall include but
29 not be limited to the quality, accessibility and appropriateness of
30 services; consumer satisfaction; the mean and distribution of impairment
31 measures of the enrollees by payor for each plan; the current method of
32 calculating premiums and the cost of comparable health and long term
33 care services provided on a fee-for-service basis for enrollees eligible
34 for services under title XIX of the federal social security act; and the
35 results of periodic reviews of enrollment levels and practices. [Such
36 reports shall contain a section prepared by the superintendent of insur-
37 ance as to the results of the plans approved in accordance with this
38 section concerning the matters regulated by the superintendent of insur-
39 ance.] Such reports shall [also] provide data on the demographic and
40 clinical characteristics of enrollees, voluntary and involuntary disen-
41 rollments from plans, AND utilization of services and shall examine the
42 feasibility of increasing the number of plans that may be approved. Data
43 collected pursuant to this section shall be available to the public in
44 an aggregated format to protect individual confidentiality, however
45 under no circumstance will data be released on items with cells with
46 smaller than statistically acceptable standards.

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

52 (b) On and after April first, two thousand [eight] TEN, no NON-PUBLIC
53 residential health care facility may withdraw equity or transfer assets
54 which in the aggregate exceed three percent of such facility's total
55 [Medicaid] REPORTED ANNUAL revenue [in any calendar year] FOR PATIENT
56 CARE SERVICES, BASED ON THE FACILITY'S MOST RECENTLY AVAILABLE REPORTED

1 DATA, without prior written notification to the commissioner. Notifica-
2 tion shall be made in a form acceptable to the department by certified
3 or registered mail.

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

27 S 29. Notwithstanding any inconsistent provision of law, rule or regu-
28 lation, for purposes of implementing the provisions of the public health
29 law and the social services law, references to titles XIX and XXI of the
30 federal social security act in the public health law and the social
31 services law shall be deemed to include and also to mean any successor
32 titles thereto under the federal social security act.

33 S 30. Notwithstanding any inconsistent provision of law, rule or regu-
34 lation, the effectiveness of the provisions of sections 2807 and 3614 of
35 the public health law, section 18 of chapter 2 of the laws of 1988, and
36 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
37 or certification of rates of payment, are hereby suspended and without
38 force or effect for purposes of implementing the provisions of this act.

39 S 31. Severability clause. If any clause, sentence, paragraph, subdi-
40 vision, section or part of this act shall be adjudged by any court of
41 competent jurisdiction to be invalid, such judgment shall not affect,
42 impair or invalidate the remainder thereof, but shall be confined in its
43 operation to the clause, sentence, paragraph, subdivision, section or
44 part thereof directly involved in the controversy in which such judgment
45 shall have been rendered. It is hereby declared to be the intent of the
46 legislature that this act would have been enacted even if such invalid
47 provisions had not been included herein.

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

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

53 2. the amendments to subdivisions six, seven and nine of section
54 4403-f of the public health law made by sections twenty-five, twenty-six
55 and twenty-seven of this act shall not affect the repeal of such subdi-
56 visions and shall be deemed repealed therewith;

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

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

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

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

17 7. the provisions of this act shall become effective notwithstanding
18 the failure of the commissioner of health or the superintendent of
19 insurance or any council to adopt or amend or promulgate regulations
20 implementing this act.

21 PART D

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

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

30 AN INSURER SHALL SEND WRITTEN NOTICE OF THE PROPOSED RATE ADJUSTMENT,
31 INCLUDING THE SPECIFIC CHANGE REQUESTED, TO EACH POLICY HOLDER AND
32 CERTIFICATE HOLDER AFFECTED BY THE ADJUSTMENT BETWEEN NINETY AND ONE
33 HUNDRED FIVE DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE. THE NOTICE
34 SHALL PROMINENTLY INCLUDE MAILING AND WEBSITE ADDRESSES FOR BOTH THE
35 INSURANCE DEPARTMENT AND THE INSURER THROUGH WHICH A PERSON MAY CONTACT
36 THE INSURANCE DEPARTMENT OR INSURER TO RECEIVE ADDITIONAL INFORMATION OR
37 TO SUBMIT WRITTEN COMMENTS TO THE INSURANCE DEPARTMENT ON THE RATE
38 FILING OR APPLICATION. The superintendent shall determine whether the
39 filing or application shall become effective as filed, shall become
40 effective as modified, or shall be disapproved. THE SUPERINTENDENT MAY
41 MODIFY OR DISAPPROVE THE RATE FILING OR APPLICATION IF THE SUPERINTEN-
42 DENT FINDS THAT THE PREMIUMS ARE UNREASONABLE, EXCESSIVE, INADEQUATE, OR
43 UNFAIRLY DISCRIMINATORY, AND MAY CONSIDER THE FINANCIAL CONDITION OF THE
44 INSURER WHEN APPROVING, MODIFYING OR DISAPPROVING ANY PREMIUM ADJUST-
45 MENT. AN INSURER SHALL NOT IMPLEMENT A RATE ADJUSTMENT UNLESS THE INSUR-
46 ER PROVIDES AT LEAST FORTY-FIVE DAYS ADVANCE WRITTEN NOTICE OF THE
47 PREMIUM RATE ADJUSTMENT APPROVED BY THE SUPERINTENDENT TO EACH POLICY
48 HOLDER AND CERTIFICATE HOLDER AFFECTED BY THE RATE ADJUSTMENT.

49 (B) UPON RECEIPT OF A RATE FILING OR APPLICATION BY OR ON BEHALF OF AN
50 INSURER THAT, TOGETHER WITH ANY OTHER RATE ADJUSTMENTS IMPOSED DURING A
51 CONTINUOUS TWELVE-MONTH PERIOD, WOULD CAUSE AN AGGREGATE INCREASE IN
52 PREMIUMS FOR THAT POLICY FORM OF MORE THAN TEN PERCENT, THE SUPERINTEN-
53 DENT SHALL ORDER THAT A PUBLIC HEARING BE HELD AT THE INSURER'S EXPENSE.
54 THE WRITTEN NOTICE REQUIRED BY SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL

1 INCLUDE NOTICE OF THE PUBLIC HEARING. THE INSURER SHALL ALSO PUBLISH
2 NOTICE OF SUCH HEARING ON THREE SUCCESSIVE DAYS IN AT LEAST ONE NEWSPA-
3 PER HAVING GENERAL CIRCULATION IN EACH COUNTY WHERE PERSONS AFFECTED BY
4 THE PROPOSED CHANGE RESIDE. THE NOTICE OF HEARING SHALL BE SUBJECT TO
5 THE SUPERINTENDENT'S PRIOR APPROVAL, AND SHALL STATE THE DATE, TIME AND
6 PLACE OF THE HEARING (AS SCHEDULED BY THE SUPERINTENDENT), THE PURPOSE
7 THEREOF, THE CHANGES PROPOSED, THE POLICY FORMS AFFECTED, AND THE
8 PROPOSED EFFECTIVE DATE OF THE CHANGES. THE NOTICE OF HEARING SHALL ALSO
9 PROMINENTLY INCLUDE TOLL-FREE TELEPHONE NUMBERS AND MAILING AND WEBSITE
10 ADDRESSES FOR BOTH THE INSURANCE DEPARTMENT AND THE INSURER THROUGH
11 WHICH A PERSON MAY CONTACT THE INSURANCE DEPARTMENT OR INSURER TO
12 RECEIVE ADDITIONAL INFORMATION OR TO SUBMIT WRITTEN COMMENTS TO THE
13 INSURANCE DEPARTMENT ON THE RATE FILING OR APPLICATION. THE DATE SPECI-
14 FIED FOR THE HEARING SHALL NOT BE LESS THAN TEN NOR MORE THAN THIRTY
15 DAYS FROM THE DATE OF THE LAST PUBLICATION OF THE NOTICE OF THE HEARING.
16 UPON CONCLUSION OF THE PUBLIC HEARING, THE SUPERINTENDENT SHALL RENDER A
17 WRITTEN DETERMINATION AS TO WHETHER THE RATE FILING OR APPLICATION SHALL
18 BECOME EFFECTIVE AS FILED, SHALL BECOME EFFECTIVE AS MODIFIED, OR SHALL
19 BE DISAPPROVED.

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

37 (2) (A) [Beginning October first, nineteen hundred ninety-four] UNTIL
38 SEPTEMBER THIRTIETH, TWO THOUSAND TEN, as an alternate procedure to the
39 requirements of paragraph one of this subsection, an insurer desiring to
40 increase or decrease premiums for any policy form subject to this
41 section may instead submit a rate filing or application to the super-
42 intendent and such application or filing shall be deemed approved,
43 provided that: (i) the anticipated minimum loss ratio for a policy form
44 shall not be less than [seventy-five] EIGHTY-FIVE percent of the premi-
45 um[,]; and (ii) the insurer submits, as part of such filing, a certif-
46 ication by a member of the American Academy of Actuaries or other indi-
47 vidual acceptable to the superintendent that the insurer is in
48 compliance with the provisions of this paragraph, based upon that
49 person's examination, including a review of the appropriate records and
50 of the actuarial assumptions and methods used by the insurer in estab-
51 lishing premium rates for policy forms subject to this section. AN
52 INSURER SHALL NOT UTILIZE THE ALTERNATE PROCEDURE PURSUANT TO THIS PARA-
53 GRAPH TO IMPLEMENT A CHANGE IN RATES TO BE EFFECTIVE ON OR AFTER OCTOBER
54 FIRST, TWO THOUSAND TEN.

55 (B) Each calendar year, an insurer shall return, in the form of aggre-
56 gate benefits for each policy form filed pursuant to the alternate

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

40 (3) ALL POLICY FORMS SUBJECT TO THIS SUBSECTION, OTHER THAN MEDICARE
41 SUPPLEMENTAL INSURANCE POLICY FORMS, ISSUED OR IN EFFECT DURING CALENDAR
42 YEAR TWO THOUSAND TEN SHALL BE SUBJECT TO A MINIMUM LOSS RATIO REQUIRE-
43 MENT OF EIGHTY-FIVE PERCENT. INSURERS MAY USE THE ALTERNATE FILING
44 PROCEDURE SET FORTH IN PARAGRAPH TWO OF THIS SUBSECTION TO ADJUST PREMI-
45 UM RATES IN ORDER TO MEET THE REQUIRED MINIMUM LOSS RATIO FOR CALENDAR
46 YEAR TWO THOUSAND TEN. THE RATE FILING OR APPLICATION SHALL BE SUBMIT-
47 TED NO LATER THAN SEPTEMBER THIRTIETH, TWO THOUSAND TEN.

48 S 2. Section 4308 of the insurance law, subsection (b) as amended and
49 subsections (d), (e) and (f) as added by chapter 501 of the laws of
50 1992, paragraph 3 of subsection (c) as amended by chapter 520 of the
51 laws of 1999, subsections (g), (h), (i) and (j) as added by chapter 504
52 of the laws of 1995 and paragraph 2 of subsection (h) as amended by
53 chapter 237 of the laws of 2009, is amended to read as follows:

54 S 4308. Supervision of superintendent; public hearings. (a) No corpo-
55 ration subject to the provisions of this article shall enter into any
56 contract unless and until it shall have filed with the superintendent a

1 copy of the contract or certificate and of all applications, riders and
2 endorsements for use in connection with the issuance or renewal thereof,
3 to be formally approved by him as conforming to the applicable
4 provisions of this article and not inconsistent with any other provision
5 of law applicable thereto. The superintendent shall, within a reasonable
6 time after the filing of any such form, notify the corporation filing
7 the same either of his approval or of his disapproval of such form.

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

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

43 (2) [Prior to any such filing or application by or on behalf of a
44 corporation for an increase or decrease in premiums for such contracts,
45 such corporation, when directed by the superintendent, shall conduct a
46 public hearing with respect to the terms of such filing or application.
47 Notice of such hearing shall be published on three successive days in at
48 least two newspapers having general circulation within the territory or
49 district wherein such corporation seeking approval of the filing is
50 authorized to do business. The date specified for the hearing shall be
51 not less than ten nor more than thirty days from the date of the first
52 publication of the hearing. The notice of hearing shall state the
53 purpose thereof, the time when and the place where the public hearing
54 will be held. The public hearing shall be held at a time and location
55 deemed by the superintendent to be most convenient to the greatest
56 number of persons affected by such filing. At such hearing any person

1 may be heard in favor of, or against, the terms of the filing or appli-
2 cation.

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

46 (4)] (A) A CORPORATION DESIRING TO INCREASE OR DECREASE PREMIUMS FOR
47 ANY CONTRACT SUBJECT TO THIS SUBSECTION SHALL SUBMIT A RATE FILING OR
48 APPLICATION TO THE SUPERINTENDENT. A CORPORATION SHALL SEND WRITTEN
49 NOTICE OF THE PROPOSED RATE ADJUSTMENT, INCLUDING THE SPECIFIC CHANGE
50 REQUESTED, TO EACH CONTRACT HOLDER AND SUBSCRIBER AFFECTED BY THE
51 ADJUSTMENT BETWEEN NINETY AND ONE HUNDRED FIVE DAYS PRIOR TO THE
52 PROPOSED EFFECTIVE DATE OF SUCH ADJUSTMENT. THE NOTICE SHALL PROMINENT-
53 LY INCLUDE MAILING AND WEBSITE ADDRESSES FOR BOTH THE INSURANCE DEPART-
54 MENT AND THE CORPORATION THROUGH WHICH A PERSON MAY CONTACT THE INSUR-
55 ANCE DEPARTMENT OR CORPORATION TO RECEIVE ADDITIONAL INFORMATION OR TO
56 SUBMIT WRITTEN COMMENTS TO THE INSURANCE DEPARTMENT ON THE RATE FILING

1 OR APPLICATION. THE SUPERINTENDENT SHALL DETERMINE WHETHER THE FILING
2 OR APPLICATION SHALL BECOME EFFECTIVE AS FILED, SHALL BECOME EFFECTIVE
3 AS MODIFIED, OR SHALL BE DISAPPROVED. THE SUPERINTENDENT MAY MODIFY OR
4 DISAPPROVE THE RATE FILING OR APPLICATION IF THE SUPERINTENDENT FINDS
5 THAT THE PREMIUMS ARE UNREASONABLE, EXCESSIVE, INADEQUATE, OR UNFAIRLY
6 DISCRIMINATORY, AND MAY CONSIDER THE FINANCIAL CONDITION OF THE CORPO-
7 RATION IN APPROVING, MODIFYING OR DISAPPROVING ANY PREMIUM ADJUSTMENT.
8 A CORPORATION SHALL NOT IMPLEMENT A RATE ADJUSTMENT UNLESS THE CORPO-
9 RATION PROVIDES AT LEAST FORTY-FIVE DAYS ADVANCE WRITTEN NOTICE OF THE
10 PREMIUM RATE ADJUSTMENT APPROVED BY THE SUPERINTENDENT TO EACH CONTRACT
11 HOLDER AND SUBSCRIBER AFFECTED BY THE RATE ADJUSTMENT.

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

37 (3)(A) THE EXPECTED MINIMUM LOSS RATIO FOR A CONTRACT FORM SUBJECT TO
38 THIS SUBSECTION FOR WHICH A RATE FILING OR APPLICATION IS MADE PURSUANT
39 TO THIS PARAGRAPH, OTHER THAN A MEDICARE SUPPLEMENTAL INSURANCE
40 CONTRACT, OR, WITH THE APPROVAL OF THE SUPERINTENDENT, AN AGGREGATION OF
41 CONTRACT FORMS THAT ARE COMBINED INTO ONE COMMUNITY RATING EXPERIENCE
42 POOL AND RATED CONSISTENT WITH COMMUNITY RATING REQUIREMENTS, SHALL NOT
43 BE LESS THAN EIGHTY-FIVE PERCENT. IN REVIEWING A RATE FILING OR APPLICA-
44 TION, THE SUPERINTENDENT MAY MODIFY THE EIGHTY-FIVE PERCENT EXPECTED
45 MINIMUM LOSS RATIO REQUIREMENT IF THE SUPERINTENDENT DETERMINES THE
46 MODIFICATION TO BE IN THE INTERESTS OF THE PEOPLE OF THIS STATE. NO
47 LATER THAN JUNE THIRTIETH OF EACH YEAR, EVERY CORPORATION SUBJECT TO
48 THIS SUBPARAGRAPH SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR THE
49 PREVIOUS CALENDAR YEAR IN A FORMAT ACCEPTABLE TO THE SUPERINTENDENT. IF
50 AN EXPECTED LOSS RATIO IS NOT MET, THE SUPERINTENDENT MAY DIRECT THE
51 CORPORATION TO TAKE CORRECTIVE ACTION, WHICH MAY INCLUDE THE SUBMISSION
52 OF A RATE FILING TO REDUCE FUTURE PREMIUMS, OR TO ISSUE DIVIDENDS,
53 PREMIUM REFUNDS OR CREDITS, OR ANY COMBINATION OF THESE.

54 (B) THE EXPECTED MINIMUM LOSS RATIO FOR A MEDICARE SUPPLEMENTAL INSUR-
55 ANCE CONTRACT FORM SHALL NOT BE LESS THAN EIGHTY PERCENT. NO LATER THAN
56 MAY FIRST OF EACH YEAR, EVERY CORPORATION SUBJECT TO THIS SUBPARAGRAPH

1 SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR EACH CONTRACT FORM
2 SUBJECT TO THIS SECTION FOR THE PREVIOUS CALENDAR YEAR IN A FORMAT
3 ACCEPTABLE TO THE SUPERINTENDENT. IN EACH CASE WHERE THE LOSS RATIO FOR
4 THE CONTRACT FORM FAILS TO COMPLY WITH THE EIGHTY PERCENT LOSS RATIO
5 REQUIREMENT, THE CORPORATION SHALL SUBMIT A CORRECTIVE ACTION PLAN TO
6 THE SUPERINTENDENT FOR ASSURING COMPLIANCE WITH THE APPLICABLE MINIMUM
7 LOSS RATIO STANDARD. THE CORRECTIVE ACTION PLAN SHALL BE SUBMITTED TO
8 THE SUPERINTENDENT WITHIN SIXTY DAYS OF THE CORPORATION'S SUBMISSION OF
9 THE ANNUAL REPORT REQUIRED BY THIS SUBPARAGRAPH. THE CORPORATION'S PLAN
10 MAY UTILIZE PREMIUM REFUNDS OR CREDITS, SUBJECT TO THE APPROVAL OF THE
11 SUPERINTENDENT.

12 (4) In case of conflict between this subsection and any other
13 provision of law, this subsection shall prevail.

14 (d) The superintendent shall order an independent management and
15 financial audit of corporations subject to the provisions of this arti-
16 cle with a combined premium volume exceeding two billion dollars annual-
17 ly in order to develop a detailed understanding of such corporation's
18 financial status and to determine the viability of such corporation's
19 products. Such audit shall be performed by an organization upon
20 submission of a program plan in response to a request for proposal
21 approved by the superintendent in consultation with the commissioner of
22 health and the state comptroller. Such audit shall not be performed by
23 any organization that has in any way performed or furnished services of
24 any kind to the corporation within the past five years, unless it is
25 adequately demonstrated that such services would not compromise that
26 organization's performance and objectivity. The audit shall be completed
27 and a report submitted by May first, nineteen hundred ninety-three to
28 the superintendent, the commissioner of health, and the chairs of the
29 senate and assembly committees on health and insurance. The scope of the
30 audit shall include, but not be limited to, financial and competitive
31 position, corporate structure and governance, organization and manage-
32 ment, strategic direction, rate adequacy, and the regulatory and compet-
33 itive environment in the state of New York. Specifically, the audit
34 shall include, but not be limited to:

35 (i) determining the corporation's financial and market position,
36 including its reserves, trends in membership, market share, and profit-
37 ability by market segment;

38 (ii) evaluating the corporation's product offerings with respect to
39 market requirements and trends, the corporation's responses to the New
40 York health care market, and its management of medical claims costs;

41 (iii) assessing the effectiveness of the organizational and management
42 structure and performance, including, but not limited to, possible
43 improvement in the size, structure, composition and operation of the
44 board of directors, productivity improvement, information systems,
45 management development, personnel practices, mix and level of skills,
46 personnel turnover, investment practices and rate of return upon invest-
47 ment activities;

48 (iv) analyzing the corporation's strategic directions, its adequacy to
49 meet competitive, market, and existing regulatory trends, including an
50 evaluation of the use of brokers in marketing products, and the impact
51 of those strategies on the corporation's future financial performance
52 and on the health care system of New York;

53 (v) evaluating the adequacy of rates for existing products, partic-
54 ularly (but not limited to) small group, medicare supplemental, and
55 direct payment to identify areas that may need immediate remedial atten-
56 tion;

1 (vi) identifying any changes to the regulatory and legislative envi-
2 ronment that may need to be made to ensure that the corporation can
3 continue to be financially viable and competitive;

4 (vii) identifying and assessing specific transactions such as the
5 procurement of reinsurance, sale of real property and the sale of future
6 investment income to improve the financial condition of the corporation;
7 and

8 (viii) evaluating and identifying possible improvements in the corpo-
9 ration's managed care strategies, operations and claims handling.

10 (e) Notwithstanding any other provision of law, the superintendent
11 shall have the power to require independent management and financial
12 audits of corporations subject to the provisions of this article whenev-
13 er in the judgment of the superintendent, losses sustained by a corpo-
14 ration jeopardize its ability to provide meaningful coverage at afforda-
15 ble rates or when such audit would be necessary to protect the interests
16 of subscribers. The audit shall include, but not be limited to, an
17 investigation of the corporation's provision of benefits to senior citi-
18 zens, individual and family, and small group and small business
19 subscribers in relation to the needs of those subscribers. The audit
20 shall also include an evaluation of the efficiency of the corporation's
21 management, particularly with respect to lines of business which are
22 experiencing losses. In every case in which the superintendent chooses
23 to require an audit provided for in this subsection, the superintendent
24 shall have the authority to select the auditor. Any costs incurred as a
25 result of the operation of this subsection shall be assessed on all
26 domestic insurers in the same manner as provided for in section three
27 hundred thirty-two of this chapter.

28 (f) The results of any audit conducted pursuant to subsections (d) and
29 (e) of this section shall be provided to the corporation and each member
30 of its board of directors. The superintendent shall have the authority
31 to direct the corporation in writing to implement any recommendations
32 resulting from the audit that the superintendent finds to be necessary
33 and reasonable; provided, however, that the superintendent shall first
34 consider any written response submitted by the corporation or the board
35 of directors prior to making such finding. Upon any application for a
36 rate adjustment by the corporation, the superintendent shall review the
37 corporation's compliance with the directions and recommendations made
38 previously by the superintendent, as a result of the most recently
39 completed management or financial audit and shall include such findings
40 in any written decision concerning such application.

41 (g)(1) [Beginning January first, nineteen hundred ninety-six] UNTIL
42 SEPTEMBER THIRTIETH, TWO THOUSAND TEN, as an alternate procedure to the
43 requirements of subsection (c) of this section, a corporation subject to
44 the provisions of this article desiring to increase or decrease premiums
45 for any contract subject to this section may instead submit a rate
46 filing or application to the superintendent and such application or
47 filing shall be deemed approved, provided that (A) the anticipated
48 incurred loss ratio for a contract form shall not be less than eighty-
49 five percent for individual direct payment contracts or [seventy-five]
50 EIGHTY-FIVE percent for small group and small group remittance
51 contracts, nor, except in the case of individual direct payment
52 contracts with a loss ratio of greater than one hundred five percent
53 during nineteen hundred ninety-four, shall the loss ratio for any direct
54 payment, group or group remittance contract be more than one hundred
55 five percent of the anticipated earned premium, and (B) the corporation
56 submits, as part of such filing, a certification by a member of the

1 American Academy of Actuaries or other individual acceptable to the
2 superintendent that that corporation is in compliance with the
3 provisions of this subsection, based upon that person's examination,
4 including a review of the appropriate records and of the actuarial
5 assumptions and methods used by the corporation in establishing premium
6 rates for contracts subject to this section. A CORPORATION SHALL NOT
7 UTILIZE THE ALTERNATE PROCEDURE PURSUANT TO THIS SUBSECTION TO IMPLEMENT
8 A CHANGE IN RATES TO BE EFFECTIVE ON OR AFTER OCTOBER FIRST, TWO THOU-
9 SAND TEN. For purposes of this section, a small group is any group whose
10 contract is subject to the requirements of section forty-three hundred
11 seventeen of this article.

12 (2) Prior to January first, two thousand, no rate increase or decrease
13 may be deemed approved under this subsection if that increase or
14 decrease, together with any other rate increases or decreases imposed on
15 the same contract form, would cause the aggregate rate increase or
16 decrease for that contract form to exceed ten percent during any contin-
17 uous twelve month period. No rate increase may be imposed PURSUANT TO
18 THIS SUBSECTION unless at least thirty days advance written notice of
19 such increase has been provided to each contract holder and subscriber.

20 (h)(1) Each calendar year, a corporation subject to the provisions of
21 this article shall return, in the form of aggregate benefits incurred
22 for each contract form filed pursuant to the alternate procedure set
23 forth in subsection (g) of this section, at least eighty-five percent
24 for individual direct payment contracts or [seventy-five] EIGHTY-FIVE
25 percent for small group and small group remittance contracts, but,
26 except in the case of individual direct payment contracts with a loss
27 ratio of greater than one hundred five percent in nineteen hundred nine-
28 ty-four, for any direct payment, group or group remittance contract, not
29 in excess of one hundred five percent of the aggregate premiums earned
30 for the contract form during that calendar year. Corporations subject to
31 the provisions of this article shall annually report, no later than [May
32 first] JUNE THIRTIETH of each year, the loss ratio calculated pursuant
33 to this subsection for each such contract form for the previous calendar
34 year.

35 (2) In each case where the loss ratio for a contract form fails to
36 comply with the eighty-five percent minimum loss ratio requirement for
37 individual direct payment contracts, or the [seventy-five] EIGHTY-FIVE
38 percent minimum loss ratio requirement for small group and small group
39 remittance contracts, as set forth in paragraph one of this subsection,
40 the corporation shall issue a dividend or credit against future premiums
41 for all contract holders with that contract form in an amount sufficient
42 to assure that the aggregate benefits incurred in the previous calendar
43 year plus the amount of the dividends and credits shall equal no less
44 than eighty-five percent for individual direct payment contracts, or
45 [seventy-five] EIGHTY-FIVE percent for small group and small group
46 remittance contracts, of the aggregate premiums earned for the contract
47 form in the previous calendar year. The dividend or credit shall be
48 issued to each contract holder or subscriber who had a contract that was
49 in effect at any time during the applicable year. The dividend or credit
50 shall be prorated based on the direct premiums earned for the applicable
51 year among all contract holders or subscribers eligible to receive such
52 dividend or credit. A corporation shall make a reasonable effort to
53 identify the current address of, and issue dividends or credits to,
54 former contract holders or subscribers entitled to the dividend or cred-
55 it. A corporation shall, with respect to dividends or credits to which
56 former contract holders that the corporation is unable to identify after

1 a reasonable effort would otherwise be entitled, have the option, as
2 deemed acceptable by the superintendent, of prospectively adjusting
3 premium rates by the amount of such dividends or credits, issuing the
4 amount of such dividends or credits to existing contract holders, depos-
5 iting the amount of such dividends or credits in the fund established
6 pursuant to section four thousand three hundred twenty-two-a of this
7 article, or utilizing any other method which offsets the amount of such
8 dividends or credits. All dividends and credits must be distributed by
9 September thirtieth of the year following the calendar year in which the
10 loss ratio requirements were not satisfied. The annual report required
11 by paragraph one of this subsection shall include a corporation's calcu-
12 lation of the dividends and credits, as well as an explanation of the
13 corporation's plan to issue dividends or credits. The instructions and
14 format for calculating and reporting loss ratios and issuing dividends
15 or credits shall be specified by the superintendent by regulation. Such
16 regulations shall include provisions for the distribution of a dividend
17 or credit in the event of cancellation or termination by a contract
18 holder or subscriber.

19 (3) In each case where the loss ratio for a contract form fails to
20 comply with the one hundred five percent maximum loss ratio requirement
21 of paragraph one of this subsection, the corporation shall institute a
22 premium rate increase in an amount sufficient to assure that the aggre-
23 gate benefits incurred in the previous calendar year shall equal no more
24 than one hundred five percent of the sum of the aggregate premiums
25 earned for the contract form in the previous calendar year and the
26 aggregate premium rate increase. The rate increase shall be applied to
27 each contract that was in effect as of December thirty-first of the
28 applicable year and remains in effect as of the date the rate increase
29 is imposed. All rate increases must be imposed by September thirtieth of
30 the year following the calendar year in which the loss ratio require-
31 ments were not satisfied. The annual report required by paragraph one of
32 this subsection shall include a corporation's calculation of the premium
33 rate increase, as well as an explanation of the corporation's plan to
34 implement the rate increase. The instructions and format for calculating
35 and reporting loss ratios and implementing rate increases shall be spec-
36 ified by the superintendent by regulation.

37 (i) The alternate procedure described in subsections (g) and (h) of
38 this section shall apply to individual direct payment contracts issued
39 pursuant to sections four thousand three hundred twenty-one and four
40 thousand three hundred twenty-two of this article on and after January
41 first, nineteen hundred ninety-seven. SUCH ALTERNATE PROCEDURE SHALL NOT
42 BE UTILIZED TO IMPLEMENT A CHANGE IN RATES TO BE EFFECTIVE ON OR AFTER
43 OCTOBER FIRST, TWO THOUSAND TEN.

44 [(j) The eighty-five percent minimum loss ratio for individual direct
45 payment contracts described in subsections (g) and (h) of this section
46 shall be reduced to eighty-two and one-half percent as of January first,
47 nineteen hundred ninety-seven and shall be further reduced to eighty
48 percent as of January first, nineteen hundred ninety-eight and thereaft-
49 er. The refund or credit requirements for failure to meet minimum loss
50 ratios will continue, but at these reduced percentages.]

51 (J) ALL COMMUNITY RATED CONTRACTS, OTHER THAN MEDICARE SUPPLEMENTAL
52 INSURANCE CONTRACTS, ISSUED OR IN EFFECT DURING CALENDAR YEAR TWO THOU-
53 SAND TEN SHALL BE SUBJECT TO A MINIMUM LOSS RATIO REQUIREMENT OF EIGHT-
54 Y-FIVE PERCENT. CORPORATIONS MAY USE THE ALTERNATE PROCEDURE SET FORTH
55 IN SUBSECTION (G) OF THIS SECTION TO ADJUST PREMIUM RATES IN ORDER TO
56 MEET THE REQUIRED MINIMUM LOSS RATIO FOR CALENDAR YEAR TWO THOUSAND TEN.

1 THE RATE FILING OR APPLICATION SHALL BE SUBMITTED NO LATER THAN SEPTEM-
2 BER THIRTIETH, TWO THOUSAND TEN.

3 S 3. If any clause, sentence, paragraph, section or part of this act
4 shall be adjudged by any court of competent jurisdiction to be invalid,
5 the judgment shall not affect, impair or invalidate the remainder there-
6 of, but shall be confined in its operation to the clause, sentence,
7 paragraph, section or part thereof directly involved in the controversy
8 in which such judgment shall have been rendered.

9 S 4. This act shall take effect immediately.

10

PART E

11 Section 1. The first undesignated paragraph of section 29.23 of the
12 mental hygiene law is amended to read as follows:

13 The commissioner may authorize the directors of department facilities,
14 to receive or obtain funds or other personal property, excepting jewel-
15 ry, due or belonging to a patient who has no [committee] GUARDIAN
16 AUTHORIZED TO RECEIVE SUCH FUNDS OR PROPERTY, up to an amount or value
17 not exceeding five thousand dollars EXCEPTING FEDERAL OR STATE BENEFITS
18 PAID TO THE DIRECTOR AS REPRESENTATIVE PAYEE; and also from [a commit-
19 tee] SUCH GUARDIAN upon his discharge when the final order so provides
20 where the balance remaining in the hands of such [committee] GUARDIAN
21 does not exceed such amount. Such personal property, excepting jewelry,
22 other than moneys shall be retained by the director for the benefit of
23 the patient for whom received until sold as hereinafter provided. FEDER-
24 AL BENEFITS, INCLUDING BENEFITS FOR WHICH THERE IS A STATE SHARE, PAID
25 TO THE DIRECTOR AS REPRESENTATIVE PAYEE SHALL BE USED IN ACCORDANCE WITH
26 APPLICABLE FEDERAL LAW AND REGULATIONS. Such funds and the proceeds of
27 the sale of other personal property so received shall be placed to the
28 credit of the patient for whom received and disbursed on the order of
29 the director, to provide, in the first instance, for luxuries, comforts,
30 and necessities for such patient, including burial expenses, and, if
31 funds are thereafter available, for the support of such patient. The
32 commissioner may authorize directors, on behalf of any such patient, to
33 give receipts, execute releases and other documents required by law or
34 court order, to endorse checks and drafts, and to convert personal prop-
35 erty excepting jewelry into money by sale for an adequate consideration,
36 and to execute bills of sale or to permit such patient to do so, in
37 order that the proceeds may be deposited to the credit of such patient
38 in accordance with the provisions of this section.

39 S 2. Subdivision (e) of section 33.07 of the mental hygiene law, as
40 added by chapter 709 of the laws of 1986, is amended to read as follows:

41 (e) A mental hygiene facility which is a representative payee for a
42 patient pursuant to designation by the social security administration or
43 OTHER FEDERAL AGENCY AND which assumes management responsibility over
44 the funds of a patient, INCLUDING BENEFITS FOR WHICH THERE IS A STATE
45 SHARE, shall maintain such funds in [a fiduciary capacity to the
46 patient] ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS. The
47 commissioners of mental health and mental retardation and developmental
48 disabilities [shall] ARE AUTHORIZED TO develop standards regarding the
49 management of patient funds.

50 S 3. This act shall take effect immediately.

51

PART F

1 Section 1. Chapter 119 of the laws of 2007, directing the commissioner
2 of mental health to study, evaluate and report on the unmet mental
3 health service needs of traditionally underserved populations, is
4 REPEALED.

5 S 2. This act shall take effect immediately.

6 PART G

7 Section 1. Section 10.08 of the mental hygiene law is amended by
8 adding a new subdivision (i) to read as follows:

9 (I) AT ANY PROCEEDING CONDUCTED PURSUANT TO THIS ARTICLE OTHER THAN A
10 TRIAL CONDUCTED PURSUANT TO SECTION 10.07 OF THIS ARTICLE, THE RESPOND-
11 ENT OR ANY WITNESS SHALL BE PERMITTED, UPON GOOD CAUSE SHOWN, TO MAKE AN
12 ELECTRONIC APPEARANCE IN THE COURT BY MEANS OF AN INDEPENDENT AUDIO-VI-
13 SUAL SYSTEM, AS THAT TERM IS DEFINED IN SUBDIVISION ONE OF SECTION
14 182.10 OF THE CRIMINAL PROCEDURE LAW, FOR PURPOSES OF A COURT APPEARANCE
15 OR FOR GIVING TESTIMONY. IT SHALL CONSTITUTE GOOD CAUSE THAT A WITNESS
16 IS CURRENTLY EMPLOYED BY THE STATE AT A SECURE TREATMENT FACILITY OR
17 ANOTHER WORK LOCATION, UNLESS THERE ARE COMPELLING CIRCUMSTANCES REQUIR-
18 ING THE WITNESS'S PERSONAL PRESENCE AT THE COURT PROCEEDING. FOR
19 PURPOSES OF THIS SUBDIVISION, AN "ELECTRONIC APPEARANCE" MEANS AN
20 APPEARANCE AT WHICH A PARTICIPANT IS NOT PRESENT IN THE COURT, BUT IN
21 WHICH (A) ALL OF THE PARTICIPANTS ARE ABLE TO SEE AND HEAR THE SIMUL-
22 TANEOUS REPRODUCTIONS OF THE VOICES AND IMAGES OF THE JUDGE, COUNSEL,
23 RESPONDENT OR ANY OTHER APPROPRIATE PARTICIPANT, AND (B) COUNSEL IS
24 PRESENT WITH THE RESPONDENT OR THE RESPONDENT AND COUNSEL ARE ABLE TO
25 SEE AND HEAR EACH OTHER AND ENGAGE IN PRIVATE CONVERSATION. WHEN A
26 RESPONDENT OR A WITNESS MAKES AN ELECTRONIC APPEARANCE, THE COURT
27 STENOGRAPHER SHALL RECORD ANY STATEMENTS IN THE SAME MANNER AS IF THE
28 RESPONDENT OR WITNESS HAD MADE A PERSONAL APPEARANCE. NOTHING IN THIS
29 SUBDIVISION SHALL BE CONSTRUED TO PROHIBIT THE RESPONDENT OR ANY WITNESS
30 FROM MAKING AN ELECTRONIC APPEARANCE IN THE COURT AT A TRIAL CONDUCTED
31 PURSUANT TO SECTION 10.07 OF THIS ARTICLE BY MEANS OF AN INDEPENDENT
32 AUDIO-VISUAL SYSTEM, UPON GOOD CAUSE SHOWN AND CONSENT OF THE PARTIES.

33 S 2. This act shall take effect immediately.

34 PART H

35 Section 1. (a) Notwithstanding the provisions of subdivision (e) of
36 section 7.17 or section 41.55 of the mental hygiene law, or any other
37 law to the contrary, the office of mental health is authorized in state
38 fiscal year 2010-11 to reduce inpatient capacity in the aggregate by no
39 more than 250 beds through closure of wards not to exceed 175 beds, or
40 through conversion of such beds to transitional placement programs,
41 provided, however, that nothing in this section shall be interpreted as
42 restricting the ability of the office of mental health to reduce inpa-
43 tient bed capacity beyond 250 beds in state fiscal year 2010-11, but
44 such reductions shall be subject to the provisions of subdivision (e) of
45 section 7.17 and section 41.55 of the mental hygiene law. Determi-
46 nations concerning the closure of such wards in fiscal year 2010-11
47 shall be made by the office of mental health based on data related to
48 inpatient census, indicating nonutilization or under utilization of
49 beds, and the efficient operation of facilities. Determinations
50 concerning the conversion of such wards to transitional placement
51 programs in fiscal year 2010-11 shall be made by the office of mental
52 health based upon the identification of patients who have received inpa-

1 tient care and who are clinically determined to be appropriate for a
2 less restrictive level of mental health treatment. The office of mental
3 health shall provide notice to the legislature as soon as possible, but
4 no later than two weeks prior to the anticipated closure or conversion
5 of wards pursuant to this act.

6 (b) For the purposes of this act, the term "transitional placement
7 program" shall be defined to include, but not be limited to, a super-
8 vised residential program that provides outpatient services, treatment
9 and training, and which supports the transition of patients to more
10 integrated community settings.

11 S 2. Section 7 of part R2 of chapter 62 of the laws of 2003, amending
12 the mental hygiene law and the state finance law relating to the commu-
13 nity mental health support and workforce reinvestment program, the
14 membership of subcommittees for mental health of community services
15 boards and the duties of such subcommittees and creating the community
16 mental health and workforce reinvestment account, as amended by section
17 1 of part E of chapter 58 of the laws of 2004, is amended to read as
18 follows:

19 S 7. This act shall take effect immediately and shall expire March 31,
20 [2010] 2011 when upon such date the provisions of this act shall be
21 deemed repealed.

22 S 3. Subdivision (e) of section 41.55 of the mental hygiene law, as
23 amended by section 1 of part N1 of chapter 63 of the laws of 2003, is
24 amended to read as follows:

25 (e) The amount of community mental health support and workforce rein-
26 vestment funds for the office of mental health shall be determined in
27 the annual budget and shall include the amount of actual state oper-
28 ations general fund appropriation reductions, including personal service
29 savings and other than personal service savings directly attributed to
30 each child and adult non-geriatric inpatient bed closure. For the
31 purposes of this section a bed shall be considered to be closed upon the
32 elimination of funding for such beds in the executive budget. The
33 appropriation reductions as a result of inpatient bed closures shall be
34 no less than seventy thousand dollars per bed on a full annual basis, as
35 annually recommended by the commissioner, subject to the approval of the
36 director of the budget, in the executive budget request prior to the
37 fiscal year for which the executive budget is being submitted. [The
38 commissioner shall report to the governor, the temporary president of
39 the senate and the speaker of the assembly no later than October first,
40 two thousand three, and annually thereafter, with an explanation of the
41 methodologies used to calculate the per bed closure savings.] The meth-
42 odologies USED TO CALCULATE THE PER BED CLOSURE SAVINGS shall be devel-
43 oped by the commissioner and the director of the budget. In no event
44 shall the full annual value of community mental health support and work-
45 force reinvestment programs attributable to beds closed as a result of
46 net inpatient census decline exceed the twelve month value of the office
47 of mental health state operations general fund reductions resulting from
48 such census decline. Such reinvestment amount shall be made available in
49 the same proportion by which the office of mental health's state oper-
50 ations general fund appropriations are reduced each year as a result of
51 child and adult non-geriatric inpatient bed closures due to census
52 decline.

53 S 4. Subdivisions (h) and (l) of section 41.55 of the mental hygiene
54 law are REPEALED and subdivisions (i), (j), (k), and (m) are relettered
55 subdivisions (h), (i), (j) and (k).

1 S 5. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2010, provided
3 that the amendments to section 41.55 of the mental hygiene law made by
4 sections three and four of this act shall not affect the repeal of such
5 section and shall be deemed repealed therewith.

6 PART I

7 Section 1. The office of mental health is authorized to recover fund-
8 ing from community residences and family-based treatment providers
9 licensed by the office of mental health, consistent with contractual
10 obligations of such providers, and notwithstanding any other inconsis-
11 tent provision of law to the contrary, in an amount equal to 50 percent
12 of the income received by such providers which exceeds the fixed amount
13 of annual Medicaid revenue limitations, as established by the commis-
14 sioner of mental health. Recovery of such excess income shall be for the
15 following fiscal periods: for programs in counties located outside of
16 the city of New York, the applicable fiscal periods shall be January 1,
17 2003 through December 31, 2009; and for programs located within the city
18 of New York, the applicable fiscal periods shall be July 1, 2003 through
19 June 30, 2010.

20 S 2. This act shall take effect immediately.

21 PART J

22 Section 1. The opening paragraph of subdivision (e) of section 16.23
23 of the mental hygiene law, as added by chapter 786 of the laws of 1983,
24 is amended to read as follows:

25 The commissioner shall establish a procedure, subject to the approval
26 of the state comptroller, whereby payments may be made to operators of
27 family care homes for one or more of the following needs of clients
28 residing in such facilities, limited to [two hundred ninety dollars]
29 SUCH AMOUNTS per client per year AS SHALL BE SET BY THE COMMISSIONER AND
30 APPROVED BY THE DIRECTOR OF THE BUDGET and paid [semi-annually] in the
31 manner specified by such procedures:

32 S 2. The opening paragraph of paragraph 8 of subdivision (h) of
33 section 31.03 of the mental hygiene law, as added by chapter 809 of the
34 laws of 1980, is amended to read as follows:

35 The commissioner shall establish a procedure, subject to the approval
36 of the state comptroller, whereby payments may be made to operators of
37 family care homes for one or more of the following needs of clients
38 residing in such facilities, limited to [two hundred ninety dollars]
39 SUCH AMOUNTS per client per year AS SHALL BE SET BY THE COMMISSIONER AND
40 APPROVED BY THE DIRECTOR OF THE BUDGET and paid [semi-annually] in the
41 manner specified by such procedures:

42 S 3. Subdivision (d) of section 16.23 of the mental hygiene law, as
43 added by chapter 786 of the laws of 1983, is amended to read as follows:

44 (d) The office shall provide substitute caretakers to each family care
45 home for a maximum of [ten] FOURTEEN days per year, either directly or
46 as a purchase of service.

47 S 4. Paragraph 7 of subdivision (h) of section 31.03 of the mental
48 hygiene law, as amended by chapter 613 of the laws of 1981, is amended
49 to read as follows:

50 (7) The department shall provide substitute caretakers to each family
51 care home for a maximum of [ten] FOURTEEN days per year, either directly
52 or as a purchase of service.

1 S 5. The opening paragraph of subdivision (n) of section 41.36 of the
2 mental hygiene law, as amended by chapter 525 of the laws of 1985, is
3 amended to read as follows:

4 The commissioner shall establish a procedure, subject to the approval
5 of the state comptroller, whereby payments in addition to the client's
6 personal allowance may be made to providers of services for one or more
7 of the following needs of clients residing in such facilities, limited
8 to [two hundred fifty dollars] SUCH AMOUNTS per client per year AS SHALL
9 BE SET BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET
10 and paid [semi-annually] in the manner specified by such procedures:

11 S 6. This act shall take effect immediately.

12 PART K

13 Section 1. Paragraph 2 of subdivision (a) of section 32.05 of the
14 mental hygiene law, as added by chapter 558 of the laws of 1999, is
15 amended to read as follows:

16 2. operation of a discrete unit of a hospital or other facility
17 possessing an operating certificate pursuant to article twenty-eight of
18 the public health law for the purpose of providing residential or non-
19 residential chemical dependence services, OR THE PROVISION OF CHEMICAL
20 DEPENDENCE CRISIS SERVICES FOR THE LESSER OF TWO THOUSAND PATIENT DAYS
21 PER YEAR, OR TEN PERCENT OF TOTAL PATIENT DAYS PER YEAR, AS DETERMINED
22 BY THE COMMISSIONER, IN A HOSPITAL OR OTHER FACILITY POSSESSING AN OPER-
23 ATING CERTIFICATE PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH
24 LAW; or

25 S 2. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2010.

27 PART L

28 Section 1. Section 19.07 of the mental hygiene law is amended by
29 adding a new subdivision (i) to read as follows:

30 (I) THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL DEVEL-
31 OP AN ALCOHOL AND DRUG REHABILITATION PROGRAM, CONSISTENT WITH THE
32 PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-SIX OF THE VEHICLE AND TRAF-
33 FIC LAW FOR THE PROVISION OF CHEMICAL DEPENDENCY PREVENTION, EDUCATION,
34 EVALUATION AND TREATMENT TO PERSONS REFERRED AS A RESULT OF A VIOLATION
35 OF SECTIONS ELEVEN HUNDRED NINETY-TWO AND ELEVEN HUNDRED NINETY-TWO-A OF
36 THE VEHICLE AND TRAFFIC LAW. THE COMMISSIONER OF THE OFFICE OF ALCOHOL-
37 ISM AND SUBSTANCE ABUSE SERVICES SHALL ADOPT STANDARDS, RULES AND REGU-
38 LATIONS, AND ESTABLISH FEES NECESSARY TO IMPLEMENT THE PROVISIONS OF
39 THIS SUBDIVISION.

40 S 2. Subdivisions 1, 2, 3, 4, and 6 of section 1196 of the vehicle and
41 traffic law, subdivisions 1, 2, 3 and 6 as added by chapter 47 of the
42 laws of 1988 and subdivision 4 as amended by chapter 196 of the laws of
43 1996, are amended to read as follows:

44 1. Program establishment. There is hereby established an alcohol and
45 drug rehabilitation program within the [department of motor vehicles]
46 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES. The commissioner OF
47 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES shall establish,
48 by regulation OR CONTRACT, the instructional and rehabilitative aspects
49 of the program. Such program shall [consist of at least fifteen hours
50 and] include, but need not be limited to, classroom instruction in areas
51 deemed suitable by the commissioner OF THE OFFICE OF ALCOHOLISM AND
52 SUBSTANCE ABUSE SERVICES. [No person shall be required to attend or

1 participate in such program or any aspect thereof for a period exceeding
2 eight months except upon the recommendation of the department of mental
3 hygiene or appropriate health officials administering the program on
4 behalf of a municipality.]

5 2. Curriculum. The form, content and method of presentation of the
6 various aspects of such program shall be established by the commissioner
7 OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES. In the devel-
8 opment of the form, curriculum and content of such program, the commis-
9 sioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES may
10 consult with the commissioner of mental health, [the director of the
11 division of alcoholism and alcohol abuse, the director of the division
12 of substance abuse services] THE COMMISSIONER OF MOTOR VEHICLES and any
13 other state department or agency and request and receive assistance from
14 them. The commissioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
15 SERVICES is also authorized to develop more than one curriculum and
16 course content for such program in order to meet the varying rehabilita-
17 tive needs of the participants.

18 3. Where available. A course in such program shall be available in at
19 least every county in the state, except where the commissioner OF THE
20 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES determines that there
21 is not a sufficient number of alcohol or drug-related traffic offenses
22 in a county to mandate the establishment of said course, and that
23 provisions be made for the residents of said county to attend a course
24 in another county where a course exists.

25 4. Eligibility. Participation in the program shall be limited to those
26 persons convicted of alcohol or drug-related traffic offenses or persons
27 who have been adjudicated youthful offenders for alcohol or drug-related
28 traffic offenses, or persons found to have been operating a motor vehi-
29 cle after having consumed alcohol in violation of section eleven hundred
30 ninety-two-a of this article, who choose to participate and who satisfy
31 the criteria and meet the requirements for participation as established
32 by this section and the regulations promulgated thereunder; provided,
33 however, in the exercise of discretion, the judge imposing sentence may
34 prohibit the defendant from enrolling in such program. The commissioner
35 OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES or [deputy] HIS
36 OR HER DESIGNEE may exercise discretion, to reject any person from
37 participation referred to such program and nothing herein contained
38 shall be construed as creating a right to be included in any course or
39 program established under this section. In addition, no person shall be
40 permitted to take part in such program if, during the five years imme-
41 diately preceding commission of an alcohol or drug-related traffic
42 offense or a finding of a violation of section eleven hundred ninety-
43 two-a of this article, such person has participated in a program estab-
44 lished pursuant to this article or been convicted of a violation of any
45 subdivision of section eleven hundred ninety-two of this article other
46 than a violation committed prior to November first, nineteen hundred
47 eighty-eight, for which such person did not participate in such program.
48 In the exercise of discretion, the commissioner OF THE OFFICE OF ALCO-
49 HOLISM AND SUBSTANCE ABUSE SERVICES or [a deputy] HIS OR HER DESIGNEE
50 shall have the right to expel any participant from the program who fails
51 to satisfy the requirements for participation in such program or who
52 fails to satisfactorily participate in or attend any aspect of such
53 program. Notwithstanding any contrary provisions of this chapter, satis-
54 factory participation in and completion of a course in such program
55 shall result in the termination of any sentence of imprisonment that may
56 have been imposed by reason of a conviction therefor; provided, however,

1 that nothing contained in this section shall delay the commencement of
2 such sentence.

3 6. Fees. The commissioner OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE
4 ABUSE SERVICES shall establish a schedule of fees to be paid by or on
5 behalf of each participant in the program, and may, from time to time,
6 modify same. Such fees shall defray the ongoing expenses of the program.
7 Provided, however, that pursuant to an agreement with the [department]
8 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, a municipality,
9 department thereof, or other agency may conduct a course in such program
10 with all or part of the expense of such course and program being borne
11 by such municipality, department or agency. In no event shall such fee
12 be refundable, either for reasons of the participant's withdrawal or
13 expulsion from such program or otherwise.

14 S 3. Paragraph (d) of subdivision 7 of section 1196 of the vehicle and
15 traffic law, as amended by chapter 309 of the laws of 1996, is amended
16 to read as follows:

17 (d) The commissioner OF MOTOR VEHICLES shall require applicants for a
18 conditional license to pay a fee of seventy-five dollars for processing
19 costs. Such fees assessed under this subdivision shall be paid to the
20 commissioner OF MOTOR VEHICLES for deposit to the general fund and shall
21 be in addition to any fees established by the commissioner OF ALCOHOLISM
22 AND SUBSTANCE ABUSE SERVICES pursuant to subdivision six of this section
23 to defray the costs of the alcohol and drug rehabilitation program.

24 S 4. This act shall take effect January 1, 2011.

25

PART M

26 Section 1. Paragraph 1 of subdivision (a) of section 9.60 of the
27 mental hygiene law, as amended by chapter 158 of the laws of 2005, is
28 amended to read as follows:

29 (1) "assisted outpatient treatment" shall mean categories of outpa-
30 tient services which have been ordered by the court pursuant to this
31 section. Such treatment shall include case management services or
32 assertive community treatment team services to provide care coordi-
33 nation, and may also include any of the following categories of
34 services: medication; periodic blood tests or urinalysis to determine
35 compliance with prescribed medications; individual or group therapy; day
36 or partial day programming activities; educational and vocational train-
37 ing or activities; alcohol or substance abuse treatment and counseling
38 and periodic tests for the presence of alcohol or illegal drugs for
39 persons with a history of alcohol or substance abuse; supervision of
40 living arrangements; and any other services within a local [or unified]
41 services plan developed pursuant to article forty-one of this chapter,
42 prescribed to treat the person's mental illness and to assist the person
43 in living and functioning in the community, or to attempt to prevent a
44 relapse or deterioration that may reasonably be predicted to result in
45 suicide or the need for hospitalization.

46 S 2. Paragraph 2 of subdivision (b) of section 31.27 of the mental
47 hygiene law, as added by chapter 723 of the laws of 1989, is amended to
48 read as follows:

49 (2) The commissioner of mental health shall require that each compre-
50 hensive psychiatric emergency program submit a plan. The plan must be
51 approved by the commissioner prior to the issuance of an operating
52 certificate pursuant to this article. Each plan shall include: (i) a
53 description of the program's catchment area; (ii) a description of the
54 program's psychiatric emergency services, including crisis intervention

1 services, crisis outreach services, crisis residence services, extended
2 observation beds, and triage and referral services, whether or not
3 provided directly or through agreement with other providers of services;
4 (iii) agreements or affiliations with hospitals, as defined in section
5 1.03 of this chapter, to receive and admit persons who require inpatient
6 psychiatric services; (iv) agreements or affiliations with general
7 hospitals to receive and admit persons who have been referred by the
8 comprehensive psychiatric emergency program and who require medical or
9 surgical care which cannot be provided by the comprehensive psychiatric
10 emergency program; (v) a description of local resources available to the
11 program to prevent unnecessary hospitalizations of persons, which shall
12 include agreements with local mental health, health, substance abuse,
13 alcoholism or alcohol abuse, mental retardation and developmental disa-
14 bilities, or social services agencies to provide appropriate services;
15 (vi) a description of the program's linkages with local police agencies,
16 emergency medical services, ambulance services, and other transportation
17 agencies; (vii) a description of local resources available to the
18 program to provide appropriate community mental health services upon
19 release or discharge, which shall include case management services and
20 agreements with state or local mental health and other human service
21 providers; (viii) written criteria and guidelines for the development of
22 appropriate discharge planning for persons in need of post emergency
23 treatment or services[,]; (ix) a statement indicating that the program
24 has been included in an approved local [or unified] services plan devel-
25 oped pursuant to article forty-one of this chapter for each local
26 government located within the program's catchment area; and (x) any
27 other information or agreements required by the commissioner.

28 S 3. Subdivision (d) of section 33.13 of the mental hygiene law, as
29 amended by chapter 408 of the laws of 1999, is amended to read as
30 follows:

31 (d) Nothing in this section shall prevent the electronic or other
32 exchange of information concerning patients or clients, including iden-
33 tification, between and among (i) facilities or others providing
34 services for such patients or clients pursuant to an approved local [or
35 unified] services plan, as defined in article forty-one of this chapter,
36 or pursuant to agreement with the department, and (ii) the department or
37 any of its licensed or operated facilities. Furthermore, subject to the
38 prior approval of the commissioner of mental health, hospital emergency
39 services licensed pursuant to article twenty-eight of the public health
40 law shall be authorized to exchange information concerning patients or
41 clients electronically or otherwise with other hospital emergency
42 services licensed pursuant to article twenty-eight of the public health
43 law and/or hospitals licensed or operated by the office of mental
44 health; provided that such exchange of information is consistent with
45 standards, developed by the commissioner of mental health, which are
46 designed to ensure confidentiality of such information. Additionally,
47 information so exchanged shall be kept confidential and any limitations
48 on the release of such information imposed on the party giving the
49 information shall apply to the party receiving the information.

50 S 4. Subdivision (d) of section 33.13 of the mental hygiene law, as
51 amended by chapter 912 of the laws of 1984, is amended to read as
52 follows:

53 (d) Nothing in this section shall prevent the exchange of information
54 concerning patients or clients, including identification, between (i)
55 facilities or others providing services for such patients or clients
56 pursuant to an approved local [or unified] services plan, as defined in

1 article forty-one, or pursuant to agreement with the department and (ii)
2 the department or any of its facilities. Information so exchanged shall
3 be kept confidential and any limitations on the release of such informa-
4 tion imposed on the party giving the information shall apply to the
5 party receiving the information.

6 S 5. The article heading of article 41 of the mental hygiene law, as
7 added by chapter 978 of the laws of 1977, is amended to read as follows:

8 LOCAL [AND UNIFIED] SERVICES

9 S 6. The second undesignated paragraph and closing paragraph of
10 section 41.01 of the mental hygiene law, as amended by chapter 978 of
11 the laws of 1977, are amended to read as follows:

12 [In order to further the development, for each community in this
13 state, of a unified system for the delivery of such services, this arti-
14 cle gives to a local governmental unit the opportunity to participate in
15 the state-local development of such services by means of a unified
16 services plan. Such a plan is designed to be a mechanism whereby the
17 department, department facilities, and local government can jointly plan
18 for and deliver unified services to meet the needs of the consumers of
19 such services. The unified services system will strengthen state and
20 local partnership in the determination of the need for and the allo-
21 cation of services and more easily provide for the most effective and
22 economical utilization of new and existing state, local governmental,
23 and private resources to provide services. A uniform ratio of state and
24 local government responsibility for financing services under a unified
25 services plan is established by this article to eliminate having the
26 types of services provided in a community be determined by the local
27 government's share of the cost of a particular program rather than the
28 needs of the community.

29 It] EFFECTIVE IMPLEMENTATION OF THIS ARTICLE requires the direction
30 and administration, by each local governmental unit, of a local compre-
31 hensive planning process for its geographic area in which all providers
32 of services shall participate and cooperate in the provision of all
33 necessary information. It also initiates a planning effort involving the
34 state, local governments and other providers of service for the purpose
35 of promoting continuity of care through the development of integrated
36 systems of care and treatment for the mentally ill, mentally retarded
37 and developmentally disabled, and for those suffering from the diseases
38 of alcoholism and substance abuse.

39 S 7. Subdivisions 4 and 14 of section 41.03 of the mental hygiene law
40 are REPEALED, and subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15 of
41 such section, such section as renumbered by chapter 978 of the laws of
42 1977, are renumbered subdivisions 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

43 S 8. Subdivision 5 of section 41.03 of the mental hygiene law, as
44 amended by chapter 588 of the laws of 1973 and as renumbered by section
45 seven of this act, is amended to read as follows:

46 5. "local governmental unit" means the unit of local government given
47 authority in accordance with this chapter by local government to provide
48 local [or unified] services.

49 S 9. Subdivision (b) of section 41.04 of the mental hygiene law, as
50 added by chapter 978 of the laws of 1977, is amended to read as follows:

51 (b) Guidelines for the operation of local [and unified] services plans
52 and financing shall be adopted only by rule or regulation. Such rules
53 and regulations shall be submitted at least twenty-one days prior to the
54 effective date thereof to the New York state conference of local mental

1 hygiene directors for comment thereon; provided, however, if a commis-
2 sioner finds that the public health, welfare or safety requires the
3 prompt adoption of rules and regulations, he may dispense with such
4 submission prior to the effective date thereof but, in such case, such
5 commissioner shall submit such rules and regulations to the conference
6 as soon as possible for their review within sixty days after the effec-
7 tive date thereof.

8 S 10. Subdivisions (a) and (c) of section 41.07 of the mental hygiene
9 law, as amended by chapter 588 of the laws of 1973 and such section as
10 renumbered by chapter 978 of the laws of 1977, are amended to read as
11 follows:

12 (a) Local governmental units may provide local [or unified] services
13 and facilities directly or may contract for the provision of those
14 services by other units of local or state government, by voluntary agen-
15 cies, or by professionally qualified individuals.

16 (c) Local governments may provide joint local [or unified] services
17 and facilities through agreements, made pursuant to law, which may
18 provide either that one local government provide and supervise these
19 services for other local governments or that a joint board or a joint
20 local department be established to administer these services for the
21 populations of all contracting local governments.

22 S 11. Subdivision (f) of section 41.10 of the mental hygiene law, as
23 added by chapter 978 of the laws of 1977, is amended to read as follows:

24 (f) The conference shall have the following powers:

25 1. To review and comment upon rules or regulations proposed by any of
26 the offices of the department for the operation of local [and unified]
27 service plans and programs. Comments on rules or regulations approved by
28 the conference shall be given to the appropriate commissioner or commis-
29 sioners for review and consideration; and

30 2. To propose rules or regulations governing the operation of the
31 local [and unified] services programs, and to forward such proposed
32 rules or regulations to the appropriate commissioner or commissioners
33 for review and consideration.

34 S 12. Subdivisions (a) and (b) of section 41.11 of the mental hygiene
35 law, as amended by section 5 of part R2 of chapter 62 of the laws of
36 2003, are amended to read as follows:

37 (a) In all local governments with a population less than one hundred
38 thousand, community services boards, at the option of the local govern-
39 ment, shall have either nine or fifteen members appointed by the local
40 government. In all other local governments, a community services board
41 shall have fifteen members appointed by the local government.

42 Whenever practicable at least one member shall be a licensed physician
43 and one member shall be a certified psychologist and otherwise at least
44 two members shall be licensed physicians, such members to have demon-
45 strated an interest in the field of services for the mentally disabled.
46 The other members shall represent the community interest in all the
47 problems of the mentally disabled and shall include representatives from
48 community agencies for the mentally ill, the mentally retarded and
49 developmentally disabled, and those suffering from alcoholism and
50 substance abuse. The community services board shall have separate
51 subcommittees for mental health, mental retardation and developmental
52 disabilities, and alcoholism or, at the discretion of the local govern-
53 ment, alcoholism and substance abuse. Each separate subcommittee shall
54 have no more than nine members appointed by the local government, except
55 that each subcommittee for mental health shall have no more than eleven
56 members appointed by the local government. Three of each such subcommit-

tee shall be members of the board. Each separate subcommittee shall be composed of persons who have demonstrated an interest in the field of services for the particular class of mentally disabled and shall include former patients, parents or relatives of such mentally disabled persons and community agencies serving the particular class of mentally disabled, except that each subcommittee for mental health shall include at least two members who are or were consumers of mental health services, and at least two members who are parents or relatives of persons with mental illness. Each separate subcommittee shall advise the community services board and the director of community services regarding the exercise of all policy-making functions vested in such board or director, as such functions pertain to the field of services for the particular class of mentally disabled individuals represented by such subcommittee. In addition, each subcommittee for mental health shall be authorized to annually evaluate the local services plan [or the unified services plan, as appropriate], and shall be authorized to report on the consistency of such [plans] PLAN with the needs of persons with serious mental illness, including children and adolescents with serious emotional disturbances. Any such report shall be forwarded annually to the community services board and the director of community services and a copy shall also be sent to the commissioner prior to the submission of the local services plan [or unified services plan. Provided], PROVIDED, however, that the provisions of this paragraph shall not apply to cities of over a million in population.

(b) In cities of over a million a community services board shall consist of fifteen members to be appointed by the mayor. There shall be at least two residents of each county within such cities on the board. At least one shall be a licensed physician and at least one shall be a certified psychologist. The other members shall represent the community interest in all of the problems of the mentally disabled and shall include representatives from community agencies for the mentally ill, the mentally retarded and developmentally disabled, and those suffering from alcoholism and substance abuse. The community services board shall have separate subcommittees for mental health, mental retardation and developmental disabilities, and alcoholism or, at the discretion of the local government, alcoholism and substance abuse. Each separate subcommittee shall have no more than nine members appointed by the local government, except that each subcommittee for mental health shall have no more than eleven members appointed by the local government. Three members of each such subcommittee shall be members of the board. Each separate subcommittee shall be composed of persons who have demonstrated an interest in the field of services for the particular class of mentally disabled and shall include former patients, parents or relatives of such mentally disabled persons and community agencies serving the particular class of mentally disabled, except that each subcommittee for mental health shall include at least two members who are or were consumers of mental health services, and two members who are parents or relatives of persons with mental illness. Each separate subcommittee shall advise the community services board and the director of community services regarding the exercise of all policy-making functions vested in such board or director, as such functions pertain to the field of services for the particular class of mentally disabled individuals represented by such subcommittee. In addition, each subcommittee for mental health shall be authorized to annually evaluate the local services plan [or the unified services plan, as appropriate], and shall be authorized to report on the consistency of such [plans] PLAN with the

1 needs of persons with serious mental illness, including children and
2 adolescents with serious emotional disturbances. Any such report shall
3 be forwarded annually to the community services board and the director
4 of community services, and a copy shall also be sent to the commissioner
5 prior to the submission of the local services plan [or unified services
6 plan].

7 S 13. Paragraphs 5, 6, 7 and 12 of subdivision (a) of section 41.13 of
8 the mental hygiene law, paragraphs 5 and 7 as amended by chapter 588 of
9 the laws of 1973, paragraph 6 as amended by chapter 746 of the laws of
10 1986, paragraph 12 as amended by chapter 24 of the laws of 1985 and such
11 section as renumbered by chapter 978 of the laws of 1977, are amended to
12 read as follows:

13 5. submit annually to the department for its approval and subsequent
14 state aid, a report of long range goals and specific intermediate range
15 plans as modified since the preceding report, along with a local
16 services plan [or unified services plan] for the next local fiscal year.

17 6. have the power, with the approval of local government, to enter
18 into contracts for the provision of services, including the provision of
19 community support services, and the construction of facilities [includ-
20 ing contracts executed pursuant to subdivision (e) of section 41.19 of
21 this article and have the power, when necessary, to approve construction
22 projects].

23 7. establish procedures for execution of the local services plan [or
24 the unified services plan] as approved by the local government and the
25 commissioner, including regulations to guide the provision of services
26 by all organizations and individuals within its program.

27 12. seek the cooperation and cooperate with other aging, public health
28 and social services agencies, public and private, in advancing the
29 program of local [or unified] services.

30 S 14. Section 41.14 of the mental hygiene law is REPEALED.

31 S 15. Subdivisions (a), (b), (c) and (e) of section 41.15 of the
32 mental hygiene law, subdivisions (a), (c) and (e) as amended by chapter
33 978 of the laws of 1977 and subdivision (b) as amended by chapter 707 of
34 the laws of 1988, are amended to read as follows:

35 (a) Net operating costs of programs incurred pursuant to [either] an
36 approved local services plan [or an approved unified services plan] in
37 accordance with the regulations of the commissioner or commissioners of
38 the office or offices of the department having jurisdiction of the
39 services and approved by the commissioner or commissioners of the office
40 or offices of the department having jurisdiction of the services shall
41 be eligible for state aid.

42 (b) Long range goals, intermediate range plans, and annual plans shall
43 meet requirements for comprehensive services set for each local govern-
44 ment by the commissioners of the offices of the department after taking
45 into consideration local needs and available resources. These services
46 shall be concerned with diagnosis, care, treatment, social and voca-
47 tional rehabilitation, community residential services licensed by the
48 department of mental hygiene, research, consultation and public educa-
49 tion, education and training of personnel, control and prevention of
50 mental disabilities, and the general furtherance of mental capability
51 and health. As part of the local services [or unified services plans]
52 PLAN required to establish eligibility for state aid in accordance with
53 the provisions herein, each local governmental unit shall submit a five-
54 year plan and annual implementation plans and budgets which shall
55 reflect local needs and resources, including the needs and resources
56 available for the provision of community support services, and the role

1 of facilities in the department in the provision of required services.
2 [If the local government has developed community services assessments
3 and plans pursuant to subdivision four of section four hundred nine-d
4 and paragraph (b) of subdivision three of section four hundred twenty-
5 three of the social services law covering the same time period covered
6 by the five year plan and annual implementation plans and budgets
7 required by this subdivision, then the five year plan and annual imple-
8 mentation plans and budget shall include those portions of the community
9 services assessments and plans relating to the provision of mental
10 health, alcoholism and substance abuse services and an estimate of funds
11 to be made available by the social services district for the provision
12 or purchase of these services.]

13 (c) Subject to regulations for special circumstances as established by
14 the commissioner or commissioners of the office or offices of the
15 department having jurisdiction of the services, no annual plan or inter-
16 mediate range plan of the local governmental unit shall be approved
17 unless it indicates that reasonable efforts are being made to extend or
18 improve local [or unified] services in each succeeding local fiscal year
19 in accordance with the statewide long range goals and objectives of the
20 department for the development and integration of state, regional, and
21 local services for the mentally disabled.

22 (e) Capital costs incurred by a local government or by a voluntary
23 agency, pursuant to [either] an approved local services plan [or an
24 approved unified services plan] and in accordance with the regulations
25 of the commissioner or commissioners of the office or offices of the
26 department having jurisdiction of the services and with the approval of
27 the commissioner or commissioners having jurisdiction of the services,
28 shall be eligible for state aid pursuant to the provisions of this arti-
29 cle. Capital costs incurred by a voluntary agency shall be eligible for
30 state aid only if incurred pursuant to an agreement between the volun-
31 tary agency and the local governmental unit where the construction is
32 located. Such agreement shall contain the approval by the local govern-
33 mental unit of such construction and an agreement by such unit to
34 include the program of the voluntary agency in its plans and proposals.

35 S 16. Subdivisions (b), (c), (d) and paragraph 2 of subdivision (e) of
36 section 41.16 of the mental hygiene law, as added by chapter 978 of the
37 laws of 1977, paragraph 1 of subdivision (b) as amended by chapter 55 of
38 the laws of 1992 and subdivision (c) as amended by chapter 99 of the
39 laws of 1999, are amended to read as follows:

40 (b) In accordance with regulations established by the commissioner or
41 commissioners of the offices of the department having jurisdiction of
42 the services, which shall provide for prompt action on proposed local
43 services [and unified services] plans, each local governmental unit
44 shall:

45 1. establish long range goals and objectives consistent with statewide
46 goals and objectives developed pursuant to section 5.07 of this chapter
47 and develop or annually update the local services [or unified services]
48 plan of the local governmental unit or units listing providers, esti-
49 mated costs and proposed utilization of state resources, including
50 facilities and manpower, which shall be used in part to formulate state-
51 wide comprehensive plans for services.

52 2. submit one local services plan [or a unified services plan] to the
53 single agent of the department jointly designated by the commissioners
54 of the offices of the department annually for approval by the commis-
55 sioner or commissioners of the office or offices of the department
56 having jurisdiction of the services.

1 (c) A local services plan [or unified services plan] shall be devel-
2 oped, in accordance with the regulations of the commissioner or commis-
3 sioners of the office or offices of the department having jurisdiction
4 of the services by the local governmental unit or units which shall
5 direct and administer a local comprehensive planning process for its
6 geographic area, consistent with statewide goals and objectives estab-
7 lished pursuant to section 5.07 of this chapter. The planning process
8 shall involve the directors of any department facilities, directors of
9 hospital based mental health services, directors of community mental
10 health centers, consumers, consumer groups, voluntary agencies, other
11 providers of services, and local correctional facilities and other local
12 criminal justice agencies. The local governmental unit, or units, shall
13 determine the proposed local services plan [or unified services plan] to
14 be submitted for approval. If any provider of services including facili-
15 ties in the department, or any representative of the consumer or commu-
16 nity interests within the local planning process, disputes any element
17 of the proposed plan for the area which it serves, the objection shall
18 be presented in writing to the director of the local governmental unit.
19 If such dispute cannot be resolved to the satisfaction of all parties,
20 the director shall determine the plan to be submitted. If requested and
21 supplied by the objecting party, a written objection to the plan shall
22 be appended thereto and transmitted to the single agent of the depart-
23 ment jointly designated by the commissioners.

24 (d) Each commissioner of an office in the department shall review the
25 portion of the local services plan [or unified services plan] submitted
26 over which his office has jurisdiction and approve or disapprove such
27 plan in accordance with the procedures of subdivision (e) [hereof] OF
28 THIS SECTION.

29 2. A commissioner of an office of the department shall not disapprove
30 any portion of the local services plan [or unified services plan] with-
31 out providing the local governmental unit an opportunity to be heard
32 regarding the proposed disapproval and to propose any modification of
33 the plan. Pending the resolution of any dispute over approval of a
34 portion of the plan, by final determination of the commissioner having
35 jurisdiction over the services, new programs proposed shall not be
36 implemented and programs previously implemented shall continue to be
37 funded at existing levels. If a portion of the plan is disapproved, the
38 commissioner of the office having jurisdiction over such portion shall
39 notify the local governmental unit in writing stating reasons for such
40 action.

41 S 17. Sections 41.19, 41.21 and 41.23 of the mental hygiene law are
42 REPEALED.

43 S 18. Subdivision (d) of section 41.36 of the mental hygiene law, as
44 amended by chapter 262 of the laws of 1992, is amended to read as
45 follows:

46 (d) Each local governmental unit shall include in its annual local [or
47 unified services] plan a review of existing community residential facil-
48 ities providing reimbursable services and a recommendation of antic-
49 ipated needs for the development of such facilities, consistent with the
50 needs of the mentally retarded and developmentally disabled within the
51 jurisdiction of the local governmental unit.

52 S 19. Subdivision (b) of section 41.39 of the mental hygiene law, as
53 amended by chapter 515 of the laws of 1992, is amended to read as
54 follows:

55 (b) Notwithstanding any other provisions of this article, income real-
56 ized by a voluntary not-for-profit agency from industrial contracts

1 entered into pursuant to its operation of a sheltered workshop shall be
2 matched dollar for dollar by an office of the department of mental
3 hygiene through direct contract with the agency provided that no part of
4 the expenses of such sheltered workshop are claimed through a contract
5 with the local governmental unit which is receiving funding for
6 reimbursement of such expenses from the same office of the department
7 provided that such sheltered workshop is operating in accordance with an
8 approved local [or unified] services plan. In no event shall any combi-
9 nation of income including state aid exceed the total cost of operation
10 of such sheltered workshop.

11 S 20. Paragraph 2 of subdivision (e), paragraph 6 of subdivision (f),
12 and subdivisions (g), (h) and (i) of section 41.47 of the mental hygiene
13 law, as added by chapter 746 of the laws of 1986, are amended to read as
14 follows:

15 (2) The commissioner shall establish revenue goals for services,
16 provided, however, the commissioner may approve local [or unified]
17 services plans or may enter into direct contracts with providers of
18 services which substitute alternative revenue goals for individual
19 providers of services based upon appropriate documentation and justi-
20 fication, as required by the commissioner.

21 (6) the extent to which the community support services authorized by
22 the contract are consistent and integrated with the applicable local [or
23 unified] services plan of the area to be served; and

24 (g) The commissioner may enter into a direct contract for the
25 provision of community support services when the commissioner deter-
26 mines, after the approval of the local [or unified] services plan and
27 the allocation of state aid therefore, that such direct contract is
28 necessary to assure that additional community support services are
29 available to persons who are functionally disabled as a result of mental
30 illness and are eligible for community support services. Before entering
31 into a direct contract with a provider located within the geographic
32 area of a local governmental unit which receives state aid for community
33 support services pursuant to this section, the commissioner shall notify
34 the local governmental unit and give the director of the local govern-
35 mental unit an opportunity to appeal the need for such direct contract.
36 Such appeals shall be informal in nature and the rules of evidence shall
37 not apply.

38 (h) In order to qualify for one hundred percent state aid pursuant to
39 this section in any local fiscal year local governmental units shall
40 assure that the local tax levy share of expenditures for net operating
41 costs pursuant to an approved local services plan for services provided
42 to mentally ill persons pursuant to section 41.18 of this article[, when
43 applicable,] shall be equal to or greater than the local tax levy share
44 of such expenditures under an approved local services plan in the last
45 complete local fiscal year preceding the effective date of this section,
46 [and when applicable, such local tax levy share of net operating costs
47 for local governmental units submitting unified services plans pursuant
48 to section 41.23 of this article, as adjusted to reflect changes in the
49 rate of state reimbursement for approved expenditures, shall be equal to
50 or greater than the local tax levy share of the net operating costs for
51 expenditures under the approved unified services plan in the last
52 complete local fiscal year preceding the effective date of this
53 section,] provided, however, any such required maintenance of expendi-
54 tures under this subdivision for local governmental units may be reduced
55 to reflect the local governmental share of revenue applicable to
56 increased payments made by governmental agencies pursuant to title elev-

1 en of article five of the social services law, which are a result of
2 increased efficiencies in the collection of such revenue and which
3 represent an increased proportion of the total local [or unified]
4 services operating costs from the prior local fiscal year. The commis-
5 sioner shall be authorized to reduce payments made to local governmental
6 units pursuant to this article, in the following local fiscal year, for
7 failure to maintain expenditures in accordance with this subdivision.

8 (i) The provisions of subdivision (h) of this section shall not apply
9 to a local governmental unit in any local fiscal year in which the total
10 amount of state aid granted to the local governmental unit for net oper-
11 ating costs under section 41.18 [or section 41.23] of the article is
12 less than such amount of state aid granted in the local fiscal year
13 preceding the effective date of this section, or in any local fiscal
14 year in which the total amount of state aid granted to the local govern-
15 mental unit under this section, plus the total amount of direct
16 contracts entered into between the commissioner and providers of
17 services for the provision of community support services to eligible
18 residents of such local governmental unit, shall be less than the total
19 amount of such aid and direct contracts in the first local fiscal year
20 following the effective date of this section.

21 S 21. Subdivision 4 of section 41.49 of the mental hygiene law, as
22 added by chapter 499 of the laws of 1988, is amended to read as follows:

23 4. Notwithstanding any other provision of this article, in order to
24 qualify for one hundred percent state aid pursuant to this section,
25 local governmental units shall assure that local contributions for
26 expenditures in any local fiscal year for local [or unified] services
27 provided to mentally ill persons made pursuant to this article, as
28 applicable, shall be equal to or greater than the amount expended by
29 such local governmental unit in the last complete local fiscal year
30 preceding the effective date of this section. The commissioner shall be
31 authorized to reduce payments made to local governmental units which
32 have received grants pursuant to this section, in the following local
33 fiscal year, for failure to maintain expenditures in accordance with
34 this subdivision.

35 S 22. Subdivision (d) of section 41.53 of the mental hygiene law, as
36 amended by chapter 223 of the laws of 1992, is amended to read as
37 follows:

38 (d) No such grant will be awarded unless the community residence is
39 consistent with the local services plan [or the unified services plan,
40 as appropriate], pursuant to this article.

41 S 23. This act shall take effect July 1, 2010; provided, however, that
42 the amendments made to sections 9.60 and 31.27 of the mental hygiene law
43 by sections one and two of this act shall not affect the repeal of such
44 sections and shall be deemed repealed therewith; the amendments to
45 subdivision (d) of section 33.13 of the mental hygiene law made by
46 section three of this act shall be subject to the expiration and rever-
47 sion of such subdivision pursuant to section 18 of chapter 408 of the
48 laws of 1999, as amended when upon such date the provisions of section
49 four of this act shall take effect; and the amendments to subdivisions
50 (a) and (b) of section 41.11 of the mental hygiene law made by section
51 twelve of this act shall not affect the expiration of such subdivisions
52 and shall be deemed to expire therewith.

1 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
2 57 of the laws of 2006, relating to establishing a cost of living
3 adjustment for designated human services programs, subdivision 3-b as
4 added and subdivision 3-c as amended by section 1 of part L of chapter
5 58 of the laws of 2009, are amended to read as follows:

6 3-b. Notwithstanding any inconsistent provision of law, beginning
7 April 1, 2009 and ending March 31, [2010] 2011, the commissioners shall
8 not include a COLA for the purpose of establishing rates of payments,
9 contracts or any other form of reimbursement.

10 3-c. Notwithstanding any inconsistent provision of law, beginning
11 April 1, [2010] 2011 and ending March 31, [2013] 2014, the commissioners
12 shall develop the COLA under this section using the actual U.S. consumer
13 price index for all urban consumers (CPI-U) published by the United
14 States department of labor, bureau of labor statistics for the twelve
15 month period ending in July of the budget year prior to such state
16 fiscal year, for the purpose of establishing rates of payments,
17 contracts or any other form of reimbursement.

18 S 2. Section 4 of part C of chapter 57 of the laws of 2006, relating
19 to establishing a cost of living adjustment for designated human
20 services programs, as amended by section 7 of part F of chapter 497 of
21 the laws of 2008, is amended to read as follows:

22 S 4. This act shall take effect immediately and shall be deemed to
23 have been in full force and effect on and after April 1, 2006; provided
24 section one of this act shall expire and be deemed repealed April 1,
25 [2012] 2014; provided, further, that sections two and three of this act
26 shall expire and be deemed repealed December 31, 2009.

27 S 3. This act shall take effect immediately and shall be deemed to
28 have been in full force and effect on and after April 1, 2010; provided,
29 however, that the amendments to section 1 of part C of chapter 57 of the
30 laws of 2006 made by section one of this act shall not affect the repeal
31 of such section and shall be deemed repealed therewith.

32 PART O

33 Section 1. Subdivision 6 of section 1 of chapter 119 of the laws of
34 1997 relating to authorizing the department of health to establish
35 certain payments to general hospitals, as amended by section 1 of part
36 S2 of chapter 62 of the laws of 2003, is amended to read as follows:

37 6. Payment limitations set forth in [paragraph] SUBDIVISION 2 of this
38 section related to costs incurred by general hospitals in providing
39 services to uninsured patients and patients eligible for medical assist-
40 ance pursuant to title 11 of article 5 of the social services law shall,
41 for state fiscal [year periods commencing April 1, 1997 through March
42 31, 2002, be based initially on reported 1995 reconciled data as further
43 reconciled to actual reported 1997, 1998, 1999, 2000 and 2001 reconciled
44 data, respectively. Such payment limitations for state fiscal year peri-
45 ods commencing April 1, 2002 through March 31, 2006, shall be based
46 initially on reported 2000 reconciled data as further reconciled to
47 actual reported 2002, 2003, 2004 and 2005 reconciled data, respectively]
48 YEARS BEGINNING ON AND AFTER APRIL 1, 2010, BE BASED INITIALLY ON
49 REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR TO THE
50 PAYMENT YEAR, AND FURTHER RECONCILED TO ACTUAL REPORTED DATA FROM SUCH
51 PAYMENT YEAR. The payments may be made as quarterly aggregate payments
52 to an eligible general hospital.

53 S 2. This act shall take effect April 1, 2010; provided, however, that
54 the amendments to subdivision 6 of section 1 of chapter 119 of the laws

1 of 1997 made by section one of this act shall not affect the expiration
2 of such section and shall be deemed to expire therewith.

3

PART P

4 Section 1. Notwithstanding any contrary provision of law, the commis-
5 sioner of mental health is authorized, subject to the approval of the
6 director of the budget, to transfer to the commissioner of health state
7 funds to be utilized as the state share for the purpose of increasing
8 payments under the medicaid program to managed care organizations
9 licensed under article 44 of the public health law or under article 43
10 of the insurance law. Such managed care organizations shall utilize such
11 funds for the purpose of reimbursing hospital-based and free-standing
12 clinics licensed pursuant to article 28 of the public health law, pursu-
13 ant to article 31 of the mental hygiene law or pursuant to both such
14 provisions of law for outpatient mental health services, as determined
15 by the commissioner of health in consultation with the commissioner of
16 mental health, provided to medicaid eligible outpatients. Such
17 reimbursement shall be in the form of fees for such services which are
18 equivalent to the payments established for such services under the ambu-
19 latory patient group (APG) rate-setting methodology as utilized by the
20 department of health or by the office of mental health for rate-setting
21 purposes; provided, however, that the increase to such fees that shall
22 result from the provisions of this section shall not, in the aggregate
23 and as determined by the commissioner of health in consultation with the
24 commissioner of mental health, be greater than the increased funds made
25 available pursuant to this section. The commissioner of health may, in
26 consultation with the commissioner of mental health, promulgate regu-
27 lations, including emergency regulations, as are necessary to implement
28 the provisions of this section.

29 S 2. This act shall take effect April 1, 2010.

30 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
31 sion, section or part of this act shall be adjudged by any court of
32 competent jurisdiction to be invalid, such judgment shall not affect,
33 impair, or invalidate the remainder thereof, but shall be confined in
34 its operation to the clause, sentence, paragraph, subdivision, section
35 or part thereof directly involved in the controversy in which such judg-
36 ment shall have been rendered. It is hereby declared to be the intent of
37 the legislature that this act would have been enacted even if such
38 invalid provisions had not been included herein.

39 S 3. This act shall take effect immediately provided, however, that
40 the applicable effective date of Parts A through P of this act shall be
41 as specifically set forth in the last section of such Parts.