

9708--B

I N   A S S E M B L Y

January 19, 2010

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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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the public health law, in relation to early intervention services; to amend the public health law, in relation to inspections not otherwise occurring under the state uniform fire prevention and building code; to amend the social services law, in relation to amendments to the state plan for medical assistance; to amend the elder law, in relation to information necessary for Medicare savings programs; to amend the elder law, in relation to elderly pharmaceutical insurance coverage programs and emergency supplies of prescribed medication; to amend the county law, in relation to requests for documents by the state commissioner of health; to amend the public health law, in relation to report submissions; to amend the public health law, in relation to registration by physicians practicing in the state; to amend the public health law, in relation to cardiac services information; to amend the public health law, in relation to health information technology demonstration program (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 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 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, in relation to

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

LBD12671-04-0

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 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 the New York state 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 twenty; 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; and providing for the repeal of certain provisions upon expiration thereof (Part B); to amend the public health 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, in relation to such reimbursements; 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, matters regarding fiscal solvency, certificates of authority, reporting requirements and the voluntary residential health care facility rightsizing demonstration program; to repeal subdivision 2-c of section 2808 of the public health law relating to rates of payment for real property costs of residential health care facilities and to repeal subdivision 4 of section 4403-f of the public health law relating to premium rates for managed long term care plans (Part C); to amend the insurance law, in relation to prior approval of health insurance premium rates (Part D); Intentionally omitted (Part E); Intentionally omitted (Part F); Intentionally omitted (Part G); to authorize the office of mental health to close adult 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 extending the effectiveness of the provisions thereof (Part H); Intentionally omitted (Part I); Intentionally omitted (Part J); Intentionally omitted (Part K); Intentionally omitted (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); to increase Medicaid payments to providers through managed care organizations and provide equivalent fees through an ambulatory patient group methodology relating thereto (Part P); to amend the mental hygiene law, in relation to shared services of the commissioners of the office of mental health, office of mental retardation and developmental disabilities, and office of alcoholism and substance abuse (Part Q); Intentionally omitted (Part R); to amend the social services law and the public health law, in relation to medical assistance compliance programs (Part S); and to direct the commissioner of health to create and implement a plan for the state administration of the medical assistance program performed by social services districts (Part T)

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 T. 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, including  
7 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. Intentionally omitted.

14 S 1-a. Subsection (c) of section 3235-a of the insurance law, as added  
15 by section 3 of part C of chapter 1 of the laws of 2002, is amended to  
16 read as follows:

17 (c) Any right of subrogation to benefits which a municipality [is] AND  
18 THE STATE ARE entitled in accordance with paragraph (d) of subdivision  
19 three of section twenty-five hundred fifty-nine of the public health law  
20 shall be valid and enforceable to the extent benefits are available  
21 under any accident and health insurance policy. The right of subrogation  
22 does not attach to insurance benefits paid or provided under any acci-

dent and health insurance policy prior to receipt by the insurer of written notice from the municipality OR THE STATE.

S 1-b. Paragraphs (a) and (d) of subdivision 3 of section 2559 of the public health law, paragraph (a) as amended and paragraph (d) as added by chapter 231 of the laws of 1993, are amended to read as follows:

(a) Providers of early intervention services and transportation services shall in the first instance and where applicable, seek payment from all third party payors including governmental agencies prior to claiming payment from a given municipality for services rendered to eligible children, provided that, for the purpose of seeking payment from the medical assistance program or from other third party payors, the municipality AND THE STATE shall be deemed the provider of such early intervention services to the extent that the provider has promptly furnished to the municipality adequate and complete information necessary to support the municipality billing, and provided further that the obligation to seek payment shall not apply to a payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime limit specified in the insured's policy.

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

S 2. Intentionally omitted.

S 3. Intentionally omitted.

S 4. Intentionally omitted.

S 5. Intentionally omitted.

S 6. Intentionally omitted.

S 7. Intentionally omitted.

S 8. Intentionally omitted.

S 9. Intentionally omitted.

S 9-a. Intentionally omitted.

S 10. Intentionally omitted.

S 11. Intentionally omitted.

S 12. Intentionally omitted.

S 13. Intentionally omitted.

S 13-a. Intentionally omitted.

S 14. Intentionally omitted.

S 14-a. Intentionally omitted.

S 15. Intentionally omitted.

S 16. Intentionally omitted.

S 17. Intentionally omitted.

S 18. Intentionally omitted.

S 19. Intentionally omitted.

S 20. Intentionally omitted.

S 21. Intentionally omitted.

S 22. Intentionally omitted.

S 23. Intentionally omitted.

S 24. Intentionally omitted.

S 25. Intentionally omitted.

S 26. Intentionally omitted.

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. Intentionally omitted.

15 S 29. Intentionally omitted.

16 S 30. Intentionally omitted.

17 S 31. Intentionally omitted.

18 S 32. Intentionally omitted.

19 S 32-a. Subparagraph 1 of paragraph (d) of subdivision 3 of section  
20 367-a of the social services law, as amended by section 2 of part G of  
21 chapter 23 of the laws of 2002, is amended to read as follows:

22 (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 OR EQUAL TO one hundred [thirty-five] EIGHTY-FIVE percent, of the  
32 federal poverty level, for a family of the size involved and who are not  
33 otherwise eligible for medical assistance under the state plan;

34 S 32-b. Subdivision 1 of section 246 of the elder law is amended to  
35 read as follows:

36 1. Provide for a process of determining and redetermining eligibility  
37 for participation in this program including provisions for submission of  
38 proof of income, age, [and] residency [and], information on existing  
39 complete or partial coverage of prescription drug expenses under a third  
40 party assistance or insurance plan, AS WELL AS ANY INFORMATION REQUIRED  
41 TO APPLY ON BEHALF OF PARTICIPANTS FOR MEDICARE SAVINGS PROGRAMS WHICH  
42 SHALL BE FORWARDED IN THE PROPER FORMAT DIRECTLY TO THE APPROPRIATE  
43 ENTITY RESPONSIBLE FOR APPROVING SUCH APPLICATIONS. IT SHALL BE MADE  
44 CLEAR ON THE APPLICATION THAT SUCH ADDITIONAL INFORMATION NECESSARY TO  
45 APPLY FOR MEDICARE SAVINGS PROGRAMS ON BEHALF OF PARTICIPANTS IS ONLY  
46 REQUIRED TO BE PROVIDED WHEN THE APPLICANT'S INCOME IS AT OR BELOW A  
47 CERTAIN AMOUNT, WHICH SHALL BE THE AMOUNT THAT WOULD INDICATE THE APPLI-  
48 CANT'S ELIGIBILITY FOR THE MEDICARE SAVINGS PROGRAMS;

49 S 32-c. Paragraph (c) of subdivision 3 of section 242 of the elder  
50 law, as amended by section 4 of part A of chapter 58 of the laws of  
51 2005, is amended to read as follows:

52 (c) The fact that some of an individual's prescription drug expenses  
53 are paid or reimbursable under the provisions of the medicare program  
54 shall not disqualify an individual, if he or she is otherwise eligible,  
55 from receiving assistance under this title. In such cases[, the]: (1)  
56 THE state shall pay the portion of the cost of those prescriptions for

1 qualified drugs for which no payment or reimbursement is made by the  
2 medicare program or any federally funded prescription drug benefit, less  
3 the participant's co-payment required on the amount not paid by the  
4 medicare program, BUT ONLY AFTER THE PARTICIPANT HAS FIRST EXHAUSTED THE  
5 FIRST TWO LEVELS OF APPEAL AVAILABLE UNDER PART D OF TITLE XVIII OF THE  
6 FEDERAL SOCIAL SECURITY ACT AND THE APPEAL HAS BEEN UNSUCCESSFUL. (2)  
7 THE PHARMACIST SHALL INFORM THE PRESCRIBER THAT THE PARTICIPANT'S MEDI-  
8 CARE PART D PLAN HAS DENIED PAYMENT FOR THE PRESCRIBED MEDICATION, THAT  
9 IF THE PRESCRIBER DOES NOT CHOOSE TO CHANGE THE PRESCRIPTION, AN APPEAL  
10 MUST BE PURSUED, AND THAT THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE  
11 PROGRAM SHALL PROVIDE ASSISTANCE WITH SUCH APPEALS UPON REQUEST. THE  
12 ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM SHALL PROVIDE SUCH  
13 ASSISTANCE WITH APPEALS AS REQUESTED BY THE PARTICIPANT OR THE PARTIC-  
14 IPANT'S PHYSICIAN. (3) THE STATE SHALL PROVIDE FOR A THIRTY DAY EMERGEN-  
15 CY SUPPLY OF THE PRESCRIBED MEDICATION, OR LESS IF THE PRESCRIPTION IS  
16 FOR LESS. IN INSTANCES WHERE THE PARTICIPANT'S APPEAL IS STILL PENDING  
17 AT THE END OF THE FIRST THIRTY DAYS, THE STATE SHALL PROVIDE FOR AN  
18 ADDITIONAL FOURTEEN DAY SUPPLY, OR LESS IF THE PRESCRIPTION IS FOR LESS.  
19 [In addition, the participant registration fee charged to eligible  
20 program participants for comprehensive coverage pursuant to section two  
21 hundred forty-seven of this title shall be waived for the portion of the  
22 annual coverage period that the participant is also enrolled as a tran-  
23 sitional assistance beneficiary in the medicare prescription drug  
24 discount card program, authorized pursuant to title XVIII of the federal  
25 social security act, provided that: (i) any sponsor of such drug  
26 discount card program has signed an agreement to complete coordination  
27 of benefit functions with EPIC, and has been endorsed by the EPIC panel;  
28 or (ii) any exclusive sponsor of such drug discount card program author-  
29 ized pursuant to title XVIII of the federal social security act that  
30 limits the participants to the medicare prescription drug discount card  
31 program sponsored by such exclusive sponsor, shall coordinate benefits  
32 available under such discount card program with EPIC.] (4) The partic-  
33 ipant registration fee charged to eligible program participants for  
34 comprehensive coverage pursuant to section two hundred forty-seven of  
35 this title shall be waived for the portion of the annual coverage period  
36 that the participant is also enrolled as a full subsidy individual in a  
37 prescription drug or MA-PD plan under Part D of title XVIII of the  
38 federal social security act.

39 S 32-d. Paragraph (g) of subdivision 3 of section 242 of the elder  
40 law, as added by section 3 of part B of chapter 58 of the laws of 2007,  
41 is amended to read as follows:

42 (g) The elderly pharmaceutical insurance coverage program is author-  
43 ized and directed to conduct an enrollment program to facilitate, in as  
44 prompt and streamlined a fashion as possible, the enrollment into Medi-  
45 care part D of program participants who are required by the provisions  
46 of this section to enroll in part D. Provided, however, that a partic-  
47 ipant shall not be prevented from receiving his or her drugs [immediate-  
48 ly] at the pharmacy under the elderly pharmaceutical insurance coverage  
49 program as a result of such participant's enrollment in Medicare part D  
50 PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

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

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

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

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

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

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

23 S 35. Intentionally omitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (E) THE RESEARCH PROJECT'S FEASIBILITY;

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

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

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

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

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

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

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

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

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

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

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

55 S 39. Intentionally omitted.



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

4 18-a. (A) Health information technology demonstration program. [1.]  
5 (I) The commissioner is authorized to issue grant funding to one or more  
6 organizations broadly representative of physicians licensed in this  
7 state, from funds made available for the purpose of funding research and  
8 demonstration projects under [subdivision two of this section] SUBPARA-  
9 GRAPH (II) OF THIS PARAGRAPH designed to promote the development of  
10 electronic health information exchange technologies in order to facili-  
11 tate the adoption of interoperable health records.

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

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

18 [(b)] (B) interconnection of physicians through regional collab-  
19 orations;

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

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

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

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

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

45 (a) the amendments to subparagraph 1 of paragraph (d) of subdivision 3  
46 of section 367-a of the social services law made by section thirty-two-a  
47 of this act shall not affect the repeal of such paragraph and shall be  
48 deemed repealed therewith;

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

52 (c) section thirty-eight of this act shall take effect on the one  
53 hundred eightieth day after it shall have become a law.

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

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

33 S 2. Subparagraph (vi) of paragraph (a) of subdivision 2 of section  
34 2807-d of the public health law, as added by section 49 of part B of  
35 chapter 58 of the laws of 2009, is amended to read as follows:

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

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

55 (F) PROVIDED, HOWEVER, THAT, SUBJECT TO THE AVAILABILITY OF FEDERAL  
56 FINANCIAL PARTICIPATION, FOR THE PURPOSES OF DETERMINING RATES OF

PAYMENT PURSUANT TO THIS ARTICLE FOR GENERAL HOSPITALS, THE ASSESSMENT IMPOSED PURSUANT TO SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION SHALL, INsofar AS SUCH ASSESSMENT IS IN EXCESS OF THIRTY-FIVE HUNDREDTHS OF ONE PERCENT OF EACH SUCH GENERAL HOSPITAL'S GROSS RECEIPTS, BE A REIMBURSABLE COST TO BE REFLECTED AS TIMELY AS PRACTICABLE, AND SUBSEQUENTLY RECONCILED TO ACTUAL COST, IN RATES OF PAYMENT APPLICABLE WITHIN THE ASSESSMENT PERIOD.

S 3. Intentionally omitted.

S 4. Intentionally omitted.

S 5. Intentionally omitted.

S 6. Intentionally omitted.

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

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

(B) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PERIOD JANUARY FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH CALENDAR YEAR THEREAFTER, DISTRIBUTIONS PURSUANT TO THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE SHALL REFLECT AN AGGREGATE REDUCTION OF SEVENTY-THREE MILLION TWO HUNDRED THOUSAND DOLLARS, BASED ON THE PROPORTION OF EACH HOSPITAL'S INDIGENT CARE ALLOCATION TO THE TOTAL ALLOCATIONS OF ALL HOSPITALS' INDIGENT CARE ALLOCATIONS PRIOR TO APPLICATION OF THIS REDUCTION, PROVIDED, HOWEVER, THAT SUCH REDUCTIONS SHALL NOT BE APPLIED TO DISTRIBUTIONS TO MAJOR PUBLIC HOSPITALS, INCLUDING MAJOR PUBLIC HOSPITALS OPERATED BY PUBLIC BENEFIT CORPORATIONS, AND SHALL ALSO NOT BE APPLIED TO DISTRIBUTIONS MADE PURSUANT TO SUBPARAGRAPHS (II), (III) OR (IV) OF PARAGRAPH (B) OF SUBDIVISION FIVE-B OF THIS SECTION.

S 7-a. Subdivision 35 of section 2807-c of the public health law is amended by adding a new paragraph (i) to read as follows:

(I) (I) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION OR ANY OTHER CONTRARY PROVISION OF LAW, THE COMMISSIONER SHALL, FOR THE PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, AND THEN FOR EACH SUBSEQUENT ANNUAL PERIOD THEREAFTER, SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, MAKE ADDITIONAL PAYMENTS OF TWO HUNDRED EIGHTY-ONE MILLION DOLLARS TO CERTAIN NON-PUBLIC GENERAL HOSPITALS AS MEDICAL ASSISTANCE PAYMENTS FOR IMPA-TIENT SERVICES PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW FOR PATIENTS ELIGIBLE FOR FEDERAL FINANCIAL PARTICIPATION UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT. THE COMMISSIONER SHALL ESTABLISH A METHODOLOGY FOR DISTRIBUTION OF THESE FUNDS NO LATER THAN JUNE FIRST, TWO THOUSAND TEN, PROVIDED:

(A) THE COMMISSIONER SHALL PROVIDE THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE WITH A REPORT DESCRIBING THE METHODOLOGY FOR ALLOCATION OF SUCH FUNDS FOR THE PERIOD APRIL FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, BY NO LATER THAN MAY FIFTEENTH, TWO THOUSAND TEN, AND AT LEAST FIFTEEN DAYS PRIOR TO IMPLEMENTING SUBSEQUENT CHANGES TO THE METHODOLOGY;

(B) THE METHODOLOGY FOR THE ADDITIONAL PAYMENTS:

(I) SHALL NOT BE DESIGNED TO PROVIDE ANY ELIGIBLE GENERAL HOSPITAL WITH AN ANNUAL PAYMENT AMOUNT IN EXCESS OF THE SUM OF THE ANNUAL AMOUNTS DUE THAT HOSPITAL PURSUANT TO SECTIONS TWENTY-EIGHT HUNDRED SEVEN-K AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE;

(II) MAY RESULT IN SOME HOSPITALS RECEIVING NO PAYMENTS UNDER THIS SUBDIVISION;

(III) MAY BE CHANGED BY THE COMMISSIONER NO MORE THAN ANNUALLY;

(C) SUBJECT TO FEDERAL FINANCIAL PARTICIPATION AND IN CONFORMANCE WITH APPLICABLE FEDERAL STATUTES AND REGULATIONS, PAYMENTS SHALL BE MADE AS UPPER PAYMENT LIMIT PAYMENTS AND SHALL BE PROVIDED AS AGGREGATE MONTHLY PAYMENTS TO ELIGIBLE GENERAL HOSPITALS;

(D) IN THE EVENT THAT THE SECRETARY OF HEALTH AND HUMAN SERVICES DETERMINES PAYMENTS MADE PURSUANT TO CLAUSE (C) OF THIS SUBPARAGRAPH ARE NOT ELIGIBLE FOR FEDERAL FINANCIAL PARTICIPATION, PAYMENTS PURSUANT TO THIS PARAGRAPH SHALL BE INCLUDED AS A RATE ADD-ON TO MEDICAL ASSISTANCE INPATIENT RATES OF PAYMENT ESTABLISHED PURSUANT TO THIS SUBDIVISION BASED ON MEDICAL ASSISTANCE UTILIZATION DATA REPORTED ON THE FACILITY'S ANNUAL INSTITUTIONAL COST REPORT FROM TWO YEARS PRIOR TO THE RATE YEAR;

(E) IF SUCH PAYMENTS ARE ADDED TO RATES OF PAYMENT PURSUANT TO CLAUSE (D) OF THIS SUBPARAGRAPH, THE COMMISSIONER SHALL ESTABLISH A PROCEDURE TO RECONCILE PAYMENT AMOUNTS TO REFLECT CHANGES IN MEDICAL ASSISTANCE UTILIZATION BETWEEN TWO YEARS PRIOR TO THE RATE YEAR AND THE ACTUAL RATE YEAR AS REPORTED ON EACH HOSPITAL'S ANNUAL INSTITUTIONAL COSTS REPORT FOR THE RESPECTIVE RATE YEAR.

(II) REVENUE FROM PAYMENTS PURSUANT TO THIS SECTION SHALL NOT BE INCLUDED IN GROSS REVENUE RECEIVED FOR PURPOSES OF THE ASSESSMENTS PURSUANT TO SUBDIVISION EIGHTEEN OF THIS SECTION, SUBJECT TO THE PROVISIONS OF PARAGRAPH (E) OF SUBDIVISION EIGHTEEN OF THIS SECTION, AND SHALL NOT BE INCLUDED IN GROSS REVENUE RECEIVED FOR PURPOSES OF THE ASSESSMENTS PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THIS ARTICLE, SUBJECT TO THE PROVISIONS OF SUBDIVISION TWELVE OF SUCH SECTION TWENTY-EIGHT HUNDRED SEVEN-D.

S 7-b. Section 2807-k of the public health law is amended by adding a new subdivision 17 to read as follows:

17. INDIGENT CARE REDUCTIONS. FOR EACH HOSPITAL RECEIVING PAYMENTS PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, THE COMMISSIONER SHALL REDUCE THE SUM OF ANY AMOUNTS PAID PURSUANT TO THIS SECTION AND ANY AMOUNTS PAID PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE BY AN AMOUNT EQUAL TO THE LOWER OF SUCH SUM OR EACH SUCH HOSPITAL'S PAYMENTS PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE.

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

5. FOR EACH HOSPITAL RECEIVING PAYMENTS PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, THE COMMISSIONER SHALL REDUCE THE SUM OF ANY AMOUNTS PAID PURSUANT TO THIS SECTION AND ANY AMOUNTS PAID PURSUANT TO SECTION TWEN-

1 TY-EIGHT HUNDRED SEVEN-K OF THIS ARTICLE BY AN AMOUNT EQUAL TO THE LOWER  
2 OF SUCH SUM OR EACH SUCH HOSPITAL'S PAYMENTS PURSUANT TO PARAGRAPH (I)  
3 OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF  
4 THIS ARTICLE.

5 S 7-d. Paragraph (d) of subdivision 18 of section 2807-c of the public  
6 health law, as amended by section 12 of part A of chapter 58 of the laws  
7 of 2007, is amended to read as follows:

8 (d) Gross revenue received shall mean all moneys received for or on  
9 account of inpatient hospital service, provided, however, that subject  
10 to the provisions of paragraph (e) of this subdivision gross revenue  
11 received shall not include distributions from bad debt and charity care  
12 regional pools, health care services pools, bad debt and charity care  
13 for financially distressed hospitals statewide pools and bad debt and  
14 charity care and capital statewide pools created in accordance with this  
15 section or distributions from funds allocated in accordance with section  
16 twenty-eight hundred seven-l, twenty-eight hundred seven-k, twenty-eight  
17 hundred seven-v or twenty-eight hundred seven-w of this article and  
18 shall not include the components of rates of payment or charges related  
19 to the allowances provided in accordance with subdivisions fourteen,  
20 fourteen-b and fourteen-c of this section, the adjustment provided in  
21 accordance with subdivision fourteen-a of this section, the adjustment  
22 provided in accordance with subdivision fourteen-d of this section, the  
23 adjustment for health maintenance organization reimbursement rates  
24 provided in accordance with former subdivision two-a of this section,  
25 PAYMENTS MADE PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF  
26 THIS SECTION or, if effective, the adjustment provided in accordance  
27 with subdivision fifteen of this section, the adjustment provided in  
28 accordance with section eighteen of chapter two hundred sixty-six of the  
29 laws of nineteen hundred eighty-six as amended, revenue received from  
30 physician practice or faculty practice plan discrete billings for  
31 private practicing physician services, revenue from affiliation agree-  
32 ments or contracts with public hospitals for the delivery of health care  
33 services at such public hospitals, revenue received as disproportionate  
34 share hospital payments in accordance with title nineteen of the federal  
35 social security act, or revenue from government deficit financing,  
36 provided, however, that funds received as medical assistance payments  
37 which include state share amounts authorized pursuant to section twen-  
38 ty-eight hundred seven-v of this article that are not disproportionate  
39 share hospital payments shall be included within the meaning of gross  
40 revenue for purposes of this subdivision.

41 S 7-e. Paragraph (a) of subdivision 3 of section 2807-d of the public  
42 health law, as amended by section 13 of part D of chapter 57 of the laws  
43 of 2006, is amended to read as follows:

44 (a) for general hospitals, all monies received for or on account of  
45 inpatient hospital service, outpatient service, emergency service,  
46 referred ambulatory service and ambulatory surgical service, or other  
47 hospital or health-related services, excluding, subject to the  
48 provisions of subdivision twelve of this section: distributions from bad  
49 debt and charity care regional pools, primary health care services  
50 regional pools, bad debt and charity care for financially distressed  
51 hospitals statewide pools and bad debt and charity care and capital  
52 statewide pools created in accordance with section twenty-eight hundred  
53 seven-c of this article and the components of rates of payment or charg-  
54 es related to the allowances provided in accordance with subdivisions  
55 fourteen, fourteen-b and fourteen-c, the adjustment provided in accord-  
56 ance with subdivision fourteen-a, the adjustment provided in accordance

1 with subdivision fourteen-d, the adjustment for health maintenance  
2 organization reimbursement rates provided in accordance with section  
3 twenty-eight hundred seven-f of this article, the adjustment for commer-  
4 cial insurer reimbursement rates provided in accordance with paragraph  
5 (i) of subdivision eleven of section twenty-eight hundred seven-c of  
6 this article or, if effective, the adjustment provided in accordance  
7 with subdivision fifteen of section twenty-eight hundred seven-c of this  
8 article or the adjustment provided in accordance with section eighteen  
9 of chapter two hundred sixty-six of the laws of nineteen hundred eight-  
10 y-six as amended and physician practice or faculty practice plan revenue  
11 received by a general hospital based on discrete billings for private  
12 practicing physician services, revenue received by a general hospital  
13 from a public hospital pursuant to an affiliation agreement contract for  
14 the delivery of health care services to such public hospital, REVENUE  
15 RECEIVED PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION  
16 TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, revenue received pursuant  
17 to section twenty-eight hundred seven-w of this article, all revenue  
18 received as disproportionate share hospital payments, in accordance with  
19 title nineteen of the federal Social Security Act, revenue received  
20 pursuant to sections eleven, twelve, thirteen and fourteen of part A of  
21 chapter one of the laws of two thousand two, revenue received pursuant  
22 to sections thirteen and fourteen of part B of chapter one of the laws  
23 of two thousand two, revenue from patient personal fund allowances,  
24 revenue from income earned on patient funds, investment income from  
25 externally restricted funds, revenue from investment sinking funds,  
26 revenue from investment operating escrow accounts, investment income  
27 from funded depreciation, investment income from mortgage repayment  
28 escrow accounts, revenue derived from the operation of schools leading  
29 to licensure, and revenue from the collection of sales and excise taxes;

30 S 8. Intentionally omitted.

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

36 (a) Notwithstanding any inconsistent provision of law or regulation to  
37 the contrary, effective beginning August 1, 1996, for the period April  
38 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,  
39 1998 through March 31, 1999, August 1, 1999, for the period April 1,  
40 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000  
41 through March 31, 2001, April 1, 2001, for the period April 1, 2001  
42 through March 31, 2002, April 1, 2002, for the period April 1, 2002  
43 through March 31, 2003, and for the state fiscal year beginning April 1,  
44 2005 through March 31, 2006, and for the state fiscal year beginning  
45 April 1, 2006 through March 31, 2007, and for the state fiscal year  
46 beginning April 1, 2007 through March 31, 2008, and for the state fiscal  
47 year beginning April 1, 2008 through March 31, 2009, and for the state  
48 fiscal year beginning April 1, 2009 through March 31, 2010, and for the  
49 state fiscal year beginning April 1, 2010 through March 31, 2011, the  
50 department of health is authorized to pay public general hospitals, as  
51 defined in subdivision 10 of section 2801 of the public health law,  
52 operated by the state of New York or by the state university of New York  
53 or by a county, which shall not include a city with a population of over  
54 one million, of the state of New York, and those public general hospi-  
55 tals located in the county of Westchester, the county of Erie or the  
56 county of Nassau, additional payments for inpatient hospital services as

1 medical assistance payments pursuant to title 11 of article 5 of the  
2 social services law for patients eligible for federal financial partic-  
3 ipation under title XIX of the federal social security act in medical  
4 assistance pursuant to the federal laws and regulations governing  
5 disproportionate share payments to hospitals up to one hundred percent  
6 of each such public general hospital's medical assistance and uninsured  
7 patient losses after all other medical assistance, including dispropor-  
8 tionate share payments to such public general hospital for 1996, 1997,  
9 1998, and 1999, based initially for 1996 on reported 1994 reconciled  
10 data as further reconciled to actual reported 1996 reconciled data, and  
11 for 1997 based initially on reported 1995 reconciled data as further  
12 reconciled to actual reported 1997 reconciled data, for 1998 based  
13 initially on reported 1995 reconciled data as further reconciled to  
14 actual reported 1998 reconciled data, for 1999 based initially on  
15 reported 1995 reconciled data as further reconciled to actual reported  
16 1999 reconciled data, for 2000 based initially on reported 1995 recon-  
17 ciled data as further reconciled to actual reported 2000 data, for 2001  
18 based initially on reported 1995 reconciled data as further reconciled  
19 to actual reported 2001 data, for 2002 based initially on reported 2000  
20 reconciled data as further reconciled to actual reported 2002 data, and  
21 for state fiscal years beginning on April 1, 2005, based initially on  
22 reported 2000 reconciled data as further reconciled to actual reported  
23 data for 2005, and for state fiscal years beginning on April 1, 2006,  
24 based initially on reported 2000 reconciled data as further reconciled  
25 to actual reported data for 2006, for state fiscal years beginning on  
26 and after April 1, 2007 through March 31, 2009, based initially on  
27 reported 2000 reconciled data as further reconciled to actual reported  
28 data for 2007 AND 2008, RESPECTIVELY, for state fiscal years beginning  
29 on and after April 1, 2009, based initially on reported 2007 reconciled  
30 data, adjusted for authorized Medicaid rate changes applicable to the  
31 state fiscal year, and as further reconciled to actual reported data for  
32 2009, FOR STATE FISCAL YEARS BEGINNING ON AND AFTER APRIL 1, 2010, BASED  
33 INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR  
34 TO THE PAYMENT YEAR, ADJUSTED FOR AUTHORIZED MEDICAID RATE CHANGES  
35 APPLICABLE TO THE STATE FISCAL YEAR, AND FURTHER RECONCILED TO ACTUAL  
36 REPORTED DATA FROM SUCH PAYMENT YEAR, and to actual reported data for  
37 each respective succeeding year. The payments may be added to rates of  
38 payment or made as aggregate payments to an eligible public general  
39 hospital.

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

45 (b) Notwithstanding any inconsistent provision of law or regulation to  
46 the contrary, effective beginning April 1, 2000, the department of  
47 health is authorized to pay public general hospitals, other than those  
48 operated by the state of New York or the state university of New York,  
49 as defined in subdivision 10 of section 2801 of the public health law,  
50 located in a city with a population of over 1 million, additional  
51 initial payments for inpatient hospital services of \$120 million during  
52 each state fiscal year until March 31, 2003, and up to \$120 million  
53 during the state fiscal year beginning April 1, 2005 through March 31,  
54 2006 and during the state fiscal year beginning April 1, 2006 through  
55 March 31, 2007 and during the state fiscal year beginning April 1, 2007  
56 through March 31, 2008 and during the state fiscal year beginning April

1 1, 2008 through March 31, 2009, and up to four hundred twenty million  
2 dollars [annually for the state fiscal year beginning April 1, 2009  
3 through March 31, 2010, and] FOR THE STATE FISCAL YEAR BEGINNING APRIL  
4 1, 2009 THROUGH MARCH 31, 2010, AND FOUR HUNDRED TWENTY MILLION DOLLARS,  
5 AS FURTHER INCREASED BY UP TO THE MAXIMUM PAYMENT AMOUNTS PERMITTED  
6 UNDER SECTIONS 1923(F) AND 1923(G) OF THE FEDERAL SOCIAL SECURITY ACT,  
7 AS DETERMINED BY THE COMMISSIONER OF HEALTH AFTER APPLICATION OF ALL  
8 OTHER DISPROPORTIONATE SHARE HOSPITAL PAYMENTS AUTHORIZED BY STATE LAW,  
9 for the state fiscal year beginning April 1, 2010 through March 31, 2011  
10 and up to one hundred twenty million dollars, AS FURTHER INCREASED BY UP  
11 TO THE MAXIMUM PAYMENT AMOUNTS PERMITTED UNDER SECTIONS 1923(F) AND  
12 1923(G) OF THE FEDERAL SOCIAL SECURITY ACT, AS DETERMINED BY THE COMMIS-  
13 SIONER OF HEALTH AFTER APPLICATION OF ALL OTHER DISPROPORTIONATE SHARE  
14 HOSPITAL PAYMENTS AUTHORIZED BY STATE LAW, annually for the state fiscal  
15 year beginning April 1, 2011, and annually thereafter, as medical  
16 assistance payments pursuant to title 11 of article 5 of the social  
17 services law for patients eligible for federal financial participation  
18 under title XIX of the federal social security act in medical assistance  
19 pursuant to the federal laws and regulations governing disproportionate  
20 share payments to hospitals based on the relative share of each such  
21 non-state operated public general hospital of medical assistance and  
22 uninsured patient losses after all other medical assistance, including  
23 disproportionate share payments to such public general hospitals for  
24 payments made during the state fiscal year ending March 31, 2001, based  
25 initially on reported 1995 reconciled data as further reconciled to  
26 actual reported 2000 or 2001 data, for payments made during the state  
27 fiscal year ending March 31, 2002, based initially on reported 1995  
28 reconciled data as further reconciled to actual reported 2001 or 2002  
29 data, for payments made during the state fiscal year ending March 31,  
30 2003, based initially on reported 2000 reconciled data as further recon-  
31 ciled to actual reported 2002 or 2003 data, for payments made during the  
32 state fiscal year ending on [and after] March 31, 2006, based initially  
33 on reported 2000 reconciled data as further reconciled to actual  
34 reported 2005 or 2006 data, for payments made during the state fiscal  
35 year ending on [and after] March 31, 2007, based initially on reported  
36 2000 reconciled data as further reconciled to actual reported 2006 or  
37 2007 data, for payments made during the state fiscal years ending on  
38 [and after] March 31, 2008, based initially on reported 2000 reconciled  
39 data as further reconciled to actual reported 2007 or 2008 data, AND  
40 ACTUAL REPORTED 2008 OR 2009 DATA, RESPECTIVELY, for payments made  
41 during the state fiscal year ending on and after March 31, 2010, based  
42 initially on reported 2007 reconciled data, adjusted for authorized  
43 Medicaid rate changes applicable to the state fiscal year, and as  
44 further reconciled to actual reported 2009 OR 2010 data, FOR PAYMENTS  
45 MADE DURING THE STATE FISCAL YEAR ENDING ON MARCH 31, 2011, BASED  
46 INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR  
47 TO THE PAYMENT YEAR, ADJUSTED FOR AUTHORIZED MEDICAID RATE CHANGES  
48 APPLICABLE TO THE STATE FISCAL YEAR, AND AS FURTHER RECONCILED TO ACTUAL  
49 REPORTED DATA FROM SUCH PAYMENT YEAR, and to actual reported data for  
50 each respective succeeding year. The payments may be added to rates of  
51 payment or made as aggregate payments to an eligible public general  
52 hospital.

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



1 8. The commissioner shall provide notice of any recommendations devel-  
2 oped by the committee regarding the preferred drug program, at least  
3 [thirty] FIVE days before any final determination by the commissioner,  
4 by making such information available on the department's website. Such  
5 public notice shall include: a summary of the deliberations of the  
6 committee; a summary of the positions of those making public comments at  
7 meetings of the committee; the response of the committee to those  
8 comments, if any; and the findings and recommendations of the committee.

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

12 (g) for eligible persons who are also beneficiaries under part D of  
13 title XVIII of the federal social security act, drugs which are denomi-  
14 nated as "covered part D drugs" under section 1860D-2(e) of such act;  
15 provided however that, IF AN ELIGIBLE PARTICIPANT HAS EXHAUSTED THE  
16 FIRST TWO LEVELS OF APPEALS AVAILABLE UNDER SUCH TITLE AND THE APPEAL  
17 HAS BEEN UNSUCCESSFUL, THEN for purposes of this paragraph, "covered  
18 part D drugs" shall not mean atypical anti-psychotics, anti-depressants,  
19 anti-retrovirals used in the treatment of HIV/AIDS, or anti-rejection  
20 drugs used for the treatment of organ and tissue transplants.

21 S 12-a. Intentionally omitted.

22 S 13. Subparagraph (ii) of paragraph (b) of subdivision 9 of section  
23 367-a of the social services law, as amended by section 4 of part C of  
24 chapter 58 of the laws of 2008, is amended to read as follows:

25 (ii) if the drug dispensed is a multiple source prescription drug or a  
26 brand-name prescription drug for which no specific upper limit has been  
27 set by such federal agency, the lower of the estimated acquisition cost  
28 of such drug to pharmacies, or the dispensing pharmacy's usual and  
29 customary price charged to the general public. For sole and multiple  
30 source brand name drugs, estimated acquisition cost means the average  
31 wholesale price of a prescription drug based upon the package size  
32 dispensed from, as reported by the prescription drug pricing service  
33 used by the department, less sixteen and twenty-five one hundredths  
34 percent thereof, and updated monthly by the department; or, for a  
35 specialized HIV pharmacy, as defined in paragraph (f) of this subdivi-  
36 sion, acquisition cost means the average wholesale price of a  
37 prescription drug based upon the package size dispensed from, as  
38 reported by the prescription drug pricing service used by the depart-  
39 ment, less [twelve] THIRTEEN AND SIX-HUNDREDTHS percent thereof, and  
40 updated monthly by the department. For multiple source generic drugs,  
41 estimated acquisition cost means the lower of the average wholesale  
42 price of a prescription drug based on the package size dispensed from,  
43 as reported by the prescription drug pricing service used by the depart-  
44 ment, less twenty-five percent thereof, or the maximum acquisition cost,  
45 if any, established pursuant to paragraph (e) of this subdivision; or,  
46 for a specialized HIV pharmacy, as defined in paragraph (f) of this  
47 subdivision, acquisition cost means the lower of the average wholesale  
48 price of a prescription drug based on the package size dispensed from,  
49 as reported by the prescription drug pricing service used by the depart-  
50 ment, less [twelve] FIFTEEN AND TWENTY-FIVE HUNDREDTHS percent thereof,  
51 or the maximum acquisition cost, if any, established pursuant to para-  
52 graph (e) of this subdivision.

53 S 14. Intentionally omitted.

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

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

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

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

19 (B) SUCH PAYMENTS SHALL BE MADE AND REPORTED AT THE SAME TIME AND IN  
20 THE SAME MANNER AS THE PAYMENTS AND REPORTS WHICH ARE OTHERWISE SUBMIT-  
21 TED BY EACH THIRD PARTY PAYOR TO THE COMMISSIONER OR THE COMMISSIONER'S  
22 DESIGNEE IN ACCORDANCE WITH THIS SECTION. SUCH PAYMENTS SHALL BE SUBJECT  
23 TO AUDIT BY THE COMMISSIONER IN THE SAME MANNER AS THE OTHER PAYMENTS  
24 OTHERWISE SUBMITTED AND REPORTED PURSUANT TO THIS SECTION. THE COMMIS-  
25 SIONER MAY TAKE ALL MEASURES TO COLLECT DELINQUENT PAYMENTS DUE PURSUANT  
26 TO THIS SUBDIVISION AS ARE OTHERWISE PERMITTED WITH REGARD TO DELINQUENT  
27 PAYMENTS DUE PURSUANT TO OTHER SUBDIVISIONS OF THIS SECTION.

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

33 S 17. Subparagraphs (vii) and (viii) of paragraph (uu) of subdivision  
34 1 of section 2807-v of the public health law, as amended by section 120  
35 of part C of chapter 58 of the laws of 2009, are amended to read as  
36 follows:

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

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

45 S 18. Intentionally omitted.

46 S 19. Intentionally omitted.

47 S 20. Intentionally omitted.

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

51 (jj) Funds shall be reserved and accumulated from year to year and  
52 shall be available, including income from invested funds, for the  
53 purposes of a grant program to improve access to infertility services,  
54 treatments and procedures, from the tobacco control and insurance initi-  
55 atives pool established for the period January first, two thousand two  
56 through December thirty-first, two thousand two in the amount of nine

1 million one hundred seventy-five thousand dollars, for the period April  
2 first, two thousand six through March thirty-first, two thousand seven  
3 in the amount of five million dollars, for the period April first, two  
4 thousand seven through March thirty-first, two thousand eight in the  
5 amount of five million dollars, for the period April first, two thousand  
6 eight through March thirty-first, two thousand nine in the amount of  
7 five million dollars, AND for the period April first, two thousand nine  
8 through March thirty-first, two thousand ten in the amount of five  
9 million dollars, and for the period April first, two thousand ten  
10 through March thirty-first, two thousand eleven in the amount of [five]  
11 TWO million TWO HUNDRED THOUSAND dollars.

12 S 22. Subparagraphs (vii) and (viii) of paragraph (qq) of subdivision  
13 1 of section 2807-v of the public health law, as amended by section 5 of  
14 part B of chapter 58 of the laws of 2008, are amended to read as  
15 follows:

16 (vii) up to [five million] FOUR HUNDRED EIGHTY-EIGHT THOUSAND dollars  
17 for the period January first, two thousand ten through [December] MARCH  
18 thirty-first, two thousand ten; of such funds [one million nine] FOUR  
19 hundred [fifty] EIGHTY-EIGHT thousand dollars shall be made available to  
20 the department for the purpose of developing, implementing and adminis-  
21 tering the long-term care insurance education and outreach program [and  
22 three million fifty thousand dollars shall be made available to the  
23 office for the aging for the purpose of providing the long-term care  
24 insurance resource centers with the necessary resources to carry out  
25 their operations; and

26 (viii) up to one million two hundred fifty thousand dollars for the  
27 period January first, two thousand eleven through March thirty-first,  
28 two thousand eleven; of such funds four hundred eighty-seven thousand  
29 five hundred dollars shall be made available to the department for the  
30 purpose of developing, implementing and administering the long-term care  
31 insurance education and outreach program and seven hundred sixty-two  
32 thousand five hundred dollars shall be made available to the office for  
33 the aging for the purpose of providing the long-term care insurance  
34 resource centers with the necessary resources to carry out their oper-  
35 ations].

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

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

43 (xii) up to [twenty-three] TWENTY-ONE million [five] SIX hundred  
44 [thirty-seven] TWELVE thousand dollars for the period January first, two  
45 thousand eleven through March thirty-first, two thousand eleven.

46 S 24. Subparagraph (iv) of paragraph (c) of subdivision 1 of section  
47 2807-1 of the public health law, as amended by section 4 of part B of  
48 chapter 58 of the laws of 2008, is amended to read as follows:

49 (iv) distributions by the commissioner related to poison control  
50 centers pursuant to subdivision seven of section twenty-five hundred-d  
51 of this chapter, up to five million dollars for the period January  
52 first, nineteen hundred ninety-seven through December thirty-first,  
53 nineteen hundred ninety-seven, up to three million dollars on an annual-  
54 ized basis for the periods during the period January first, nineteen  
55 hundred ninety-eight through December thirty-first, nineteen hundred  
56 ninety-nine, up to five million dollars annually for the periods January

1 first, two thousand through December thirty-first, two thousand two, up  
2 to four million six hundred thousand dollars annually for the periods  
3 January first, two thousand three through December thirty-first, two  
4 thousand four, up to five million one hundred thousand dollars for the  
5 period January first, two thousand five through December thirty-first,  
6 two thousand six annually, up to five million one hundred thousand  
7 dollars annually for the period January first, two thousand seven  
8 through December thirty-first, two thousand [ten,] NINE, UP TO THREE  
9 MILLION SIX HUNDRED THOUSAND DOLLARS FOR THE PERIOD JANUARY FIRST, TWO  
10 THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, and up to  
11 [one million two] SEVEN hundred seventy-five thousand dollars for the  
12 period January first, two thousand eleven through March thirty-first,  
13 two thousand eleven; and

14 S 25. Intentionally omitted.

15 S 25-a. Intentionally omitted.

16 S 26. Intentionally omitted.

17 S 27. Intentionally omitted.

18 S 28. Intentionally omitted.

19 S 29. Intentionally omitted.

20 S 30. Intentionally omitted.

21 S 31. Intentionally omitted.

22 S 31-a. Section 365-a of the social services law is amended by adding  
23 a new subdivision 9 to read as follows:

24 9. (A) NOTWITHSTANDING INCONSISTENT PROVISION OF LAW, ANY UTILIZATION  
25 CONTROLS ON OCCUPATIONAL THERAPY OR PHYSICAL THERAPY, INCLUDING BUT NOT  
26 LIMITED TO, PRIOR APPROVAL OF SERVICES, UTILIZATION THRESHOLDS OR OTHER  
27 LIMITATIONS IMPOSED ON SUCH THERAPY SERVICES IN RELATION TO A CHRONIC  
28 CONDITION IN CLINICS CERTIFIED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC  
29 HEALTH LAW OR ARTICLE SIXTEEN OF THE MENTAL HYGIENE LAW SHALL BE DEVEL-  
30 OPED BY THE DEPARTMENT OF HEALTH IN CONCURRENCE WITH THE OFFICE OF  
31 MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES.

32 (B) IN THE CASE OF ANY DENIAL OF OCCUPATIONAL THERAPY OR PHYSICAL  
33 THERAPY SERVICES UNDER THIS SUBDIVISION, IF THE PRESCRIBING HEALTH CARE  
34 PROFESSIONAL DETERMINES IN HIS OR HER REASONABLE PROFESSIONAL JUDGMENT  
35 THAT THE SERVICE OR SERVICES ARE WARRANTED, THE DEPARTMENT OF HEALTH  
36 SHALL PROVIDE A REASONABLE OPPORTUNITY FOR THE PRESCRIBER TO REASONABLY  
37 PRESENT HIS OR HER JUSTIFICATION OF PRIOR AUTHORIZATION. IF, AFTER  
38 CONSULTATION WITH THE DEPARTMENT OF HEALTH, THE PRESCRIBER, IN HIS OR  
39 HER REASONABLE PROFESSIONAL JUDGMENT, DETERMINES THAT THE PRESCRIBED  
40 THERAPY IS WARRANTED, THE PRESCRIBER'S DETERMINATION SHALL BE FINAL.

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

44 7. "Covered health care services" means: the services of physicians,  
45 optometrists, nurses, nurse practitioners, midwives and other related  
46 professional personnel which are provided on an outpatient basis,  
47 including routine well-child visits; diagnosis and treatment of illness  
48 and injury; inpatient health care services; laboratory tests; diagnostic  
49 x-rays; prescription and non-prescription drugs and durable medical  
50 equipment; radiation therapy; chemotherapy; hemodialysis; emergency room  
51 services; hospice services; emergency, preventive and routine dental  
52 care, [except orthodontia and] INCLUDING MEDICALLY NECESSARY ORTHODONTIA  
53 BUT EXCLUDING cosmetic surgery; emergency, preventive and routine vision  
54 care, including eyeglasses; speech and hearing services; and, inpatient  
55 and outpatient mental health, alcohol and substance abuse services as  
56 defined by the commissioner in consultation with the superintendent.

"Covered health care services" shall not include drugs, procedures and supplies for the treatment of erectile dysfunction when provided to, or prescribed for use by, a person who is required to register as a sex offender pursuant to article six-C of the correction law, provided that any denial of coverage of such drugs, procedures or supplies shall provide the patient with the means of obtaining additional information concerning both the denial and the means of challenging such denial.

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

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

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

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

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

S 34. Intentionally omitted.

S 34-a. Intentionally omitted.

S 34-b. Intentionally omitted.

S 34-c. Intentionally omitted.

S 34-d. Intentionally omitted.

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

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

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

(C) SUCH STANDARDS AND PROCEDURES SHALL ALSO INCLUDE A PROCESS FOR DETERMINING ENROLLMENT ERROR RATES AND IMPLEMENTING CORRECTIVE ACTIONS

1 AS REQUIRED BY SECTION 1902(E)(13)(E) OF THE FEDERAL SOCIAL SECURITY  
2 ACT.

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

5 11. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR  
6 REGULATION, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO (I) ESTABLISH  
7 STANDARDS AND PROCEDURES FOR EXPRESS LANE ENROLLMENT AND RENEWAL IMPL-  
8 MENTED IN ACCORDANCE WITH SECTION 1902(E)(13) OF THE FEDERAL SOCIAL  
9 SECURITY ACT, INCLUDING BUT NOT LIMITED TO RELIANCE ON A FINDING MADE BY  
10 AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) AND (H) OF  
11 THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE WHETHER A CHILD MEETS ONE  
12 OR MORE OF THE ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE; (II) SPECIFY  
13 SUCH STANDARDS AND PROCEDURES IN THE MEDICAL ASSISTANCE STATE PLAN  
14 ESTABLISHED UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT; AND  
15 (III) WAIVE ANY INFORMATION AND DOCUMENTATION REQUIREMENTS SET FORTH IN  
16 THIS SECTION NECESSARY TO IMPLEMENT EXPRESS LANE ELIGIBILITY; PROVIDED,  
17 HOWEVER, INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO SECTION ONE  
18 HUNDRED TWENTY-TWO OF THIS CHAPTER MAY NOT BE WAIVED.

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

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

29 (D) FOR PURPOSES OF A MEDICAL ASSISTANCE ELIGIBILITY DETERMINATION  
30 MADE IN ACCORDANCE WITH THIS SUBDIVISION, A CHILD SHALL BE DEEMED TO  
31 SATISFY THE INCOME ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE IF AN  
32 EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) AND (H) OF THE  
33 FEDERAL SOCIAL SECURITY ACT AND SPECIFIED IN THE STANDARDS AND PROCE-  
34 DURES ESTABLISHED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, HAS  
35 DETERMINED THAT: THE CHILD'S FAMILY HAS INCOME THAT DOES NOT EXCEED A  
36 SCREENING THRESHOLD AMOUNT, AS DETERMINED BY THE COMMISSIONER OF HEALTH,  
37 EQUAL TO A PERCENTAGE OF THE FEDERAL POVERTY LINE (AS DEFINED AND ANNU-  
38 ALLY REVISED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN  
39 SERVICES) THAT EXCEEDS BY THIRTY PERCENTAGE POINTS THE HIGHEST INCOME  
40 ELIGIBILITY LEVEL APPLICABLE TO A FAMILY OF THE SAME SIZE UNDER THE  
41 MEDICAL ASSISTANCE PROGRAM.

42 S 37. Intentionally omitted.

43 S 38. Intentionally omitted.

44 S 38-a. Intentionally omitted.

45 S 39. Intentionally omitted.

46 S 39-a. Intentionally omitted.

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

50 1. Notwithstanding any other provision of law to the contrary, the  
51 commissioner is authorized to approve up to [five] TEN general hospitals  
52 within the state to operate transitional care units by and within such  
53 general hospitals. For purposes of this section, "transitional care"  
54 shall mean sub acute care services provided to patients of a general  
55 hospital who no longer require acute care general hospital inpatient

1 services, but continue to need specialized medical, nursing and other  
2 hospital ancillary services and are not yet appropriate for discharge.

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

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

10 S 42. Intentionally omitted.

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

15 4. If the commissioner of health finds that a district has either  
16 substantially failed to demonstrate due diligence, including due dili-  
17 gence with respect to the identification and reporting of fraud and  
18 abuse, according to the prescribed requirements and guidelines or  
19 continues to fail to comply with such requirements then such commission-  
20 er may impose such sanctions and penalties as are permitted under the  
21 public health law and the social services law. IN ADDITION, IF THE  
22 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, OR A SUCCESSOR AGEN-  
23 CY, DISALLOWS CLAIMS FOR FEDERAL FINANCIAL PARTICIPATION SUBMITTED TO IT  
24 BY THE DEPARTMENT OF HEALTH, OR IF ANY FEDERAL AGENCY DETERMINES TO  
25 RECOVER FEDERAL MEDICAID FUNDS PREVIOUSLY PAID TO THE DEPARTMENT OF  
26 HEALTH, THE DEPARTMENT MAY RECOVER FROM A DISTRICT THE AMOUNT OF SUCH  
27 DISALLOWANCE OR RECOVERY THAT THE COMMISSIONER DETERMINES WAS CAUSED BY  
28 A DISTRICT'S FAILURE TO PROPERLY ADMINISTER, SUPERVISE OR OPERATE THE  
29 MEDICAID PROGRAM. ANY SUCH RECOVERY FROM A DISTRICT SHALL BE MADE  
30 NOTWITHSTANDING, AND IN ADDITION TO, ANY DISTRICT MEDICAID SHARE AMOUNTS  
31 CALCULATED PURSUANT TO SECTION ONE OF THIS PART.

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

37 (f) Subject to paragraph (g) of this section, the state fiscal year  
38 social services district expenditure cap amount calculated for each  
39 social services district pursuant to paragraph (d) of this section shall  
40 be allotted to each district during that fiscal year and paid to the  
41 department in equal weekly amounts in a manner to be determined by the  
42 commissioner and communicated to such districts and, SUBJECT TO THE  
43 PROVISIONS OF SUBDIVISION FOUR OF SECTION SIX OF THIS PART, shall repre-  
44 sent each district's maximum responsibility for medical assistance  
45 expenditures governed by this section.

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

50 (b) Commencing with the period April 1, 2005 through March 31, 2006, a  
51 social services district's yearly net share of medical assistance  
52 expenditures shall be calculated in relation to a reimbursement base  
53 year which, for purposes of this section, is defined as January 1, 2005  
54 through December 31, 2005. The final base year expenditure calculation  
55 for each social services district shall be made by the commissioner of  
56 health, and approved by the director of the division of the budget, no

1 later than June 30, 2006. Such calculations shall be based on actual  
2 expenditures made by or on behalf of social services districts, and  
3 revenues received by social services districts, during the base year and  
4 shall be made without regard to expenditures made, and revenues  
5 received, outside the base year that are related to services provided  
6 during, or prior to, the base year. Such base year calculations shall be  
7 based on the social services district medical assistance shares  
8 provisions in effect on January 1, 2005. SUBJECT TO THE PROVISIONS OF  
9 SUBDIVISION FOUR OF SECTION SIX OF THIS PART, THE STATE/LOCAL SOCIAL  
10 SERVICES DISTRICT RELATIVE PERCENTAGES OF THE NON-FEDERAL SHARE OF  
11 MEDICAL ASSISTANCE EXPENDITURES INCURRED PRIOR TO JANUARY 1, 2006 SHALL  
12 NOT BE SUBJECT TO ADJUSTMENT ON AND AFTER JULY 1, 2006.

13 S 44. Notwithstanding any contrary provision of law, surcharges and  
14 assessments due and owing pursuant to sections 2807-j, 2807-s and 2807-t  
15 of the public health law for any period prior to January 1, 2010, which  
16 are paid and accompanied by all required reports and which were received  
17 on or before December 31, 2010 shall not be subject to penalties as  
18 otherwise provided in such sections, provided, however, that such  
19 reports may be based on estimates by payors and designated providers of  
20 services of the amounts owed, subject to subsequent audit by the commis-  
21 sioner of health or such commissioner's designee, however, with regard  
22 to all principal, interest and penalty amounts collected by the commis-  
23 sioner of health prior to the effective date of this act, the interest  
24 and penalty provisions of sections 2807-j, 2807-s and 2807-t of the  
25 public health law shall remain in full force and effect and such amounts  
26 collected shall not be subject to further adjustment pursuant to this  
27 section. Furthermore, the provisions of this section shall not apply to  
28 any surcharge or assessment payments made in response to a final audit  
29 finding issued by such commissioner of health or such commissioner's  
30 designee.

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

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

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

48 3-B. "ELIGIBLE SECURED HOSPITAL BORROWER". A NOT-FOR-PROFIT HOSPITAL  
49 CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS FINANCED  
50 OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO THE FORMER SECTION  
51 SEVEN-A OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE LAWS  
52 OF NINETEEN HUNDRED SEVENTY-THREE AND FOR WHICH SPECIAL HOSPITAL PROJECT  
53 BONDS (AS DEFINED IN FORMER PARAGRAPH (D) OF SUBDIVISION THREE OF  
54 SECTION THREE OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE  
55 LAWS OF NINETEEN HUNDRED SEVENTY-THREE) REMAIN OUTSTANDING.



1 S 46-a. The public health law is amended by adding a new section  
2 2874-b to read as follows:

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

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

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

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

54 6-C. "ELIGIBLE SECURED HOSPITAL BORROWER" SHALL MEAN A NOT-FOR-PROFIT  
55 HOSPITAL CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS  
56 FINANCED OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO FORMER SECTION

SEVEN-A OF THIS ACT, AND FOR WHICH SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN FORMER PARAGRAPH D OF SUBDIVISION THREE OF THIS SECTION, REMAIN OUTSTANDING.

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

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

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

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

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

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

The term "mortgage loan" shall also mean and include a loan made by the agency to a limited-profit nursing home company in an amount not to exceed ninety-five [percentum] PER CENTUM of the nursing home project cost, or to a non-profit nursing home company in an amount not to exceed the total nursing home project cost, and secured by a first mortgage lien on the real property of which the nursing home project consists and the personal property attached to or used in connection with the construction, acquisition, reconstruction, rehabilitation, improvement

1 or operation of the nursing home project. Notwithstanding the foregoing  
2 provisions of this subdivision or any other provision of this article to  
3 the contrary, any personal property may be excluded from the lien of the  
4 mortgage provided (a) the commissioner finds that such property is not  
5 essential for the nursing home project as such term is defined in arti-  
6 cle [twenty-eight-A] 28-A of the public health law, and (b) the agency  
7 consents to such exclusion.

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

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

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

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

26 S 7-C. SECURED HOSPITAL PROJECTS RESERVE FUNDS AND APPROPRIATIONS. 1.  
27 SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDI-  
28 VISION THREE OF SECTION THREE OF THIS ACT, ISSUED TO REFINANCE THE  
29 PROJECTS OF ELIGIBLE SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVI-  
30 SION SIX-C OF SECTION THREE OF THIS ACT, SHALL BE SECURED BY (A) A MORT-  
31 GAGE LIEN, (B) FUNDS AND ACCOUNTS ESTABLISHED UNDER THE BOND RESOLUTION,  
32 (C) THE SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS, (D)  
33 THE SECURED HOSPITAL CAPITAL RESERVE FUND OR FUNDS, AND (E) SUCH SERVICE  
34 CONTRACT OR CONTRACTS ENTERED INTO IN ACCORDANCE WITH THE PROVISIONS OF  
35 SUBDIVISION FOUR OF THIS SECTION.

36 2. (A) THE AGENCY SHALL ESTABLISH A SECURED HOSPITAL SPECIAL DEBT  
37 SERVICE RESERVE FUND OR FUNDS AND PAY INTO SUCH FUND OR FUNDS MONEYS  
38 FROM THE SECURED HOSPITAL FUND UP TO AN AMOUNT NOT TO EXCEED AN AMOUNT  
39 NECESSARY TO ENSURE THE REPAYMENT OF PRINCIPAL AND INTEREST DUE ON ANY  
40 OUTSTANDING INDEBTEDNESS ON SPECIAL HOSPITAL PROJECTS BONDS, AS DEFINED  
41 IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

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

48 (B) THE AGENCY SHALL, FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDI-  
49 VISION AND FOR THE SUPPORT OF ELIGIBLE SECURED HOSPITAL BORROWERS, PAY  
50 INTO THE SECURED HOSPITAL FUND CURRENTLY ESTABLISHED AND MAINTAINED BY  
51 THE AGENCY: (I) ALL FUNDS REQUIRED TO BE PAID IN ACCORDANCE WITH THE  
52 PROVISIONS OF ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW AND REGU-  
53 LATIONS PROMULGATED IN SUCH ARTICLE; (II) ANY MORTGAGE INSURANCE PREMIUM  
54 ASSESSED IN AN AMOUNT FIXED AT THE DISCRETION OF THE AGENCY, UPON THE  
55 ISSUANCE OF SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH  
56 (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT; (III) ANY

1 INCOME OR INTEREST EARNED ON OTHER RESERVE FUNDS WHICH THE AGENCY ELECTS  
2 TO TRANSFER TO THE SECURED HOSPITAL FUND; AND (IV) ANY OTHER MONEYS  
3 WHICH MAY BE MADE AVAILABLE TO THE AGENCY FROM ANY OTHER SOURCE OR  
4 SOURCES. MONEYS PAID INTO THE SECURED HOSPITAL FUND SHALL, IN THE  
5 DISCRETION OF THE AGENCY, BUT SUBJECT TO AGREEMENTS WITH BONDHOLDERS, BE  
6 USED TO FUND THE SPECIAL DEBT SERVICE RESERVE FUND OR FUNDS AT A LEVEL  
7 OR LEVELS WHICH MINIMIZE THE NEED FOR USE OF THE CAPITAL RESERVE FUND OR  
8 FUNDS IN THE EVENT OF THE FAILURE OF AN ELIGIBLE SECURED HOSPITAL  
9 BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT,  
10 TO MAKE THE REQUIRED DEBT SERVICE PAYMENTS ON SPECIAL HOSPITAL PROJECT  
11 BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION  
12 THREE OF THIS ACT.

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

16 3. THE AGENCY SHALL ESTABLISH A SECURED HOSPITAL CAPITAL RESERVE FUND  
17 OR FUNDS WHICH SHALL BE FUNDED AT AN AMOUNT OR AMOUNTS EQUAL TO THE  
18 LESSER OF EITHER: (A) THE MAXIMUM AMOUNT OF PRINCIPAL, SINKING FUND  
19 PAYMENTS AND INTEREST DUE IN ANY SUCCEEDING YEAR ON OUTSTANDING SPECIAL  
20 HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION  
21 THREE OF SECTION THREE OF THIS ACT, OR (B) FOR TAX EXEMPT BONDS, THE  
22 MAXIMUM AMOUNT TO ENSURE THAT SUCH BONDS WILL NOT BE CONSIDERED ARBI-  
23 TRAGE BONDS UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. THE  
24 CAPITAL RESERVE FUND SHALL BE FUNDED BY THE SALE OF SPECIAL HOSPITAL  
25 PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF  
26 SECTION THREE OF THIS ACT, OR FROM SUCH OTHER FUNDS AS MAY BE LEGALLY  
27 AVAILABLE FOR SUCH PURPOSE, AS PROVIDED FOR IN THE BOND RESOLUTION OR  
28 RESOLUTIONS AUTHORIZING THE ISSUANCE OF SUCH BONDS.

29 4. (A) NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW TO  
30 THE CONTRARY, AND SUBJECT TO THE MAKING OF ANNUAL APPROPRIATIONS THERE-  
31 FOR BY THE LEGISLATURE IN ORDER TO REFINANCE MORTGAGE LOANS TO ELIGIBLE  
32 SECURED HOSPITAL BORROWERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION  
33 THREE OF THIS ACT, THE DIRECTOR OF THE BUDGET IS AUTHORIZED IN ANY STATE  
34 FISCAL YEAR TO ENTER INTO ONE OR MORE SERVICE CONTRACTS, WHICH SERVICE  
35 CONTRACTS SHALL NOT EXCEED THE TERM OF THE SPECIAL HOSPITAL PROJECT  
36 BONDS, ISSUED FOR THE BENEFIT OF THE ELIGIBLE SECURED HOSPITAL BORROWER,  
37 UPON SUCH TERMS AS THE DIRECTOR OF THE BUDGET AND THE AGENCY AGREE, SO  
38 AS TO PROVIDE ANNUALLY TO THE AGENCY IN THE AGGREGATE SUCH SUM, IF ANY,  
39 AS NECESSARY TO MEET THE DEBT SERVICE PAYMENTS DUE ON OUTSTANDING  
40 SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN PARAGRAPH (D-1) OF SUBDI-  
41 VISION THREE OF SECTION THREE OF THIS ACT, IN ANY YEAR IF THE FUNDS  
42 PROVIDED FOR IN THIS SECTION ARE INADEQUATE.

43 (B) ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO PARAGRAPH (A) OF  
44 THIS SUBDIVISION SHALL PROVIDE (I) THAT THE OBLIGATION OF THE DIRECTOR  
45 OF THE BUDGET OR OF THE STATE TO FUND OR TO PAY THE AMOUNTS THEREIN  
46 PROVIDED FOR SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE MEANING  
47 OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED EXECU-  
48 TORY ONLY TO THE EXTENT OF MONEYS AVAILABLE AND THAT NO LIABILITY SHALL  
49 BE INCURRED BY THE STATE BEYOND THE MONEYS AVAILABLE FOR SUCH PURPOSE,  
50 AND THAT SUCH OBLIGATION IS SUBJECT TO ANNUAL APPROPRIATION BY THE  
51 LEGISLATURE; AND (II) THAT THE AMOUNTS PAID TO THE AGENCY PURSUANT TO  
52 ANY SUCH CONTRACT MAY BE USED BY IT SOLELY TO PAY OR TO ASSIST IN  
53 FINANCING COSTS OF MORTGAGE LOANS TO ELIGIBLE SECURED HOSPITAL BORROW-  
54 ERS, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS ACT.

55 5. THE AGENCY SHALL NOT ISSUE SPECIAL HOSPITAL PROJECT BONDS, AS  
56 DEFINED IN PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS

1 ACT, EXCEPT TO REFINANCE MORTGAGE LOANS FOR ELIGIBLE SECURED HOSPITAL  
2 BORROWERS AS PROVIDED IN SECTION THREE OF THIS ACT.

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

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

13 (D) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-  
14 SION, AN APPLICANT OR RECIPIENT WHOSE ELIGIBILITY UNDER THIS TITLE IS  
15 DETERMINED WITHOUT REGARD TO THE AMOUNT OF HIS OR HER ACCUMULATED  
16 RESOURCES MAY ATTEST TO THE AMOUNT OF INTEREST INCOME GENERATED BY SUCH  
17 RESOURCES IF THE AMOUNT OF SUCH INTEREST INCOME IS EXPECTED TO BE IMMA-  
18 TERIAL TO MEDICAL ASSISTANCE ELIGIBILITY, AS DETERMINED BY THE COMMIS-  
19 SIONER OF HEALTH. IN THE EVENT THERE IS AN INCONSISTENCY BETWEEN THE  
20 INFORMATION REPORTED BY THE APPLICANT OR RECIPIENT AND ANY INFORMATION  
21 OBTAINED BY THE COMMISSIONER OF HEALTH FROM OTHER SOURCES AND SUCH  
22 INCONSISTENCY IS MATERIAL TO MEDICAL ASSISTANCE ELIGIBILITY, THE COMMIS-  
23 SIONER OF HEALTH SHALL REQUEST THAT THE APPLICANT OR RECIPIENT PROVIDE  
24 ADEQUATE DOCUMENTATION TO VERIFY HIS OR HER INTEREST INCOME.

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

27 (B-1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVI-  
28 SION, AN INDIVIDUAL MAY ATTEST TO THE AMOUNT OF INTEREST INCOME GENER-  
29 ATED BY HIS OR HER ACCUMULATED RESOURCES IF THE AMOUNT OF SUCH INTEREST  
30 INCOME IS EXPECTED TO BE IMMATERIAL TO ELIGIBILITY UNDER THIS SECTION,  
31 AS DETERMINED BY THE COMMISSIONER OF HEALTH. IN THE EVENT THERE IS AN  
32 INCONSISTENCY BETWEEN THE INFORMATION REPORTED BY THE INDIVIDUAL AND ANY  
33 INFORMATION OBTAINED BY THE COMMISSIONER OF HEALTH FROM OTHER SOURCES  
34 AND SUCH INCONSISTENCY IS MATERIAL TO ELIGIBILITY UNDER THIS SECTION,  
35 THE COMMISSIONER OF HEALTH SHALL REQUEST THAT THE INDIVIDUAL PROVIDE  
36 ADEQUATE DOCUMENTATION TO VERIFY HIS OR HER INTEREST INCOME.

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

40 (d) In order to establish place of residence and income eligibility  
41 under this title at recertification, a recipient of assistance under  
42 this title shall attest to place of residence and to all information  
43 regarding the household's income that is necessary and sufficient to  
44 determine such eligibility; provided, however, that this paragraph shall  
45 not apply to persons described in subparagraph two of paragraph (a) of  
46 subdivision one of section three hundred sixty-six of this title, or to  
47 persons receiving long term care services, as defined in paragraph (b)  
48 of subdivision two of this section; and provided, further, that a non-  
49 applying legally responsible relative recertifying on behalf of a recip-  
50 ient of assistance who is under the age of twenty-one years shall be  
51 permitted to attest to household income under this paragraph only if the  
52 social security numbers of all legally responsible relatives are  
53 provided to the district. Provided, however, for purposes of recertif-  
54 ication OF ELIGIBILITY for assistance under this title [for a recipient  
55 of], PERSONS RECEIVING medicaid COMMUNITY COVERAGE WITH COMMUNITY-BASED  
56 LONG TERM CARE, INCLUDING BUT NOT LIMITED TO waiver services provided or

1 authorized by the office of mental retardation and developmental disa-  
2 bilities, beginning on or after January first, two thousand ten, [such  
3 recipient] may be permitted, as determined by the commissioner of  
4 health, to attest to place of residence and to all information regarding  
5 the household's income and/or resources that are necessary to [deter-  
6 mine] RECERTIFY such eligibility.

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

11 (a) [(i)] Notwithstanding any other provision of law, each family  
12 which was eligible for medical assistance pursuant to subparagraph eight  
13 or nine of paragraph (a) of subdivision one of this section in at least  
14 [three] ONE of the six months immediately preceding the month in which  
15 such family became ineligible for such assistance because of hours of,  
16 or income from, employment of the caretaker relative, or because of loss  
17 of entitlement to the earnings disregard under subparagraph (iii) of  
18 paragraph (a) of subdivision eight of section one hundred thirty-one-a  
19 of this [chapter] ARTICLE shall, while such family includes a dependent  
20 child, remain eligible for medical assistance for [six] TWELVE calendar  
21 months immediately following the month in which such family would other-  
22 wise be determined to be ineligible for medical assistance pursuant to  
23 the provisions of this title and the regulations of the department  
24 governing income and resource limitations relating to eligibility deter-  
25 minations for families described in subparagraph eight of paragraph (a)  
26 of subdivision one of this section.

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

34 S 50. Paragraph (b) of subdivision 4 of section 366 of the social  
35 services law, as added by chapter 453 of the laws of 1990, subparagraph  
36 (i) as amended by section 60 of part B of chapter 436 of the laws of  
37 1997, is amended to read as follows:

38 (b) (i) Upon giving notice of termination of medical assistance  
39 provided pursuant to subparagraph eight or nine of paragraph (a) of  
40 subdivision one of this section, the department shall notify each such  
41 family of its rights to extended benefits under paragraph (a) of this  
42 subdivision and describe [any reporting requirements and] the conditions  
43 under which such extension may be terminated. [The department shall also  
44 provide subsequent notices of the option to extend coverage pursuant to  
45 paragraph (a) of this subdivision in the third and sixth months of the  
46 initial six month extended coverage period and notices of the reporting  
47 requirements under such paragraph in each of the third and sixth months  
48 of the initial six month extended coverage period and in the third month  
49 of the additional extended coverage period.]

50 (ii) The department shall promulgate regulations implementing the  
51 requirements of this paragraph and paragraph (a) of this subdivision  
52 relating to the conditions under which [initial] extended coverage [and  
53 additional extended coverage] hereunder may be terminated, the scope of  
54 coverage, [the reporting requirements] and the conditions under which  
55 coverage may be extended pending a redetermination of eligibility. Such  
56 regulations shall, at a minimum, provide for: (A) termination of such

1 coverage at the close of the first month in which the family ceases to  
2 include a dependent child [and at the close of the first or fourth month  
3 of the additional extended coverage period if the family fails to  
4 report, as required by the regulations, or the caretaker relative had no  
5 earnings in one or more of the previous three months unless such lack of  
6 earnings was for good cause, or the family's average gross monthly earn-  
7 ings, less necessary work related child care costs of the caretaker  
8 relative, during the preceding three months was greater than one hundred  
9 eighty-five percent of the federal income official poverty line applica-  
10 ble to the family's size]; (B) notice of termination prior to the effec-  
11 tive date of any terminations; (C) [quarterly reporting of income and  
12 child care costs during the initial and additional extended coverage  
13 periods; (D)] coverage under employee health plans and health mainte-  
14 nance organizations; and [(E)] (D) disqualification of persons for  
15 extended coverage benefits under this paragraph for fraud.

16 S 51. The commissioner of health may enter into contracts with one or  
17 more certified public accounting firms for the purpose of conducting  
18 audits of disproportionate share hospital payments made by the state of  
19 New York to general hospitals and for the purpose of conducting audits  
20 of hospital cost reports as submitted to the state of New York in  
21 accordance with article 28 of the public health law.

22 S 52. Intentionally omitted.

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

26 (q) diabetes self-management training services for persons diagnosed  
27 with diabetes when such services are ordered by a physician, registered  
28 [physician's] PHYSICIAN assistant, registered nurse practitioner, or  
29 licensed midwife and provided by a licensed, registered, or certified  
30 health care professional, as determined by the commissioner of health,  
31 who is certified as a diabetes educator by the National Certification  
32 Board for Diabetes Educators, or a successor national certification  
33 board, OR PROVIDED BY SUCH A PROFESSIONAL WHO IS AFFILIATED WITH A  
34 PROGRAM CERTIFIED BY THE AMERICAN DIABETES ASSOCIATION, THE AMERICAN  
35 ASSOCIATION OF DIABETES EDUCATORS, THE INDIAN HEALTH SERVICES, OR ANY  
36 OTHER NATIONAL ACCREDITATION ORGANIZATION APPROVED BY THE FEDERAL  
37 CENTERS FOR MEDICARE AND MEDICAID SERVICES; provided, however, that the  
38 provisions of this paragraph shall not take effect unless all necessary  
39 approvals under federal law and regulation have been obtained to receive  
40 federal financial participation in the costs of health care services  
41 provided pursuant to this paragraph. Nothing in this paragraph shall be  
42 construed to modify any licensure, certification or scope of practice  
43 provision under title eight of the education law.

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

47 For the rate period July first, two thousand seven through March thir-  
48 ty-first, two thousand eight and for rates applicable to the state  
49 fiscal year commencing April first, two thousand eight, and each state  
50 fiscal year thereafter through March thirty-first, two thousand [elev-  
51 en,] NINE, AND FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH  
52 NOVEMBER THIRTIETH, TWO THOUSAND NINE, PROVIDED, HOWEVER, THAT FOR THE  
53 PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO  
54 THOUSAND NINE THE AGGREGATE RATE ADJUSTMENTS CALCULATED PURSUANT TO  
55 SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL NOT EXCEED FOUR MILLION

1 DOLLARS, AND contingent upon the availability of federal financial  
2 participation:

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

6 For the rate period July first, two thousand seven through March thir-  
7 ty-first, two thousand eight and for rates applicable to the state  
8 fiscal year commencing April first, two thousand eight, and each state  
9 fiscal year thereafter through March thirty-first, two thousand [elev-  
10 en,] NINE AND FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH  
11 NOVEMBER THIRTIETH, TWO THOUSAND NINE, PROVIDED, HOWEVER, THAT FOR THE  
12 PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO  
13 THOUSAND NINE THE AGGREGATE RATE ADJUSTMENTS CALCULATED PURSUANT TO  
14 SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL NOT EXCEED TWENTY-EIGHT  
15 MILLION DOLLARS, AND contingent upon the availability of federal finan-  
16 cial participation:

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

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

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

25 (a) The commissioner shall adjust inpatient medical assistance rates  
26 of payment established pursuant to this section for rural hospitals as  
27 defined in paragraph (c) of subdivision one of section twenty-eight  
28 hundred seven-w of this article in accordance with paragraph (b) of this  
29 subdivision for purposes of supporting critically needed health care  
30 services in rural areas in the following aggregate amounts for the  
31 following periods:

32 seven million dollars for the period May first, two thousand five  
33 through December thirty-first, two thousand five, seven million dollars  
34 for the period January first, two thousand six through December thirty-  
35 first, two thousand six, seven million dollars for the period April  
36 first, two thousand seven through December thirty-first, two thousand  
37 seven, [and] seven million dollars for [each] calendar year [thereafter]  
38 TWO THOUSAND EIGHT, AND SIX MILLION FOUR HUNDRED SEVENTEEN THOUSAND  
39 DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND NINE THROUGH NOVEMBER  
40 THIRTIETH, TWO THOUSAND NINE.

41 S 58. Subparagraph (ii) of paragraph (k) of subdivision 1 of section  
42 2807-c of the public health law, as amended by section 30-a of part B of  
43 chapter 58 of the laws of 2008, is amended to read as follows:

44 (ii) for the period April first, two thousand eight through March  
45 thirty-first, two thousand nine, and each state fiscal year thereafter  
46 through [March thirty-first, two thousand eleven] NOVEMBER THIRTIETH,  
47 TWO THOUSAND NINE, thirty-eight million dollars shall be allocated ON AN  
48 ANNUALIZED BASIS for such purpose to such hospitals in accordance with  
49 [regulations promulgated by the commissioner and which shall provide]  
50 THE METHODOLOGY SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH,  
51 PROVIDED, HOWEVER, that [up to] thirty percent of such funds shall be  
52 allocated proportionally, based on the number of foreign languages  
53 utilized by one or more percent of the residents in each hospital total  
54 service area population, PROVIDED, HOWEVER, THAT FOR THE PERIOD APRIL  
55 FIRST, TWO THOUSAND NINE THROUGH NOVEMBER THIRTIETH, TWO THOUSAND NINE,



1 SUCH ALLOCATION SHALL BE REDUCED TO TWENTY-FIVE MILLION THREE HUNDRED  
2 THIRTY-THREE THOUSAND DOLLARS.

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

7 Notwithstanding any inconsistent provision of paragraph (e) of this  
8 subdivision or any other contrary provision of law and subject to the  
9 availability of federal financial participation, per diem rates of  
10 payment by governmental agencies for a general hospital or a distinct  
11 unit of a general hospital for inpatient psychiatric services that would  
12 otherwise be subject to the provisions of paragraph (e) of this subdivi-  
13 sion[, and rates of payment for outpatient psychiatric services provided  
14 by such facilities as specified in this paragraph,] shall, with regard  
15 to days of service [and visits] ASSOCIATED WITH ADMISSIONS occurring on  
16 and after [December first, two thousand nine,] APRIL FIRST, TWO THOUSAND  
17 TEN, be in accordance with the following:

18 (i) For rate periods on and after [December first, two thousand nine]  
19 APRIL FIRST, TWO THOUSAND TEN, the commissioner, in consultation with  
20 the commissioner of the office of mental health, shall promulgate regu-  
21 lations, and may promulgate emergency regulations, establishing method-  
22 ologies for determining the operating cost components of rates of  
23 payments for services described in this paragraph. Such regulations  
24 shall utilize two thousand five operating costs as submitted to the  
25 department prior to [December first, two thousand eight] JULY FIRST, TWO  
26 THOUSAND NINE and shall provide for methodologies establishing per diem  
27 inpatient rates that utilize case mix adjustment mechanisms [and provide  
28 for post-discharge referral to outpatient services]. Such regulations  
29 shall contain criteria for adjustments based on length of stay.

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

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

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

46 S 61. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section  
47 2807 of the public health law, as amended by section 16-a of part C of  
48 chapter 58 of the laws of 2009, is amended to read as follows:

49 (ii) notwithstanding the provisions of paragraphs (a) and (b) of this  
50 subdivision, for periods on and after January first, two thousand nine,  
51 the following services provided by general hospital outpatient depart-  
52 ments and diagnostic and treatment centers shall be reimbursed with  
53 rates of payment based entirely upon the ambulatory patient group meth-  
54 odology as described in paragraph (e) of this subdivision, provided,  
55 however, that the commissioner may utilize existing payment methodol-  
56 ogies or may promulgate regulations establishing alternative payment

1 methodologies for one or more of the services specified in [clauses (C)  
2 and (D) of] this subparagraph, effective for periods on and after March  
3 first, two thousand nine:

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

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

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

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

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

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

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

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

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

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

45 S 63. Intentionally omitted.

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

50 (i) for the period [March] SEPTEMBER first, two thousand nine through  
51 [December first] NOVEMBER THIRTIETH, two thousand nine, seventy-five  
52 percent of such rates of payment for services provided by each diagnos-  
53 tic and treatment center and each free-standing ambulatory surgery  
54 center shall reflect the average Medicaid payment per claim, as deter-  
55 mined by the commissioner, for services provided by that facility in the  
56 two thousand seven calendar year, but excluding any payments for

1 services covered by the facility's licensure, if any, under the mental  
2 hygiene law, and twenty-five percent of such rates of payment shall, for  
3 the operating cost component, reflect the utilization of the ambulatory  
4 patient groups reimbursement methodology described in paragraph (e) of  
5 this subdivision;

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

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

19 (s) smoking cessation counseling services for pregnant women on any  
20 day of pregnancy through the end of the month in which the one hundred  
21 eightieth day following the end of the pregnancy occurs, and children  
22 and adolescents ten to [nineteen] TWENTY years of age, during a medical  
23 visit when provided by a general hospital outpatient department or a  
24 free-standing clinic, or by a physician, registered physician's assist-  
25 ant, registered nurse practitioner or licensed midwife in office-based  
26 settings; provided, however, that the provisions of this paragraph  
27 relating to smoking cessation counseling services shall not take effect  
28 unless all necessary approvals under federal law and regulation have  
29 been obtained to receive federal financial participation in the costs of  
30 such services.

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

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

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

43 7-a. Sections fifty-eight, fifty-eight-a and fifty-eight-b shall take  
44 effect January 1, 2007 [and shall expire and be deemed repealed January  
45 1, 2011].

46 S 67-a. Paragraph (d) of subdivision 3 of section 367-a of the social  
47 services law, as added by chapter 33 of the laws of 1998, subparagraphs  
48 1 and 2 as amended by section 2 of part G of chapter 23 of the laws of  
49 2002, is amended to read as follows:

50 (d) (1) Beginning April first, two thousand two and to the extent that  
51 federal financial participation is available at a one hundred percent  
52 federal Medical assistance percentage and subject to sections 1933 and  
53 1902(a)(10)(E)(iv) of the federal social security act, medical assist-  
54 ance shall be available for full payment of medicare part B premiums for  
55 individuals (referred to as qualified individuals 1) who are entitled to  
56 hospital insurance benefits under part A of title XVIII of the federal

1 social security act and whose income exceeds the income level estab-  
2 lished by the state and is at least one hundred twenty percent, but less  
3 than one hundred thirty-five percent, of the federal poverty level, for  
4 a family of the size involved and who are not otherwise eligible for  
5 medical assistance under the state plan;

6 (2) [Beginning April first, two thousand two and to the extent that  
7 federal financial participation is available at a one hundred percent  
8 federal Medical assistance percentage and subject to sections 1933 and  
9 1902(a)(10)(E)(iv) of the federal social security act, medical assist-  
10 ance shall be available for payment of that portion of the medicare part  
11 B premium increase that is attributable to the operation of the amend-  
12 ments made by section 4611(e)(3) of the balanced budget act of 1997, for  
13 individuals (referred to as qualified individuals 2) who are entitled to  
14 hospital insurance benefits under part A of title XVIII of the federal  
15 social security act and whose income exceeds the income level estab-  
16 lished by the state and is at least one hundred thirty-five percent, but  
17 less than one hundred seventy-five percent, of the federal poverty  
18 level, for a family of the size involved and who are not otherwise  
19 eligible for medical assistance under the state plan;

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

26 [(4)] (3) The commissioner of health shall develop a simplified appli-  
27 cation form, consistent with federal law, for payments pursuant to this  
28 section. The commissioner of health, in cooperation with the office for  
29 the aging, shall publicize the availability of such payments to medicare  
30 beneficiaries.

31 S 68. Section 2 of chapter 33 of the laws of 1998, amending the social  
32 services law relating to authorizing payment of medicare part B premiums  
33 to certain medicaid recipients, as amended by chapter 415 of the laws of  
34 2008, is amended to read as follows:

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

39 S 69. Intentionally omitted.

40 S 70. Notwithstanding any inconsistent provision of law, rule or regu-  
41 lation, for purposes of implementing the provisions of the public health  
42 law and the social services law, references to titles XIX and XXI of the  
43 federal social security act in the public health law and the social  
44 services law shall be deemed to include and also to mean any successor  
45 titles thereto under the federal social security act.

46 S 71. Notwithstanding any inconsistent provision of law, rule or regu-  
47 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
48 the public health law, section 18 of chapter 2 of the laws of 1988, and  
49 18 NYCRR 505.14(h), as they relate to time frames for notice, approval  
50 or certification of rates of payment, are hereby suspended and without  
51 force or effect for purposes of implementing the provisions of this act.

52 S 72. Severability clause. If any clause, sentence, paragraph, subdi-  
53 vision, section or part of this act shall be adjudged by any court of  
54 competent jurisdiction to be invalid, such judgment shall not affect,  
55 impair or invalidate the remainder thereof, but shall be confined in its  
56 operation to the clause, sentence, paragraph, subdivision, section or

part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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

(a) section twelve of this act shall take effect June 1, 2010; sections thirty-two and thirty-three of this act shall take effect July 1, 2010; and sections forty-seven and forty-seven-a of this act shall take effect November 1, 2010;

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

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

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

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

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

(g) the amendments to paragraph (d) of subdivision 18 of section 2807-c of the public health law made by section seven-d of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith;

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

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

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

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

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

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

(n) the amendments to paragraph (d) of subdivision 3 of section 367-a of the social services law made by section sixty-seven-a of this act

1 shall not affect the repeal of such paragraph and shall be deemed  
2 repealed therewith.

3 PART C

4 Section 1. Subdivision 17 of section 2808 of the public health law, as  
5 added by chapter 433 of the laws of 1997, is amended to read as follows:  
6 17. (A) Notwithstanding any inconsistent provision of law or regu-  
7 lation to the contrary, for the period April first, nineteen hundred  
8 ninety-seven through March thirty-first, nineteen hundred ninety-eight,  
9 the commissioner shall not be required to revise a certified rate of  
10 payment established pursuant to this article based on consideration of  
11 rate appeals filed by a residential health care facility or based upon  
12 adjustments to capital cost reimbursement as a result of approval by the  
13 commissioner of an application for construction under section twenty-  
14 eight hundred two of this article. For the period April first, nineteen  
15 hundred ninety-eight, through March thirty-first, nineteen hundred nine-  
16 ty-nine, the commissioner shall revise certified rates of payment in an  
17 aggregate amount not to exceed twenty million dollars, state share  
18 medical assistance. In cases where the commissioner determines that a  
19 significant financial hardship exists, he or she may, subject to the  
20 approval of the director of the budget, consider an exemption to this  
21 subdivision. Beginning April first, nineteen hundred ninety-nine and  
22 thereafter, the commissioner shall consider such rate appeals within a  
23 reasonable period.

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

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

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

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

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

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

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

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

(vi) Notwithstanding any contrary provision of this paragraph or any other provision of law or regulation to the contrary, for residential health care facilities the assessment shall be six percent of each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for the period April first, two thousand two through March thirty-first, two thousand three for hospital or health-related services, including adult day services; provided, however, that residential health care facilities' gross receipts attributable to payments received pursuant to title XVIII of the federal social security act (medicare) shall be excluded from the assessment; provided, however, that for all such gross receipts received on or after April first, two thousand three through March thirty-first, two thousand five, such assessment shall be five percent, and further provided that for all such gross receipts received on or after April first, two thousand five through March thirty-first, two thousand nine, and on or after April first, two thousand nine through March thirty-first, two thousand [eleven] TEN, such assessment shall be six percent, AND PROVIDED FURTHER, HOWEVER, THAT ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, SUCH ASSESSMENT SHALL BE SEVEN PERCENT.

S 4. Intentionally omitted.

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

(i) Subject to the provisions of subparagraphs (ii) through (xiv) of this paragraph, for periods on and after April first, two thousand nine [through March thirty-first, two thousand ten] the operating cost component of rates of payment shall reflect allowable operating costs as reported in each facility's cost report for the two thousand two calendar year, as adjusted for inflation on an annual basis in accordance with the methodology set forth in paragraph (c) of subdivision ten of section twenty-eight hundred seven-c of this article, provided, however, that for those facilities which do not receive a per diem add-on adjustment pursuant to subparagraph (ii) of paragraph (a) of this subdivision, rates shall be further adjusted to include the proportionate benefit, as determined by the commissioner, of the expiration of the opening paragraph and paragraph (a) of subdivision sixteen of this section and of paragraph (a) of subdivision fourteen of this section, and provided further that the operating cost component of rates of payment for those facilities which did not receive a per diem adjustment in accordance with subparagraph (ii) of paragraph (a) of this subdivision shall not be less than the operating component such facilities received in the two

1 thousand eight rate period, as adjusted for inflation on an annual basis  
2 in accordance with the methodology set forth in paragraph (c) of subdivi-  
3 sion ten of section twenty-eight hundred seven-c of this article and  
4 further provided, however, that rates for facilities whose operating  
5 cost component reflects base year costs subsequent to January first, two  
6 thousand two shall have rates computed in accordance with this para-  
7 graph, utilizing allowable operating costs as reported in such subse-  
8 quent base year period, and trended forward to the rate year in accord-  
9 ance with applicable inflation factors.

10 S 5-a. Intentionally omitted.

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

14 S 2. Notwithstanding paragraph (b) of subdivision 2-b of section 2808  
15 of the public health law or any other contrary provision of law, with  
16 regard to adjustments to medicaid rates of payment for inpatient  
17 services provided by residential health care facilities for the period  
18 April 1, 2009 through March 31, 2010, made pursuant to paragraph (b) of  
19 subdivision 2-b of section 2808 of the public health law, the commis-  
20 sioner of health and the director of the budget shall, upon a determi-  
21 nation that such adjustments, including the application of adjustments  
22 authorized by the provisions of paragraph (g) of subdivision 2-b of  
23 section 2808 of the public health law, shall result in an aggregate  
24 increase in total Medicaid rates of payment for such services for such  
25 period that is less than or more than two hundred ten million dollars  
26 (\$210,000,000), make such proportional adjustments to such rates as are  
27 necessary to result in an increase of such aggregate expenditures of two  
28 hundred ten million dollars (\$210,000,000), [and provided further,  
29 however, that the operating component of such rates for the period April  
30 1, 2009 through March 31, 2010 shall not be subject to case mix adjust-  
31 ments pursuant to subparagraph (ii) of paragraph (b) of subdivision 2-b  
32 of section 2808 of the public health law, as otherwise scheduled pursu-  
33 ant to such subparagraph for January of 2010,] and provided further,  
34 however, that notwithstanding [subdivision 2-c of] section 2808 of the  
35 public health law or any other contrary provision of law, with regard to  
36 adjustments to inpatient rates of payment made pursuant to [subdivision  
37 2-c of] section 2808 of the public health law for inpatient services  
38 provided by residential health care facilities for the period April 1,  
39 2010 through March 31, 2011, the commissioner of health and the director  
40 of the budget shall, upon a determination by such commissioner and such  
41 director that such rate adjustments shall, prior to the application of  
42 any applicable adjustment for inflation, result in an aggregate increase  
43 in total Medicaid rates of payment for such services, make such propor-  
44 tional adjustments to such rates as are necessary to reduce such total  
45 aggregate rate adjustments such that the aggregate total reflects no  
46 such increase. Adjustments made pursuant to this section shall not be  
47 subject to subsequent correction or reconciliation.

48 S 5-c. Intentionally omitted.

49 S 5-d. Subdivision 2-c of section 2808 of the public health law is  
50 REPEALED.

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

53 26. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, FOR RATE PERI-  
54 ODS ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, RESIDENTIAL HEALTH CARE  
55 FACILITY MEDICAID RATES OF PAYMENT SHALL NOT INCLUDE REIMBURSEMENT FOR  
56 THE COST OF PRESCRIPTION DRUGS. SUCH REIMBURSEMENT SHALL BE IN ACCORD-



ANCE WITH OTHERWISE APPLICABLE PROVISIONS OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

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

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

(D) PROVIDED, HOWEVER, THAT, SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PURPOSES OF DETERMINING RATES OF PAYMENT PURSUANT TO THIS ARTICLE FOR CERTIFIED HOME HEALTH AGENCIES AND LONG-TERM HOME HEALTH CARE PROGRAMS, THE ASSESSMENT IMPOSED PURSUANT TO THIS SECTION SHALL, INsofar AS SUCH ASSESSMENT IS IN EXCESS OF THIRTY-FIVE HUNDREDTHS OF ONE PERCENT OF EACH SUCH CERTIFIED HOME HEALTH AGENCY AND LONG-TERM HOME HEALTH CARE PROGRAM'S GROSS RECEIPTS, BE A REIMBURSABLE COST TO BE REFLECTED AS TIMELY AS PRACTICABLE, AND SUBSEQUENTLY RECONCILED TO ACTUAL COST, IN RATES OF PAYMENT APPLICABLE WITHIN THE ASSESSMENT PERIOD.

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

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

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

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

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

(G) DELINQUENT AMOUNTS WHICH HAVE BEEN REFERRED FOR RECOUPMENT OR OFFSET PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, OR WHICH HAVE BEEN REFERRED TO THE OFFICE OF THE ATTORNEY GENERAL FOR COLLECTION, SHALL BE DEEMED FINAL AND NOT SUBJECT TO FURTHER REVISION OR RECONCILIATION BY THE COMMISSIONER BASED ON ANY ADDITIONAL REPORTS OR OTHER INFORMATION

1 SUBMITTED BY THE AGENCY, PROVIDED, HOWEVER, THAT SUCH DELINQUENCIES  
2 SHALL NOT BE REFERRED FOR SUCH RECOUPMENT OR FOR SUCH COLLECTION BASED  
3 ON ESTIMATED AMOUNTS UNLESS THE AGENCY HAS RECEIVED WRITTEN NOTIFICATION  
4 OF SUCH DELINQUENCIES AND HAS BEEN GIVEN NO LESS THAN THIRTY DAYS IN  
5 WHICH TO SUBMIT DELINQUENT REPORTS.

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

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

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

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

29 S 13. Intentionally omitted.

30 S 13-a. Intentionally omitted.

31 S 13-b. Intentionally omitted.

32 S 14. Intentionally omitted.

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

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

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

1 S 17. Intentionally omitted.

2 S 18. Intentionally omitted.

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

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

5. THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT WITH A PRIVATE ENTITY TO ASSIST IN THE ADMINISTRATION OF THE DEMONSTRATION PROGRAM ESTABLISHED BY THIS SECTION. SUCH A CONTRACT MAY INCLUDE, WITHOUT LIMITATION, ASSISTANCE IN THE DEVELOPMENT OF THE CRITERIA FOR THE DEFINED PRIVATE CONTRIBUTION, DRAFTING OF THE DEFINED CONTRIBUTION AGREEMENT, ACCEPTING AND PROCESSING APPLICATIONS FOR DEMONSTRATION PARTICIPATION UNDER THIS SECTION, AND ACCEPTING AND PROCESSING APPLICATIONS FOR MEDICAL ASSISTANCE FOR DEMONSTRATION PARTICIPANTS. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT UNDER THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

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

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

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

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

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

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

(II) EXPANSION OF SENIOR HOUSING;

(III) ASSISTED LIVING PROGRAM;

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

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

3. A COUNTY WISHING TO PARTICIPATE IN THE DEMONSTRATION PROGRAM ESTABLISHED 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 COMMISSION-  
3 ER. 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

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

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

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

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

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

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

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

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

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

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

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

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. Intentionally omitted.

48 S 29. Notwithstanding any inconsistent provision of law, rule or regu-  
49 lation, for purposes of implementing the provisions of the public health  
50 law and the social services law, references to titles XIX and XXI of the  
51 federal social security act in the public health law and the social  
52 services law shall be deemed to include and also to mean any successor  
53 titles thereto under the federal social security act.

54 S 30. Notwithstanding any inconsistent provision of law, rule or regu-  
55 lation, the effectiveness of the provisions of sections 2807 and 3614 of  
56 the public health law, section 18 of chapter 2 of the laws of 1988, and

18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

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

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

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

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

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

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

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

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

#### PART D

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

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

AN INSURER SHALL SEND WRITTEN NOTICE OF THE PROPOSED RATE ADJUSTMENT, INCLUDING THE SPECIFIC CHANGE REQUESTED, TO EACH POLICY HOLDER AND CERTIFICATE HOLDER AFFECTED BY THE ADJUSTMENT AT LEAST NINETY DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE. THE NOTICE SHALL PROMINENTLY INCLUDE MAILING AND WEBSITE ADDRESSES FOR BOTH THE INSURANCE DEPARTMENT AND THE INSURER THROUGH WHICH A PERSON MAY CONTACT THE INSURANCE DEPARTMENT OR



1 INSURER TO RECEIVE ADDITIONAL INFORMATION OR TO SUBMIT WRITTEN COMMENTS  
2 TO THE INSURANCE DEPARTMENT ON THE RATE FILING OR APPLICATION. The  
3 superintendent shall determine whether the filing or application shall  
4 become effective as filed, shall become effective as modified, or shall  
5 be disapproved. THE SUPERINTENDENT MAY MODIFY OR DISAPPROVE THE RATE  
6 FILING OR APPLICATION IF THE SUPERINTENDENT FINDS THAT THE PREMIUMS ARE  
7 UNREASONABLE, EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY, AND MAY  
8 CONSIDER THE FINANCIAL CONDITION OF THE INSURER WHEN APPROVING, MODIFY-  
9 ING OR DISAPPROVING ANY PREMIUM ADJUSTMENT. THE DETERMINATION OF THE  
10 SUPERINTENDENT SHALL BE SUPPORTED BY SOUND ACTUARIAL ASSUMPTIONS AND  
11 METHODS, AND SHALL BE RENDERED IN WRITING WITHIN NINETY DAYS FOLLOWING  
12 THE DATE UPON WHICH THE RATE FILING OR APPLICATION IS RECEIVED. SHOULD  
13 THE SUPERINTENDENT REQUIRE ADDITIONAL INFORMATION FROM THE INSURER IN  
14 ORDER TO MAKE A DETERMINATION, HE OR SHE SHALL REQUEST SUCH INFORMATION  
15 IN WRITING WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE RATE FILING OR  
16 APPLICATION. IN THE EVENT THE SUPERINTENDENT HAS REQUESTED ADDITIONAL  
17 INFORMATION, HE OR SHE MAY TAKE AN ADDITIONAL TWENTY DAYS FROM THE DATE  
18 UPON WHICH SUCH ADDITIONAL INFORMATION IS RECEIVED. THE APPLICATION OR  
19 RATE FILING WILL BE DEEMED APPROVED IF A DETERMINATION IS NOT RENDERED  
20 WITHIN THE TIME ALLOTTED UNDER THIS SECTION. AN INSURER SHALL NOT  
21 IMPLEMENT A RATE ADJUSTMENT UNLESS THE INSURER PROVIDES AT LEAST SIXTY  
22 DAYS ADVANCE WRITTEN NOTICE OF THE PREMIUM RATE ADJUSTMENT APPROVED BY  
23 THE SUPERINTENDENT TO EACH POLICY HOLDER AND CERTIFICATE HOLDER AFFECTED  
24 BY THE RATE ADJUSTMENT.

25 (B) UPON RECEIPT OF A RATE FILING OR APPLICATION BY OR ON BEHALF OF AN  
26 INSURER THAT, TOGETHER WITH ANY OTHER RATE ADJUSTMENTS IMPOSED DURING A  
27 CONTINUOUS TWELVE-MONTH PERIOD, WOULD CAUSE AN AGGREGATE INCREASE IN  
28 PREMIUMS FOR THAT POLICY FORM OF MORE THAN TEN PERCENT, THE SUPERINTEN-  
29 DENT SHALL ORDER THAT A PUBLIC HEARING BE HELD AT THE INSURER'S EXPENSE.  
30 THE PUBLIC HEARING SHALL BE HELD NO LATER THAN SIXTY DAYS FROM THE DATE  
31 UPON WHICH THE RATE FILING OR APPLICATION WAS RECEIVED. THE WRITTEN  
32 NOTICE REQUIRED BY SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL INCLUDE  
33 NOTICE OF THE PUBLIC HEARING. THE INSURER SHALL ALSO PUBLISH NOTICE OF  
34 SUCH HEARING ON THREE SUCCESSIVE DAYS IN AT LEAST ONE NEWSPAPER HAVING  
35 GENERAL CIRCULATION IN EACH COUNTY WHERE PERSONS AFFECTED BY THE  
36 PROPOSED CHANGE RESIDE. THE NOTICE OF HEARING SHALL BE SUBJECT TO THE  
37 SUPERINTENDENT'S PRIOR APPROVAL, AND SHALL STATE THE DATE, TIME AND  
38 PLACE OF THE HEARING (AS SCHEDULED BY THE SUPERINTENDENT), THE PURPOSE  
39 THEREOF, THE CHANGES PROPOSED, THE POLICY FORMS AFFECTED, AND THE  
40 PROPOSED EFFECTIVE DATE OF THE CHANGES. THE NOTICE OF HEARING SHALL ALSO  
41 PROMINENTLY INCLUDE TOLL-FREE TELEPHONE NUMBERS AND MAILING AND WEBSITE  
42 ADDRESSES FOR BOTH THE INSURANCE DEPARTMENT AND THE INSURER THROUGH  
43 WHICH A PERSON MAY CONTACT THE INSURANCE DEPARTMENT OR INSURER TO  
44 RECEIVE ADDITIONAL INFORMATION OR TO SUBMIT WRITTEN COMMENTS TO THE  
45 INSURANCE DEPARTMENT ON THE RATE FILING OR APPLICATION. THE DATE SPECI-  
46 FIED FOR THE HEARING SHALL NOT BE LESS THAN TEN NOR MORE THAN THIRTY  
47 DAYS FROM THE DATE OF THE LAST PUBLICATION OF THE NOTICE OF THE HEARING.  
48 UPON CONCLUSION OF THE PUBLIC HEARING, THE SUPERINTENDENT SHALL RENDER A  
49 WRITTEN DETERMINATION AS TO WHETHER THE RATE FILING OR APPLICATION SHALL  
50 BECOME EFFECTIVE AS FILED, SHALL BECOME EFFECTIVE AS MODIFIED, OR SHALL  
51 BE DISAPPROVED.

52 (C) THE EXPECTED MINIMUM LOSS RATIO FOR A POLICY FORM SUBJECT TO THIS  
53 SECTION, FOR WHICH A RATE FILING OR APPLICATION IS MADE PURSUANT TO THIS  
54 PARAGRAPH, OTHER THAN A MEDICARE SUPPLEMENTAL INSURANCE POLICY, OR, WITH  
55 THE APPROVAL OF THE SUPERINTENDENT, AN AGGREGATION OF POLICY FORMS THAT  
56 ARE COMBINED INTO ONE COMMUNITY RATING EXPERIENCE POOL AND RATED

1 CONSISTENT WITH COMMUNITY RATING REQUIREMENTS, SHALL NOT BE LESS THAN  
2 EIGHTY-TWO PERCENT. IN REVIEWING A RATE FILING OR APPLICATION, THE  
3 SUPERINTENDENT MAY MODIFY THE EIGHTY-TWO PERCENT EXPECTED MINIMUM LOSS  
4 RATIO REQUIREMENT IF THE SUPERINTENDENT DETERMINES THE MODIFICATION TO  
5 BE IN THE INTERESTS OF THE PEOPLE OF THIS STATE OR IF THE SUPERINTENDENT  
6 DETERMINES THAT A MODIFICATION IS NECESSARY TO MAINTAIN INSURER SOLVEN-  
7 CY. NO LATER THAN JUNE THIRTIETH OF EACH YEAR, EVERY INSURER SUBJECT TO  
8 THIS SUBPARAGRAPH SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR THE  
9 PREVIOUS CALENDAR YEAR IN A FORMAT ACCEPTABLE TO THE SUPERINTENDENT. IF  
10 AN EXPECTED LOSS RATIO IS NOT MET, THE SUPERINTENDENT MAY DIRECT THE  
11 INSURER TO TAKE CORRECTIVE ACTION, WHICH MAY INCLUDE THE SUBMISSION OF A  
12 RATE FILING TO REDUCE FUTURE PREMIUMS, OR TO ISSUE DIVIDENDS, PREMIUM  
13 REFUNDS OR CREDITS, OR ANY COMBINATION OF THESE.

14 (2) (A) [Beginning October first, nineteen hundred ninety-four] UNTIL  
15 SEPTEMBER THIRTIETH, TWO THOUSAND TEN, as an alternate procedure to the  
16 requirements of paragraph one of this subsection, an insurer desiring to  
17 increase or decrease premiums for any policy form subject to this  
18 section may instead submit a rate filing or application to the super-  
19 intendent and such application or filing shall be deemed approved,  
20 provided that: (i) the anticipated minimum loss ratio for a policy form  
21 shall not be less than [seventy-five] EIGHTY-TWO percent of the premi-  
22 um[,]; and (ii) the insurer submits, as part of such filing, a certif-  
23 ication by a member of the American Academy of Actuaries or other indi-  
24 vidual acceptable to the superintendent that the insurer is in  
25 compliance with the provisions of this paragraph, based upon that  
26 person's examination, including a review of the appropriate records and  
27 of the actuarial assumptions and methods used by the insurer in estab-  
28 lishing premium rates for policy forms subject to this section. AN  
29 INSURER SHALL NOT UTILIZE THE ALTERNATE PROCEDURE PURSUANT TO THIS PARA-  
30 GRAPH TO IMPLEMENT A CHANGE IN RATES TO BE EFFECTIVE ON OR AFTER OCTOBER  
31 FIRST, TWO THOUSAND TEN.

32 (B) Each calendar year, an insurer shall return, in the form of aggre-  
33 gate benefits for each policy form filed pursuant to the alternate  
34 procedure set forth in this paragraph at least [seventy-five] EIGHTY-TWO  
35 percent of the aggregate premiums collected for the policy form during  
36 that calendar year. Insurers shall annually report, no later than [May  
37 first] JUNE THIRTIETH of each year, the loss ratio calculated pursuant  
38 to this paragraph for each such policy form for the previous calendar  
39 year. In each case where the loss ratio for a policy form fails to  
40 comply with the [seventy-five] EIGHTY-TWO percent loss ratio require-  
41 ment, the insurer shall issue a dividend or credit against future premi-  
42 ums for all policy holders with that policy form in an amount sufficient  
43 to assure that the aggregate benefits paid in the previous calendar year  
44 plus the amount of the dividends and credits shall equal [seventy-five]  
45 EIGHTY-TWO percent of the aggregate premiums collected for the policy  
46 form in the previous calendar year. The dividend or credit shall be  
47 issued to each policy holder who had a policy which was in effect at any  
48 time during the applicable year. The dividend or credit shall be  
49 prorated based on the direct premiums earned for the applicable year  
50 among all policy holders eligible to receive such dividend or credit. An  
51 insurer shall make a reasonable effort to identify the current address  
52 of, and issue dividends or credits to, former policy holders entitled to  
53 the dividend or credit. An insurer shall, with respect to dividends or  
54 credits to which former policy holders that the insurer is unable to  
55 identify after a reasonable effort would otherwise be entitled, have the  
56 option, as deemed acceptable by the superintendent, of prospectively

1 adjusting premium rates by the amount of such dividends or credits,  
2 issuing the amount of such dividends or credits to existing policy hold-  
3 ers, depositing the amount of such dividends or credits in the fund  
4 established pursuant to section four thousand three hundred twenty-two-a  
5 of this chapter, or utilizing any other method which offsets the amount  
6 of such dividends or credits. All dividends and credits must be  
7 distributed by September thirtieth of the year following the calendar  
8 year in which the loss ratio requirements were not satisfied. The annual  
9 report required by this paragraph shall include an insurer's calculation  
10 of the dividends and credits, as well as an explanation of the insurer's  
11 plan to issue dividends or credits. The instructions and format for  
12 calculating and reporting loss ratios and issuing dividends or credits  
13 shall be specified by the superintendent by regulation. Such regulations  
14 shall include provisions for the distribution of a dividend or credit in  
15 the event of cancellation or termination by a policy holder.

16 (3) ALL POLICY FORMS SUBJECT TO THIS SUBSECTION, OTHER THAN MEDICARE  
17 SUPPLEMENTAL INSURANCE POLICY FORMS, ISSUED OR IN EFFECT DURING CALENDAR  
18 YEAR TWO THOUSAND TEN SHALL BE SUBJECT TO A MINIMUM LOSS RATIO REQUIRE-  
19 MENT OF EIGHTY-TWO PERCENT. INSURERS MAY USE THE ALTERNATE FILING PROCE-  
20 DURE SET FORTH IN PARAGRAPH TWO OF THIS SUBSECTION TO ADJUST PREMIUM  
21 RATES IN ORDER TO MEET THE REQUIRED MINIMUM LOSS RATIO FOR CALENDAR YEAR  
22 TWO THOUSAND TEN. THE RATE FILING OR APPLICATION SHALL BE SUBMITTED NO  
23 LATER THAN SEPTEMBER THIRTIETH, TWO THOUSAND TEN.

24 S 2. Section 4308 of the insurance law, subsection (b) as amended and  
25 subsections (d), (e) and (f) as added by chapter 501 of the laws of  
26 1992, paragraph 3 of subsection (c) as amended by chapter 520 of the  
27 laws of 1999, subsections (g), (h), (i) and (j) as added by chapter 504  
28 of the laws of 1995 and paragraph 2 of subsection (h) as amended by  
29 chapter 237 of the laws of 2009, is amended to read as follows:

30 S 4308. Supervision of superintendent; public hearings. (a) No corpo-  
31 ration subject to the provisions of this article shall enter into any  
32 contract unless and until it shall have filed with the superintendent a  
33 copy of the contract or certificate and of all applications, riders and  
34 endorsements for use in connection with the issuance or renewal thereof,  
35 to be formally approved by him as conforming to the applicable  
36 provisions of this article and not inconsistent with any other provision  
37 of law applicable thereto. The superintendent shall, within a reasonable  
38 time after the filing of any such form, notify the corporation filing  
39 the same either of his approval or of his disapproval of such form.

40 (b) No corporation subject to the provisions of this article shall  
41 enter into any contract unless and until it shall have filed with the  
42 superintendent a schedule of the premiums or, if appropriate, rating  
43 formula from which premiums are determined, to be paid under the  
44 contracts and shall have obtained the superintendent's approval thereof.  
45 The superintendent may refuse such approval if he finds that such premi-  
46 ums, or the premiums derived from the rating formula, are excessive,  
47 inadequate or unfairly discriminatory, provided, however, the super-  
48 intendent may also consider the financial condition of such corporation  
49 in approving or disapproving any premium or rating formula. ANY ADJUST-  
50 MENTS TO AN APPROVED SCHEDULE OF PREMIUMS OR TO THE APPROVED RATING  
51 FORMULA FOR NON-COMMUNITY RATED CONTRACTS SHALL ALSO BE SUBJECT TO THE  
52 APPROVAL OF THE SUPERINTENDENT PROVIDED, HOWEVER, SUCH ADJUSTMENTS SHALL  
53 NOT BE SUBJECT TO THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION.  
54 Any premium or formula approved by the superintendent shall make  
55 provision for such increase as may be necessary to meet the requirements  
56 of a plan approved by the superintendent in the manner prescribed in

1 section four thousand three hundred ten of this article for restoration  
2 of the statutory reserve fund required by such section. Notwithstanding  
3 any other provision of law, the superintendent, as part of the rate  
4 increase approval process, may defer, reduce or reject a rate increase  
5 if, in the judgment of the superintendent, the salary increases for  
6 senior level management executives employed at corporations subject to  
7 the provisions of this article are excessive or unwarranted given the  
8 financial condition or overall performance of such corporation. The  
9 superintendent is authorized to promulgate rules and regulations which  
10 the superintendent deems necessary to carry out such deferral, reduction  
11 or rejection.

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

19 (2) [Prior to any such filing or application by or on behalf of a  
20 corporation for an increase or decrease in premiums for such contracts,  
21 such corporation, when directed by the superintendent, shall conduct a  
22 public hearing with respect to the terms of such filing or application.  
23 Notice of such hearing shall be published on three successive days in at  
24 least two newspapers having general circulation within the territory or  
25 district wherein such corporation seeking approval of the filing is  
26 authorized to do business. The date specified for the hearing shall be  
27 not less than ten nor more than thirty days from the date of the first  
28 publication of the hearing. The notice of hearing shall state the  
29 purpose thereof, the time when and the place where the public hearing  
30 will be held. The public hearing shall be held at a time and location  
31 deemed by the superintendent to be most convenient to the greatest  
32 number of persons affected by such filing. At such hearing any person  
33 may be heard in favor of, or against, the terms of the filing or appli-  
34 cation.

35 (3) Following the public hearing held pursuant to paragraph two of  
36 this subsection, a transcript of the testimony therein shall be submit-  
37 ted together with a rate filing or application, to the superintendent.  
38 Upon receipt of such filing or application by or on behalf of a corpo-  
39 ration, the superintendent shall order that a public hearing be held  
40 with respect to the terms of such filing or application. Notice of such  
41 hearing shall be published on three successive days in at least two  
42 newspapers having general circulation within the territory or district  
43 wherein such corporation seeking approval of the filing or application  
44 is authorized to do business. For a corporation writing more than three  
45 billion dollars in premiums as of December thirty-first, nineteen  
46 hundred ninety-six and whose service territory is greater than ten coun-  
47 ties, such notice is to be published in at least one newspaper having  
48 general circulation in each county where persons in the service territo-  
49 ry are affected by the proposed change. The date specified for the hear-  
50 ing shall be not less than ten nor more than thirty days from the date  
51 of the last publication of the hearing. The notice of hearing shall also  
52 state the purpose thereof, the time when and the place where the public  
53 hearing will be held. For those corporations writing more than three  
54 billion dollars in premiums as of December thirty-first, nineteen  
55 hundred ninety-six, and whose territory is greater than ten counties,  
56 the notice of hearing shall also state the changes proposed, the

1 contracts to be affected and the time when such changes would take  
2 effect. The notice of hearing shall state, in prominent display, a toll-  
3 free telephone number of the insurance department that may be contacted  
4 to receive additional information on the subject rate application. The  
5 public hearing shall be held at a time and location deemed by the super-  
6 intendent to be most convenient to the greatest number of persons  
7 affected by such filing or application. A copy of such notice of hearing  
8 shall be forwarded by the superintendent by registered or certified mail  
9 to the principal address of the corporation seeking approval of such  
10 filing or application. The hearing may be continued or adjourned from  
11 day to day within the discretion of the superintendent. At such hearing  
12 any person may be heard in favor of, or against, the terms of the filing  
13 or application. After conclusion of the public hearing the superinten-  
14 dent shall render a written decision determining whether the filing or  
15 application shall become effective as filed, shall become effective as  
16 modified, or shall be disapproved. If, subsequent to the hearing, but  
17 prior to the issuing of the superintendent's written decision on a rate  
18 increase request, the corporation increases its requested rate for any  
19 contract by two percent or more, a re-hearing shall be held. The time,  
20 location, and notice requirements for such re-hearing shall be deter-  
21 mined by the superintendent.

22 (4)] (A) A CORPORATION DESIRING TO INCREASE OR DECREASE PREMIUMS FOR  
23 ANY CONTRACT SUBJECT TO THIS SUBSECTION SHALL SUBMIT A RATE FILING OR  
24 APPLICATION TO THE SUPERINTENDENT. A CORPORATION SHALL SEND WRITTEN  
25 NOTICE OF THE PROPOSED RATE ADJUSTMENT, INCLUDING THE SPECIFIC CHANGE  
26 REQUESTED, TO EACH CONTRACT HOLDER AND SUBSCRIBER AFFECTED BY THE  
27 ADJUSTMENT AT LEAST NINETY DAYS PRIOR TO THE PROPOSED EFFECTIVE DATE OF  
28 SUCH ADJUSTMENT. THE NOTICE SHALL PROMINENTLY INCLUDE MAILING AND  
29 WEBSITE ADDRESSES FOR BOTH THE INSURANCE DEPARTMENT AND THE CORPORATION  
30 THROUGH WHICH A PERSON MAY CONTACT THE INSURANCE DEPARTMENT OR CORPO-  
31 RATION TO RECEIVE ADDITIONAL INFORMATION OR TO SUBMIT WRITTEN COMMENTS  
32 TO THE INSURANCE DEPARTMENT ON THE RATE FILING OR APPLICATION. THE  
33 SUPERINTENDENT SHALL DETERMINE WHETHER THE FILING OR APPLICATION SHALL  
34 BECOME EFFECTIVE AS FILED, SHALL BECOME EFFECTIVE AS MODIFIED, OR SHALL  
35 BE DISAPPROVED. THE SUPERINTENDENT MAY MODIFY OR DISAPPROVE THE RATE  
36 FILING OR APPLICATION IF THE SUPERINTENDENT FINDS THAT THE PREMIUMS ARE  
37 UNREASONABLE, EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY, AND MAY  
38 CONSIDER THE FINANCIAL CONDITION OF THE CORPORATION IN APPROVING, MODI-  
39 FYING OR DISAPPROVING ANY PREMIUM ADJUSTMENT. THE DETERMINATION OF THE  
40 SUPERINTENDENT SHALL BE SUPPORTED BY SOUND ACTUARIAL ASSUMPTIONS AND  
41 METHODS, AND SHALL BE RENDERED IN WRITING WITHIN NINETY DAYS FOLLOWING  
42 THE DATE UPON WHICH THE RATE FILING OR APPLICATION IS RECEIVED. SHOULD  
43 THE SUPERINTENDENT REQUIRE ADDITIONAL INFORMATION FROM THE INSURER IN  
44 ORDER TO MAKE A DETERMINATION, HE OR SHE SHALL REQUEST SUCH INFORMATION  
45 IN WRITING WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE RATE FILING OR  
46 APPLICATION. IN THE EVENT THE SUPERINTENDENT HAS REQUESTED ADDITIONAL  
47 INFORMATION, HE OR SHE MAY TAKE AN ADDITIONAL TWENTY DAYS FROM THE DATE  
48 UPON WHICH SUCH ADDITIONAL INFORMATION IS RECEIVED. THE APPLICATION OR  
49 RATE FILING WILL BE DEEMED APPROVED IF A DETERMINATION IS NOT RENDERED  
50 WITHIN THE TIME ALLOTTED UNDER THIS SECTION. A CORPORATION SHALL NOT  
51 IMPLEMENT A RATE ADJUSTMENT UNLESS THE CORPORATION PROVIDES AT LEAST  
52 SIXTY DAYS ADVANCE WRITTEN NOTICE OF THE PREMIUM RATE ADJUSTMENT  
53 APPROVED BY THE SUPERINTENDENT TO EACH CONTRACT HOLDER AND SUBSCRIBER  
54 AFFECTED BY THE RATE ADJUSTMENT.

55 (B) UPON RECEIPT OF A RATE FILING OR APPLICATION BY OR ON BEHALF OF A  
56 CORPORATION THAT, TOGETHER WITH ANY OTHER RATE ADJUSTMENTS IMPOSED

1 DURING A CONTINUOUS TWELVE-MONTH PERIOD, WOULD CAUSE AN AGGREGATE  
2 INCREASE IN PREMIUMS FOR THAT CONTRACT FORM OF MORE THAN TEN PERCENT,  
3 THE SUPERINTENDENT SHALL ORDER THAT A PUBLIC HEARING BE HELD AT THE  
4 CORPORATION'S EXPENSE. THE PUBLIC HEARING SHALL BE HELD NO LATER THAN  
5 SIXTY DAYS FROM THE DATE UPON WHICH THE RATE FILING OR APPLICATION WAS  
6 RECEIVED. THE WRITTEN NOTICE REQUIRED BY SUBPARAGRAPH (A) OF THIS PARA-  
7 GRAPH SHALL INCLUDE NOTICE OF THE PUBLIC HEARING. THE CORPORATION SHALL  
8 ALSO PUBLISH NOTICE OF SUCH HEARING ON THREE SUCCESSIVE DAYS IN AT LEAST  
9 ONE NEWSPAPER HAVING GENERAL CIRCULATION IN EACH COUNTY WHERE PERSONS  
10 AFFECTED BY THE PROPOSED CHANGE RESIDE. THE NOTICE OF HEARING SHALL BE  
11 SUBJECT TO THE SUPERINTENDENT'S PRIOR APPROVAL, AND SHALL STATE THE  
12 DATE, TIME AND PLACE OF THE HEARING (AS SCHEDULED BY THE SUPERINTEN-  
13 DENT), THE PURPOSE THEREOF, THE CHANGES PROPOSED, THE CONTRACTS  
14 AFFECTED, AND THE PROPOSED EFFECTIVE DATE OF THE CHANGES. THE NOTICE OF  
15 HEARING SHALL ALSO PROMINENTLY INCLUDE TOLL-FREE TELEPHONE NUMBERS AND  
16 MAILING AND WEBSITE ADDRESSES FOR BOTH THE INSURANCE DEPARTMENT AND THE  
17 CORPORATION THROUGH WHICH A PERSON MAY CONTACT THE INSURANCE DEPARTMENT  
18 OR CORPORATION TO RECEIVE ADDITIONAL INFORMATION OR TO SUBMIT WRITTEN  
19 COMMENTS TO THE INSURANCE DEPARTMENT ON THE RATE FILING OR APPLICATION.  
20 THE DATE SPECIFIED FOR THE HEARING SHALL NOT BE LESS THAN TEN NOR MORE  
21 THAN THIRTY DAYS FROM THE DATE OF THE LAST PUBLICATION OF THE NOTICE OF  
22 THE HEARING. UPON CONCLUSION OF THE PUBLIC HEARING, THE SUPERINTENDENT  
23 SHALL RENDER A WRITTEN DETERMINATION AS TO WHETHER THE RATE FILING OR  
24 APPLICATION SHALL BECOME EFFECTIVE AS FILED, SHALL BECOME EFFECTIVE AS  
25 MODIFIED, OR SHALL BE DISAPPROVED.

26 (3)(A) THE EXPECTED MINIMUM LOSS RATIO FOR A CONTRACT FORM SUBJECT TO  
27 THIS SUBSECTION FOR WHICH A RATE FILING OR APPLICATION IS MADE PURSUANT  
28 TO THIS PARAGRAPH, OTHER THAN A MEDICARE SUPPLEMENTAL INSURANCE  
29 CONTRACT, OR, WITH THE APPROVAL OF THE SUPERINTENDENT, AN AGGREGATION OF  
30 CONTRACT FORMS THAT ARE COMBINED INTO ONE COMMUNITY RATING EXPERIENCE  
31 POOL AND RATED CONSISTENT WITH COMMUNITY RATING REQUIREMENTS, SHALL NOT  
32 BE LESS THAN EIGHTY-TWO PERCENT. IN REVIEWING A RATE FILING OR APPLICA-  
33 TION, THE SUPERINTENDENT MAY MODIFY THE EIGHTY-TWO PERCENT EXPECTED  
34 MINIMUM LOSS RATIO REQUIREMENT IF THE SUPERINTENDENT DETERMINES THE  
35 MODIFICATION TO BE IN THE INTERESTS OF THE PEOPLE OF THIS STATE OR IF  
36 THE SUPERINTENDENT DETERMINES THAT A MODIFICATION IS NECESSARY TO MAIN-  
37 TAIN INSURER SOLVENCY. NO LATER THAN JUNE THIRTIETH OF EACH YEAR, EVERY  
38 CORPORATION SUBJECT TO THIS SUBPARAGRAPH SHALL ANNUALLY REPORT THE ACTU-  
39 AL LOSS RATIO FOR THE PREVIOUS CALENDAR YEAR IN A FORMAT ACCEPTABLE TO  
40 THE SUPERINTENDENT. IF AN EXPECTED LOSS RATIO IS NOT MET, THE SUPER-  
41 INTENDENT MAY DIRECT THE CORPORATION TO TAKE CORRECTIVE ACTION, WHICH  
42 MAY INCLUDE THE SUBMISSION OF A RATE FILING TO REDUCE FUTURE PREMIUMS,  
43 OR TO ISSUE DIVIDENDS, PREMIUM REFUNDS OR CREDITS, OR ANY COMBINATION OF  
44 THESE.

45 (B) THE EXPECTED MINIMUM LOSS RATIO FOR A MEDICARE SUPPLEMENTAL INSUR-  
46 ANCE CONTRACT FORM SHALL NOT BE LESS THAN EIGHTY PERCENT. NO LATER THAN  
47 MAY FIRST OF EACH YEAR, EVERY CORPORATION SUBJECT TO THIS SUBPARAGRAPH  
48 SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR EACH CONTRACT FORM  
49 SUBJECT TO THIS SECTION FOR THE PREVIOUS CALENDAR YEAR IN A FORMAT  
50 ACCEPTABLE TO THE SUPERINTENDENT. IN EACH CASE WHERE THE LOSS RATIO FOR  
51 THE CONTRACT FORM FAILS TO COMPLY WITH THE EIGHTY PERCENT LOSS RATIO  
52 REQUIREMENT, THE CORPORATION SHALL SUBMIT A CORRECTIVE ACTION PLAN TO  
53 THE SUPERINTENDENT FOR ASSURING COMPLIANCE WITH THE APPLICABLE MINIMUM  
54 LOSS RATIO STANDARD. THE CORRECTIVE ACTION PLAN SHALL BE SUBMITTED TO  
55 THE SUPERINTENDENT WITHIN SIXTY DAYS OF THE CORPORATION'S SUBMISSION OF  
56 THE ANNUAL REPORT REQUIRED BY THIS SUBPARAGRAPH. THE CORPORATION'S PLAN

1 MAY UTILIZE PREMIUM REFUNDS OR CREDITS, SUBJECT TO THE APPROVAL OF THE  
2 SUPERINTENDENT.

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

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

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

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

32 (iii) assessing the effectiveness of the organizational and management  
33 structure and performance, including, but not limited to, possible  
34 improvement in the size, structure, composition and operation of the  
35 board of directors, productivity improvement, information systems,  
36 management development, personnel practices, mix and level of skills,  
37 personnel turnover, investment practices and rate of return upon invest-  
38 ment activities;

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

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

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

51 (vii) identifying and assessing specific transactions such as the  
52 procurement of reinsurance, sale of real property and the sale of future  
53 investment income to improve the financial condition of the corporation;  
54 and

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

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

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

32 (g)(1) [Beginning January first, nineteen hundred ninety-six] UNTIL  
33 SEPTEMBER THIRTIETH, TWO THOUSAND TEN, as an alternate procedure to the  
34 requirements of subsection (c) of this section, a corporation subject to  
35 the provisions of this article desiring to increase or decrease premiums  
36 for any contract subject to this section may instead submit a rate  
37 filing or application to the superintendent and such application or  
38 filing shall be deemed approved, provided that (A) the anticipated  
39 incurred loss ratio for a contract form shall not be less than eighty-  
40 five percent for individual direct payment contracts or [seventy-five]  
41 EIGHTY-TWO percent for small group and small group remittance contracts,  
42 nor, except in the case of individual direct payment contracts with a  
43 loss ratio of greater than one hundred five percent during nineteen  
44 hundred ninety-four, shall the loss ratio for any direct payment, group  
45 or group remittance contract be more than one hundred five percent of  
46 the anticipated earned premium, and (B) the corporation submits, as part  
47 of such filing, a certification by a member of the American Academy of  
48 Actuaries or other individual acceptable to the superintendent that that  
49 corporation is in compliance with the provisions of this subsection,  
50 based upon that person's examination, including a review of the appropriate  
51 records and of the actuarial assumptions and methods used by the  
52 corporation in establishing premium rates for contracts subject to this  
53 section. A CORPORATION SHALL NOT UTILIZE THE ALTERNATE PROCEDURE PURSU-  
54 ANT TO THIS SUBSECTION TO IMPLEMENT A CHANGE IN RATES TO BE EFFECTIVE ON  
55 OR AFTER OCTOBER FIRST, TWO THOUSAND TEN. For purposes of this section,



1 a small group is any group whose contract is subject to the requirements  
2 of section forty-three hundred seventeen of this article.

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

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

26 (2) In each case where the loss ratio for a contract form fails to  
27 comply with the eighty-five percent minimum loss ratio requirement for  
28 individual direct payment contracts, or the [seventy-five] EIGHTY-TWO  
29 percent minimum loss ratio requirement for small group and small group  
30 remittance contracts, as set forth in paragraph one of this subsection,  
31 the corporation shall issue a dividend or credit against future premiums  
32 for all contract holders with that contract form in an amount sufficient  
33 to assure that the aggregate benefits incurred in the previous calendar  
34 year plus the amount of the dividends and credits shall equal no less  
35 than eighty-five percent for individual direct payment contracts, or  
36 [seventy-five] EIGHTY-TWO percent for small group and small group remit-  
37 tance contracts, of the aggregate premiums earned for the contract form  
38 in the previous calendar year. The dividend or credit shall be issued to  
39 each contract holder or subscriber who had a contract that was in effect  
40 at any time during the applicable year. The dividend or credit shall be  
41 prorated based on the direct premiums earned for the applicable year  
42 among all contract holders or subscribers eligible to receive such divi-  
43 dend or credit. A corporation shall make a reasonable effort to identify  
44 the current address of, and issue dividends or credits to, former  
45 contract holders or subscribers entitled to the dividend or credit. A  
46 corporation shall, with respect to dividends or credits to which former  
47 contract holders that the corporation is unable to identify after a  
48 reasonable effort would otherwise be entitled, have the option, as  
49 deemed acceptable by the superintendent, of prospectively adjusting  
50 premium rates by the amount of such dividends or credits, issuing the  
51 amount of such dividends or credits to existing contract holders, depos-  
52 iting the amount of such dividends or credits in the fund established  
53 pursuant to section four thousand three hundred twenty-two-a of this  
54 article, or utilizing any other method which offsets the amount of such  
55 dividends or credits. All dividends and credits must be distributed by  
56 September thirtieth of the year following the calendar year in which the

1 loss ratio requirements were not satisfied. The annual report required  
2 by paragraph one of this subsection shall include a corporation's calcu-  
3 lation of the dividends and credits, as well as an explanation of the  
4 corporation's plan to issue dividends or credits. The instructions and  
5 format for calculating and reporting loss ratios and issuing dividends  
6 or credits shall be specified by the superintendent by regulation. Such  
7 regulations shall include provisions for the distribution of a dividend  
8 or credit in the event of cancellation or termination by a contract  
9 holder or subscriber.

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

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

35 (j) [The eighty-five percent minimum loss ratio for individual direct  
36 payment contracts described in subsections (g) and (h) of this section  
37 shall be reduced to eighty-two and one-half percent as of January first,  
38 nineteen hundred ninety-seven and shall be further reduced to eighty  
39 percent as of January first, nineteen hundred ninety-eight and thereaft-  
40 er. The refund or credit requirements for failure to meet minimum loss  
41 ratios will continue, but at these reduced percentages.] ALL COMMUNITY  
42 RATED CONTRACTS, OTHER THAN MEDICARE SUPPLEMENTAL INSURANCE CONTRACTS,  
43 ISSUED OR IN EFFECT DURING CALENDAR YEAR TWO THOUSAND TEN AND THEREAFTER  
44 SHALL BE SUBJECT TO A MINIMUM LOSS RATIO REQUIREMENT OF EIGHTY-TWO  
45 PERCENT. CORPORATIONS MAY USE THE ALTERNATE PROCEDURE SET FORTH IN  
46 SUBSECTION (G) OF THIS SECTION TO ADJUST PREMIUM RATES IN ORDER TO MEET  
47 THE REQUIRED MINIMUM LOSS RATIO FOR CALENDAR YEAR TWO THOUSAND TEN. THE  
48 RATE FILING OR APPLICATION SHALL BE SUBMITTED NO LATER THAN SEPTEMBER  
49 THIRTIETH, TWO THOUSAND TEN.

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

56 S 4. This act shall take effect immediately.

1 PART E

2 Intentionally omitted.

3 PART F

4 Intentionally omitted.

5 PART G

6 Intentionally omitted.

7 PART H

8 Section 1. (a) Notwithstanding the provisions of subdivision (e) of  
9 section 7.17 or section 41.55 of the mental hygiene law, or any other  
10 law to the contrary, the office of mental health is authorized in state  
11 fiscal year 2010-11 to reduce adult inpatient capacity in the aggregate  
12 by no more than 250 beds through closure of wards not to exceed 175  
13 beds, or through conversion of such beds to transitional placement  
14 programs, provided, however, that nothing in this section shall be  
15 interpreted as restricting the ability of the office of mental health to  
16 reduce inpatient bed capacity beyond 250 beds in state fiscal year  
17 2010-11, but such reductions shall be subject to the provisions of  
18 subdivision (e) of section 7.17 and section 41.55 of the mental hygiene  
19 law. Determinations concerning the closure of such wards in fiscal year  
20 2010-11 shall be made by the office of mental health based on data  
21 related to inpatient census, indicating nonutilization or under utiliza-  
22 tion of beds, and the efficient operation of facilities. Determinations  
23 concerning the conversion of such wards to transitional placement  
24 programs in fiscal year 2010-11 shall be made by the office of mental  
25 health based upon the identification of patients who have received inpa-  
26 tient care and who are clinically determined to be appropriate for a  
27 less restrictive level of mental health treatment. The office of mental  
28 health shall provide notice to the legislature as soon as possible, but  
29 no later than two weeks prior to the anticipated closure or conversion  
30 of wards pursuant to this act.

31 (b) For the purposes of this act, the term "transitional placement  
32 program" shall be defined to include, but not be limited to, a super-  
33 vised residential program that provides outpatient services, treatment  
34 and training, and which supports the transition of patients to more  
35 integrated community settings.

36 S 2. Section 7 of part R2 of chapter 62 of the laws of 2003, amending  
37 the mental hygiene law and the state finance law relating to the commu-  
38 nity mental health support and workforce reinvestment program, the  
39 membership of subcommittees for mental health of community services  
40 boards and the duties of such subcommittees and creating the community  
41 mental health and workforce reinvestment account, as amended by section  
42 1 of part E of chapter 58 of the laws of 2004, is amended to read as  
43 follows:

44 S 7. This act shall take effect immediately and shall expire March 31,  
45 [2010] 2013 when upon such date the provisions of this act shall be  
46 deemed repealed.

47 S 3. This act shall take effect immediately and shall be deemed to  
48 have been in full force and effect on and after April 1, 2010.

49 PART I

1 Intentionally omitted.

2 PART J

3 Intentionally omitted.

4 PART K

5 Intentionally omitted.

6 PART L

7 Intentionally omitted.

8 PART M

9 Section 1. Paragraph 1 of subdivision (a) of section 9.60 of the  
10 mental hygiene law, as amended by chapter 158 of the laws of 2005, is  
11 amended to read as follows:

12 (1) "assisted outpatient treatment" shall mean categories of outpa-  
13 tient services which have been ordered by the court pursuant to this  
14 section. Such treatment shall include case management services or  
15 assertive community treatment team services to provide care coordi-  
16 nation, and may also include any of the following categories of  
17 services: medication; periodic blood tests or urinalysis to determine  
18 compliance with prescribed medications; individual or group therapy; day  
19 or partial day programming activities; educational and vocational train-  
20 ing or activities; alcohol or substance abuse treatment and counseling  
21 and periodic tests for the presence of alcohol or illegal drugs for  
22 persons with a history of alcohol or substance abuse; supervision of  
23 living arrangements; and any other services within a local [or unified]  
24 services plan developed pursuant to article forty-one of this chapter,  
25 prescribed to treat the person's mental illness and to assist the person  
26 in living and functioning in the community, or to attempt to prevent a  
27 relapse or deterioration that may reasonably be predicted to result in  
28 suicide or the need for hospitalization.

29 S 2. Paragraph 2 of subdivision (b) of section 31.27 of the mental  
30 hygiene law, as added by chapter 723 of the laws of 1989, is amended to  
31 read as follows:

32 (2) The commissioner of mental health shall require that each compre-  
33 hensive psychiatric emergency program submit a plan. The plan must be  
34 approved by the commissioner prior to the issuance of an operating  
35 certificate pursuant to this article. Each plan shall include: (i) a  
36 description of the program's catchment area; (ii) a description of the  
37 program's psychiatric emergency services, including crisis intervention  
38 services, crisis outreach services, crisis residence services, extended  
39 observation beds, and triage and referral services, whether or not  
40 provided directly or through agreement with other providers of services;  
41 (iii) agreements or affiliations with hospitals, as defined in section  
42 1.03 of this chapter, to receive and admit persons who require inpatient  
43 psychiatric services; (iv) agreements or affiliations with general  
44 hospitals to receive and admit persons who have been referred by the  
45 comprehensive psychiatric emergency program and who require medical or  
46 surgical care which cannot be provided by the comprehensive psychiatric  
47 emergency program; (v) a description of local resources available to the  
48 program to prevent unnecessary hospitalizations of persons, which shall

1 include agreements with local mental health, health, substance abuse,  
2 alcoholism or alcohol abuse, mental retardation and developmental disa-  
3 bilities, or social services agencies to provide appropriate services;  
4 (vi) a description of the program's linkages with local police agencies,  
5 emergency medical services, ambulance services, and other transportation  
6 agencies; (vii) a description of local resources available to the  
7 program to provide appropriate community mental health services upon  
8 release or discharge, which shall include case management services and  
9 agreements with state or local mental health and other human service  
10 providers; (viii) written criteria and guidelines for the development of  
11 appropriate discharge planning for persons in need of post emergency  
12 treatment or services[,]; (ix) a statement indicating that the program  
13 has been included in an approved local [or unified] services plan devel-  
14 oped pursuant to article forty-one of this chapter for each local  
15 government located within the program's catchment area; and (x) any  
16 other information or agreements required by the commissioner.

17 S 3. Subdivision (d) of section 33.13 of the mental hygiene law, as  
18 amended by chapter 408 of the laws of 1999, is amended to read as  
19 follows:

20 (d) Nothing in this section shall prevent the electronic or other  
21 exchange of information concerning patients or clients, including iden-  
22 tification, between and among (i) facilities or others providing  
23 services for such patients or clients pursuant to an approved local [or  
24 unified] services plan, as defined in article forty-one of this chapter,  
25 or pursuant to agreement with the department, and (ii) the department or  
26 any of its licensed or operated facilities. Furthermore, subject to the  
27 prior approval of the commissioner of mental health, hospital emergency  
28 services licensed pursuant to article twenty-eight of the public health  
29 law shall be authorized to exchange information concerning patients or  
30 clients electronically or otherwise with other hospital emergency  
31 services licensed pursuant to article twenty-eight of the public health  
32 law and/or hospitals licensed or operated by the office of mental  
33 health; provided that such exchange of information is consistent with  
34 standards, developed by the commissioner of mental health, which are  
35 designed to ensure confidentiality of such information. Additionally,  
36 information so exchanged shall be kept confidential and any limitations  
37 on the release of such information imposed on the party giving the  
38 information shall apply to the party receiving the information.

39 S 4. Subdivision (d) of section 33.13 of the mental hygiene law, as  
40 amended by chapter 912 of the laws of 1984, is amended to read as  
41 follows:

42 (d) Nothing in this section shall prevent the exchange of information  
43 concerning patients or clients, including identification, between (i)  
44 facilities or others providing services for such patients or clients  
45 pursuant to an approved local [or unified] services plan, as defined in  
46 article forty-one, or pursuant to agreement with the department and (ii)  
47 the department or any of its facilities. Information so exchanged shall  
48 be kept confidential and any limitations on the release of such informa-  
49 tion imposed on the party giving the information shall apply to the  
50 party receiving the information.

51 S 5. The article heading of article 41 of the mental hygiene law, as  
52 added by chapter 978 of the laws of 1977, is amended to read as follows:

1 S 6. The second undesignated paragraph and closing paragraph of  
2 section 41.01 of the mental hygiene law, as amended by chapter 978 of  
3 the laws of 1977, are amended to read as follows:

4 [In order to further the development, for each community in this  
5 state, of a unified system for the delivery of such services, this arti-  
6 cle gives to a local governmental unit the opportunity to participate in  
7 the state-local development of such services by means of a unified  
8 services plan. Such a plan is designed to be a mechanism whereby the  
9 department, department facilities, and local government can jointly plan  
10 for and deliver unified services to meet the needs of the consumers of  
11 such services. The unified services system will strengthen state and  
12 local partnership in the determination of the need for and the allo-  
13 cation of services and more easily provide for the most effective and  
14 economical utilization of new and existing state, local governmental,  
15 and private resources to provide services. A uniform ratio of state and  
16 local government responsibility for financing services under a unified  
17 services plan is established by this article to eliminate having the  
18 types of services provided in a community be determined by the local  
19 government's share of the cost of a particular program rather than the  
20 needs of the community.

21 It] EFFECTIVE IMPLEMENTATION OF THIS ARTICLE requires the direction  
22 and administration, by each local governmental unit, of a local compre-  
23 hensive planning process for its geographic area in which all providers  
24 of services shall participate and cooperate in the provision of all  
25 necessary information. It also initiates a planning effort involving the  
26 state, local governments and other providers of service for the purpose  
27 of promoting continuity of care through the development of integrated  
28 systems of care and treatment for the mentally ill, mentally retarded  
29 and developmentally disabled, and for those suffering from the diseases  
30 of alcoholism and substance abuse.

31 S 7. Subdivisions 4 and 14 of section 41.03 of the mental hygiene law  
32 are REPEALED, and subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15 of  
33 such section, such section as renumbered by chapter 978 of the laws of  
34 1977, are renumbered subdivisions 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

35 S 8. Subdivision 5 of section 41.03 of the mental hygiene law, as  
36 amended by chapter 588 of the laws of 1973 and as renumbered by section  
37 seven of this act, is amended to read as follows:

38 5. "local governmental unit" means the unit of local government given  
39 authority in accordance with this chapter by local government to provide  
40 local [or unified] services.

41 S 9. Subdivision (b) of section 41.04 of the mental hygiene law, as  
42 added by chapter 978 of the laws of 1977, is amended to read as follows:

43 (b) Guidelines for the operation of local [and unified] services plans  
44 and financing shall be adopted only by rule or regulation. Such rules  
45 and regulations shall be submitted at least twenty-one days prior to the  
46 effective date thereof to the New York state conference of local mental  
47 hygiene directors for comment thereon; provided, however, if a commis-  
48 sioner finds that the public health, welfare or safety requires the  
49 prompt adoption of rules and regulations, he may dispense with such  
50 submission prior to the effective date thereof but, in such case, such  
51 commissioner shall submit such rules and regulations to the conference  
52 as soon as possible for their review within sixty days after the effec-  
53 tive date thereof.

54 S 10. Subdivisions (a) and (c) of section 41.07 of the mental hygiene  
55 law, as amended by chapter 588 of the laws of 1973 and such section as

1 renumbered by chapter 978 of the laws of 1977, are amended to read as  
2 follows:

3 (a) Local governmental units may provide local [or unified] services  
4 and facilities directly or may contract for the provision of those  
5 services by other units of local or state government, by voluntary agen-  
6 cies, or by professionally qualified individuals.

7 (c) Local governments may provide joint local [or unified] services  
8 and facilities through agreements, made pursuant to law, which may  
9 provide either that one local government provide and supervise these  
10 services for other local governments or that a joint board or a joint  
11 local department be established to administer these services for the  
12 populations of all contracting local governments.

13 S 11. Subdivision (f) of section 41.10 of the mental hygiene law, as  
14 added by chapter 978 of the laws of 1977, is amended to read as follows:

15 (f) The conference shall have the following powers:

16 1. To review and comment upon rules or regulations proposed by any of  
17 the offices of the department for the operation of local [and unified]  
18 service plans and programs. Comments on rules or regulations approved by  
19 the conference shall be given to the appropriate commissioner or commis-  
20 sioners for review and consideration; and

21 2. To propose rules or regulations governing the operation of the  
22 local [and unified] services programs, and to forward such proposed  
23 rules or regulations to the appropriate commissioner or commissioners  
24 for review and consideration.

25 S 12. Subdivisions (a) and (b) of section 41.11 of the mental hygiene  
26 law, as amended by section 5 of part R2 of chapter 62 of the laws of  
27 2003, are amended to read as follows:

28 (a) In all local governments with a population less than one hundred  
29 thousand, community services boards, at the option of the local govern-  
30 ment, shall have either nine or fifteen members appointed by the local  
31 government. In all other local governments, a community services board  
32 shall have fifteen members appointed by the local government.

33 Whenever practicable at least one member shall be a licensed physician  
34 and one member shall be a certified psychologist and otherwise at least  
35 two members shall be licensed physicians, such members to have demon-  
36 strated an interest in the field of services for the mentally disabled.  
37 The other members shall represent the community interest in all the  
38 problems of the mentally disabled and shall include representatives from  
39 community agencies for the mentally ill, the mentally retarded and  
40 developmentally disabled, and those suffering from alcoholism and  
41 substance abuse. The community services board shall have separate  
42 subcommittees for mental health, mental retardation and developmental  
43 disabilities, and alcoholism or, at the discretion of the local govern-  
44 ment, alcoholism and substance abuse. Each separate subcommittee shall  
45 have no more than nine members appointed by the local government, except  
46 that each subcommittee for mental health shall have no more than eleven  
47 members appointed by the local government. Three of each such subcommit-  
48 tee shall be members of the board. Each separate subcommittee shall be  
49 composed of persons who have demonstrated an interest in the field of  
50 services for the particular class of mentally disabled and shall include  
51 former patients, parents or relatives of such mentally disabled persons  
52 and community agencies serving the particular class of mentally disa-  
53 bled, except that each subcommittee for mental health shall include at  
54 least two members who are or were consumers of mental health services,  
55 and at least two members who are parents or relatives of persons with  
56 mental illness. Each separate subcommittee shall advise the community

1 services board and the director of community services regarding the  
2 exercise of all policy-making functions vested in such board or direc-  
3 tor, as such functions pertain to the field of services for the partic-  
4 ular class of mentally disabled individuals represented by such subcom-  
5 mittee. In addition, each subcommittee for mental health shall be  
6 authorized to annually evaluate the local services plan [or the unified  
7 services plan, as appropriate], and shall be authorized to report on the  
8 consistency of such [plans] PLAN with the needs of persons with serious  
9 mental illness, including children and adolescents with serious  
10 emotional disturbances. Any such report shall be forwarded annually to  
11 the community services board and the director of community services and  
12 a copy shall also be sent to the commissioner prior to the submission of  
13 the local services plan [or unified services plan. Provided], PROVIDED,  
14 however, that the provisions of this paragraph shall not apply to cities  
15 of over a million in population.

16 (b) In cities of over a million a community services board shall  
17 consist of fifteen members to be appointed by the mayor. There shall be  
18 at least two residents of each county within such cities on the board.  
19 At least one shall be a licensed physician and at least one shall be a  
20 certified psychologist. The other members shall represent the community  
21 interest in all of the problems of the mentally disabled and shall  
22 include representatives from community agencies for the mentally ill,  
23 the mentally retarded and developmentally disabled, and those suffering  
24 from alcoholism and substance abuse. The community services board shall  
25 have separate subcommittees for mental health, mental retardation and  
26 developmental disabilities, and alcoholism or, at the discretion of the  
27 local government, alcoholism and substance abuse. Each separate subcom-  
28 mittee shall have no more than nine members appointed by the local  
29 government, except that each subcommittee for mental health shall have  
30 no more than eleven members appointed by the local government. Three  
31 members of each such subcommittee shall be members of the board. Each  
32 separate subcommittee shall be composed of persons who have demonstrated  
33 an interest in the field of services for the particular class of mental-  
34 ly disabled and shall include former patients, parents or relatives of  
35 such mentally disabled persons and community agencies serving the  
36 particular class of mentally disabled, except that each subcommittee for  
37 mental health shall include at least two members who are or were consum-  
38 ers of mental health services, and two members who are parents or rela-  
39 tives of persons with mental illness. Each separate subcommittee shall  
40 advise the community services board and the director of community  
41 services regarding the exercise of all policy-making functions vested in  
42 such board or director, as such functions pertain to the field of  
43 services for the particular class of mentally disabled individuals  
44 represented by such subcommittee. In addition, each subcommittee for  
45 mental health shall be authorized to annually evaluate the local  
46 services plan [or the unified services plan, as appropriate], and shall  
47 be authorized to report on the consistency of such [plans] PLAN with the  
48 needs of persons with serious mental illness, including children and  
49 adolescents with serious emotional disturbances. Any such report shall  
50 be forwarded annually to the community services board and the director  
51 of community services, and a copy shall also be sent to the commissioner  
52 prior to the submission of the local services plan [or unified services  
53 plan].

54 S 13. Paragraphs 5, 6, 7 and 12 of subdivision (a) of section 41.13 of  
55 the mental hygiene law, paragraphs 5 and 7 as amended by chapter 588 of  
56 the laws of 1973, paragraph 6 as amended by chapter 746 of the laws of



1 1986, paragraph 12 as amended by chapter 24 of the laws of 1985 and such  
2 section as renumbered by chapter 978 of the laws of 1977, are amended to  
3 read as follows:

4 5. submit annually to the department for its approval and subsequent  
5 state aid, a report of long range goals and specific intermediate range  
6 plans as modified since the preceding report, along with a local  
7 services plan [or unified services plan] for the next local fiscal year.

8 6. have the power, with the approval of local government, to enter  
9 into contracts for the provision of services, including the provision of  
10 community support services, and the construction of facilities [includ-  
11 ing contracts executed pursuant to subdivision (e) of section 41.19 of  
12 this article and have the power, when necessary, to approve construction  
13 projects].

14 7. establish procedures for execution of the local services plan [or  
15 the unified services plan] as approved by the local government and the  
16 commissioner, including regulations to guide the provision of services  
17 by all organizations and individuals within its program.

18 12. seek the cooperation and cooperate with other aging, public health  
19 and social services agencies, public and private, in advancing the  
20 program of local [or unified] services.

21 S 14. Section 41.14 of the mental hygiene law is REPEALED.

22 S 15. Subdivisions (a), (b), (c) and (e) of section 41.15 of the  
23 mental hygiene law, subdivisions (a), (c) and (e) as amended by chapter  
24 978 of the laws of 1977 and subdivision (b) as amended by chapter 707 of  
25 the laws of 1988, are amended to read as follows:

26 (a) Net operating costs of programs incurred pursuant to [either] an  
27 approved local services plan [or an approved unified services plan] in  
28 accordance with the regulations of the commissioner or commissioners of  
29 the office or offices of the department having jurisdiction of the  
30 services and approved by the commissioner or commissioners of the office  
31 or offices of the department having jurisdiction of the services shall  
32 be eligible for state aid.

33 (b) Long range goals, intermediate range plans, and annual plans shall  
34 meet requirements for comprehensive services set for each local govern-  
35 ment by the commissioners of the offices of the department after taking  
36 into consideration local needs and available resources. These services  
37 shall be concerned with diagnosis, care, treatment, social and voca-  
38 tional rehabilitation, community residential services licensed by the  
39 department of mental hygiene, research, consultation and public educa-  
40 tion, education and training of personnel, control and prevention of  
41 mental disabilities, and the general furtherance of mental capability  
42 and health. As part of the local services [or unified services plans]  
43 PLAN required to establish eligibility for state aid in accordance with  
44 the provisions herein, each local governmental unit shall submit a five-  
45 year plan and annual implementation plans and budgets which shall  
46 reflect local needs and resources, including the needs and resources  
47 available for the provision of community support services, and the role  
48 of facilities in the department in the provision of required services.  
49 [If the local government has developed community services assessments  
50 and plans pursuant to subdivision four of section four hundred nine-d  
51 and paragraph (b) of subdivision three of section four hundred twenty-  
52 three of the social services law covering the same time period covered  
53 by the five year plan and annual implementation plans and budgets  
54 required by this subdivision, then the five year plan and annual imple-  
55 mentation plans and budget shall include those portions of the community  
56 services assessments and plans relating to the provision of mental

1 health, alcoholism and substance abuse services and an estimate of funds  
2 to be made available by the social services district for the provision  
3 or purchase of these services.]

4 (c) Subject to regulations for special circumstances as established by  
5 the commissioner or commissioners of the office or offices of the  
6 department having jurisdiction of the services, no annual plan or inter-  
7 mediate range plan of the local governmental unit shall be approved  
8 unless it indicates that reasonable efforts are being made to extend or  
9 improve local [or unified] services in each succeeding local fiscal year  
10 in accordance with the statewide long range goals and objectives of the  
11 department for the development and integration of state, regional, and  
12 local services for the mentally disabled.

13 (e) Capital costs incurred by a local government or by a voluntary  
14 agency, pursuant to [either] an approved local services plan [or an  
15 approved unified services plan] and in accordance with the regulations  
16 of the commissioner or commissioners of the office or offices of the  
17 department having jurisdiction of the services and with the approval of  
18 the commissioner or commissioners having jurisdiction of the services,  
19 shall be eligible for state aid pursuant to the provisions of this arti-  
20 cle. Capital costs incurred by a voluntary agency shall be eligible for  
21 state aid only if incurred pursuant to an agreement between the volun-  
22 tary agency and the local governmental unit where the construction is  
23 located. Such agreement shall contain the approval by the local govern-  
24 mental unit of such construction and an agreement by such unit to  
25 include the program of the voluntary agency in its plans and proposals.

26 S 16. Subdivisions (b), (c), (d) and paragraph 2 of subdivision (e) of  
27 section 41.16 of the mental hygiene law, as added by chapter 978 of the  
28 laws of 1977, paragraph 1 of subdivision (b) as amended by chapter 55 of  
29 the laws of 1992 and subdivision (c) as amended by chapter 99 of the  
30 laws of 1999, are amended to read as follows:

31 (b) In accordance with regulations established by the commissioner or  
32 commissioners of the offices of the department having jurisdiction of  
33 the services, which shall provide for prompt action on proposed local  
34 services [and unified services] plans, each local governmental unit  
35 shall:

36 1. establish long range goals and objectives consistent with statewide  
37 goals and objectives developed pursuant to section 5.07 of this chapter  
38 and develop or annually update the local services [or unified services]  
39 plan of the local governmental unit or units listing providers, esti-  
40 mated costs and proposed utilization of state resources, including  
41 facilities and manpower, which shall be used in part to formulate state-  
42 wide comprehensive plans for services.

43 2. submit one local services plan [or a unified services plan] to the  
44 single agent of the department jointly designated by the commissioners  
45 of the offices of the department annually for approval by the commis-  
46 sioner or commissioners of the office or offices of the department  
47 having jurisdiction of the services.

48 (c) A local services plan [or unified services plan] shall be devel-  
49 oped, in accordance with the regulations of the commissioner or commis-  
50 sioners of the office or offices of the department having jurisdiction  
51 of the services by the local governmental unit or units which shall  
52 direct and administer a local comprehensive planning process for its  
53 geographic area, consistent with statewide goals and objectives estab-  
54 lished pursuant to section 5.07 of this chapter. The planning process  
55 shall involve the directors of any department facilities, directors of  
56 hospital based mental health services, directors of community mental

1 health centers, consumers, consumer groups, voluntary agencies, other  
2 providers of services, and local correctional facilities and other local  
3 criminal justice agencies. The local governmental unit, or units, shall  
4 determine the proposed local services plan [or unified services plan] to  
5 be submitted for approval. If any provider of services including facili-  
6 ties in the department, or any representative of the consumer or commu-  
7 nity interests within the local planning process, disputes any element  
8 of the proposed plan for the area which it serves, the objection shall  
9 be presented in writing to the director of the local governmental unit.  
10 If such dispute cannot be resolved to the satisfaction of all parties,  
11 the director shall determine the plan to be submitted. If requested and  
12 supplied by the objecting party, a written objection to the plan shall  
13 be appended thereto and transmitted to the single agent of the depart-  
14 ment jointly designated by the commissioners.

15 (d) Each commissioner of an office in the department shall review the  
16 portion of the local services plan [or unified services plan] submitted  
17 over which his office has jurisdiction and approve or disapprove such  
18 plan in accordance with the procedures of subdivision (e) [hereof] OF  
19 THIS SECTION.

20 2. A commissioner of an office of the department shall not disapprove  
21 any portion of the local services plan [or unified services plan] with-  
22 out providing the local governmental unit an opportunity to be heard  
23 regarding the proposed disapproval and to propose any modification of  
24 the plan. Pending the resolution of any dispute over approval of a  
25 portion of the plan, by final determination of the commissioner having  
26 jurisdiction over the services, new programs proposed shall not be  
27 implemented and programs previously implemented shall continue to be  
28 funded at existing levels. If a portion of the plan is disapproved, the  
29 commissioner of the office having jurisdiction over such portion shall  
30 notify the local governmental unit in writing stating reasons for such  
31 action.

32 S 17. Sections 41.19, 41.21 and 41.23 of the mental hygiene law are  
33 REPEALED.

34 S 18. Subdivision (d) of section 41.36 of the mental hygiene law, as  
35 amended by chapter 262 of the laws of 1992, is amended to read as  
36 follows:

37 (d) Each local governmental unit shall include in its annual local [or  
38 unified services] plan a review of existing community residential facil-  
39 ities providing reimbursable services and a recommendation of antic-  
40 ipated needs for the development of such facilities, consistent with the  
41 needs of the mentally retarded and developmentally disabled within the  
42 jurisdiction of the local governmental unit.

43 S 19. Subdivision (b) of section 41.39 of the mental hygiene law, as  
44 amended by chapter 515 of the laws of 1992, is amended to read as  
45 follows:

46 (b) Notwithstanding any other provisions of this article, income real-  
47 ized by a voluntary not-for-profit agency from industrial contracts  
48 entered into pursuant to its operation of a sheltered workshop shall be  
49 matched dollar for dollar by an office of the department of mental  
50 hygiene through direct contract with the agency provided that no part of  
51 the expenses of such sheltered workshop are claimed through a contract  
52 with the local governmental unit which is receiving funding for  
53 reimbursement of such expenses from the same office of the department  
54 provided that such sheltered workshop is operating in accordance with an  
55 approved local [or unified] services plan. In no event shall any combi-

1 nation of income including state aid exceed the total cost of operation  
2 of such sheltered workshop.

3 S 20. Paragraph 2 of subdivision (e), paragraph 6 of subdivision (f),  
4 and subdivisions (g), (h) and (i) of section 41.47 of the mental hygiene  
5 law, as added by chapter 746 of the laws of 1986, are amended to read as  
6 follows:

7 (2) The commissioner shall establish revenue goals for services,  
8 provided, however, the commissioner may approve local [or unified]  
9 services plans or may enter into direct contracts with providers of  
10 services which substitute alternative revenue goals for individual  
11 providers of services based upon appropriate documentation and justi-  
12 fication, as required by the commissioner.

13 (6) the extent to which the community support services authorized by  
14 the contract are consistent and integrated with the applicable local [or  
15 unified] services plan of the area to be served; and

16 (g) The commissioner may enter into a direct contract for the  
17 provision of community support services when the commissioner deter-  
18 mines, after the approval of the local [or unified] services plan and  
19 the allocation of state aid therefore, that such direct contract is  
20 necessary to assure that additional community support services are  
21 available to persons who are functionally disabled as a result of mental  
22 illness and are eligible for community support services. Before entering  
23 into a direct contract with a provider located within the geographic  
24 area of a local governmental unit which receives state aid for community  
25 support services pursuant to this section, the commissioner shall notify  
26 the local governmental unit and give the director of the local govern-  
27 mental unit an opportunity to appeal the need for such direct contract.  
28 Such appeals shall be informal in nature and the rules of evidence shall  
29 not apply.

30 (h) In order to qualify for one hundred percent state aid pursuant to  
31 this section in any local fiscal year local governmental units shall  
32 assure that the local tax levy share of expenditures for net operating  
33 costs pursuant to an approved local services plan for services provided  
34 to mentally ill persons pursuant to section 41.18 of this article[, when  
35 applicable,] shall be equal to or greater than the local tax levy share  
36 of such expenditures under an approved local services plan in the last  
37 complete local fiscal year preceding the effective date of this section,  
38 [and when applicable, such local tax levy share of net operating costs  
39 for local governmental units submitting unified services plans pursuant  
40 to section 41.23 of this article, as adjusted to reflect changes in the  
41 rate of state reimbursement for approved expenditures, shall be equal to  
42 or greater than the local tax levy share of the net operating costs for  
43 expenditures under the approved unified services plan in the last  
44 complete local fiscal year preceding the effective date of this  
45 section,] provided, however, any such required maintenance of expendi-  
46 tures under this subdivision for local governmental units may be reduced  
47 to reflect the local governmental share of revenue applicable to  
48 increased payments made by governmental agencies pursuant to title elev-  
49 en of article five of the social services law, which are a result of  
50 increased efficiencies in the collection of such revenue and which  
51 represent an increased proportion of the total local [or unified]  
52 services operating costs from the prior local fiscal year. The commis-  
53 sioner shall be authorized to reduce payments made to local governmental  
54 units pursuant to this article, in the following local fiscal year, for  
55 failure to maintain expenditures in accordance with this subdivision.

1 (i) The provisions of subdivision (h) of this section shall not apply  
2 to a local governmental unit in any local fiscal year in which the total  
3 amount of state aid granted to the local governmental unit for net oper-  
4 ating costs under section 41.18 [or section 41.23] of the article is  
5 less than such amount of state aid granted in the local fiscal year  
6 preceding the effective date of this section, or in any local fiscal  
7 year in which the total amount of state aid granted to the local govern-  
8 mental unit under this section, plus the total amount of direct  
9 contracts entered into between the commissioner and providers of  
10 services for the provision of community support services to eligible  
11 residents of such local governmental unit, shall be less than the total  
12 amount of such aid and direct contracts in the first local fiscal year  
13 following the effective date of this section.

14 S 21. Subdivision 4 of section 41.49 of the mental hygiene law, as  
15 added by chapter 499 of the laws of 1988, is amended to read as follows:

16 4. Notwithstanding any other provision of this article, in order to  
17 qualify for one hundred percent state aid pursuant to this section,  
18 local governmental units shall assure that local contributions for  
19 expenditures in any local fiscal year for local [or unified] services  
20 provided to mentally ill persons made pursuant to this article, as  
21 applicable, shall be equal to or greater than the amount expended by  
22 such local governmental unit in the last complete local fiscal year  
23 preceding the effective date of this section. The commissioner shall be  
24 authorized to reduce payments made to local governmental units which  
25 have received grants pursuant to this section, in the following local  
26 fiscal year, for failure to maintain expenditures in accordance with  
27 this subdivision.

28 S 22. Subdivision (d) of section 41.53 of the mental hygiene law, as  
29 amended by chapter 223 of the laws of 1992, is amended to read as  
30 follows:

31 (d) No such grant will be awarded unless the community residence is  
32 consistent with the local services plan [or the unified services plan,  
33 as appropriate], pursuant to this article.

34 S 23. This act shall take effect July 1, 2010; provided, however, that  
35 the amendments made to sections 9.60 and 31.27 of the mental hygiene law  
36 by sections one and two of this act shall not affect the repeal of such  
37 sections and shall be deemed repealed therewith; the amendments to  
38 subdivision (d) of section 33.13 of the mental hygiene law made by  
39 section three of this act shall be subject to the expiration and rever-  
40 sion of such subdivision pursuant to section 18 of chapter 408 of the  
41 laws of 1999, as amended when upon such date the provisions of section  
42 four of this act shall take effect; and the amendments to subdivisions  
43 (a) and (b) of section 41.11 of the mental hygiene law made by section  
44 twelve of this act shall not affect the expiration of such subdivisions  
45 and shall be deemed to expire therewith.

46

## PART N

47 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter  
48 57 of the laws of 2006, relating to establishing a cost of living  
49 adjustment for designated human services programs, subdivision 3-b as  
50 added and subdivision 3-c as amended by section 1 of part L of chapter  
51 58 of the laws of 2009, are amended to read as follows:

52 3-b. Notwithstanding any inconsistent provision of law, beginning  
53 April 1, 2009 and ending March 31, [2010] 2011, the commissioners shall

not include a COLA for the purpose of establishing rates of payments, contracts or any other form of reimbursement.

3-c. Notwithstanding any inconsistent provision of law, beginning April 1, [2010] 2011 and ending March 31, [2013] 2014, the commissioners shall develop the COLA under this section using the actual U.S. consumer price index for all urban consumers (CPI-U) published by the United States department of labor, bureau of labor statistics for the twelve month period ending in July of the budget year prior to such state fiscal year, for the purpose of establishing rates of payments, contracts or any other form of reimbursement.

S 2. Section 4 of part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, as amended by section 7 of part F of chapter 497 of the laws of 2008, is amended to read as follows:

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2006; provided section one of this act shall expire and be deemed repealed April 1, [2012] 2014; provided, further, that sections two and three of this act shall expire and be deemed repealed December 31, 2009.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010; provided, however, that the amendments to section 1 of part C of chapter 57 of the laws of 2006 made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

#### PART O

Section 1. Subdivision 6 of section 1 of chapter 119 of the laws of 1997 relating to authorizing the department of health to establish certain payments to general hospitals, as amended by section 1 of part S2 of chapter 62 of the laws of 2003, is amended to read as follows:

6. Payment limitations set forth in [paragraph] SUBDIVISION 2 of this section related to costs incurred by general hospitals in providing services to uninsured patients and patients eligible for medical assistance pursuant to title 11 of article 5 of the social services law shall, for state fiscal [year periods commencing April 1, 1997 through March 31, 2002, be based initially on reported 1995 reconciled data as further reconciled to actual reported 1997, 1998, 1999, 2000 and 2001 reconciled data, respectively. Such payment limitations for state fiscal year periods commencing April 1, 2002 through March 31, 2006, shall be based initially on reported 2000 reconciled data as further reconciled to actual reported 2002, 2003, 2004 and 2005 reconciled data, respectively] YEARS BEGINNING ON AND AFTER APRIL 1, 2010, BE BASED INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR TO THE PAYMENT YEAR, AND FURTHER RECONCILED TO ACTUAL REPORTED DATA FROM SUCH PAYMENT YEAR. The payments may be made as quarterly aggregate payments to an eligible general hospital.

S 2. This act shall take effect April 1, 2010; provided, however, that the amendments to subdivision 6 of section 1 of chapter 119 of the laws of 1997 made by section one of this act shall not affect the expiration of such section and shall be deemed to expire therewith.

#### PART P

Section 1. Notwithstanding any contrary provision of law, the commissioner of mental health is authorized, subject to the approval of the

1 director of the budget, to transfer to the commissioner of health state  
2 funds to be utilized as the state share for the purpose of increasing  
3 payments under the medicaid program to managed care organizations  
4 licensed under article 44 of the public health law or under article 43  
5 of the insurance law. Such managed care organizations shall utilize such  
6 funds for the purpose of reimbursing hospital-based and free-standing  
7 clinics licensed pursuant to article 28 of the public health law, pursu-  
8 ant to article 31 of the mental hygiene law or pursuant to both such  
9 provisions of law for outpatient mental health services, as determined  
10 by the commissioner of health in consultation with the commissioner of  
11 mental health, provided to medicaid eligible outpatients. Such  
12 reimbursement shall be in the form of fees for such services which are  
13 equivalent to the payments established for such services under the ambu-  
14 latory patient group (APG) rate-setting methodology as utilized by the  
15 department of health or by the office of mental health for rate-setting  
16 purposes; provided, however, that the increase to such fees that shall  
17 result from the provisions of this section shall not, in the aggregate  
18 and as determined by the commissioner of health in consultation with the  
19 commissioner of mental health, be greater than the increased funds made  
20 available pursuant to this section. The commissioner of health may, in  
21 consultation with the commissioner of mental health, promulgate regu-  
22 lations, including emergency regulations, as are necessary to implement  
23 the provisions of this section.  
24 S 2. This act shall take effect April 1, 2010.

25 PART Q

26 Section 1. Section 5.01 of the mental hygiene law, as added by chapter  
27 978 of the laws of 1977, is amended to read as follows:  
28 S 5.01 Department of mental hygiene.  
29 (A) There shall continue to be in the state government a department of  
30 mental hygiene. Within the department there shall be the following  
31 autonomous offices:  
32 (1) office of mental health;  
33 (2) office of mental retardation and developmental disabilities;  
34 (3) office of alcoholism and substance abuse.  
35 (B) WITHIN THE DEPARTMENT, THE COMMISSIONERS OF THE OFFICE OF MENTAL  
36 HEALTH, THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES,  
37 AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL, TO THE  
38 GREATEST EXTENT POSSIBLE, CENTRALIZE DUPLICATIVE ADMINISTRATIVE FUNC-  
39 TIONS, INCLUDING BUT NOT LIMITED TO, CLERICAL, PAYROLL, BOOKKEEPING,  
40 PROCUREMENT AND HUMAN RESOURCE FUNCTIONS IN AN EFFORT TO CREATE GREATER  
41 EFFICIENCIES AND COST SAVINGS FOR THE PUBLIC. SUCH FUNCTIONS MAY BE  
42 PHYSICALLY LOCATED AS DETERMINED BY THE COMMISSIONERS TO RENDER THE  
43 GREATEST EFFICIENCIES.  
44 S 2. This act shall take effect January 1, 2011.

45 PART R

46 Intentionally omitted.

47 PART S

48 Section 1. Subdivision 3 of section 363-d of the social services law,  
49 as amended by section 44 of part C of chapter 58 of the laws of 2007, is  
50 amended to read as follows:

1 3. Upon enrollment in the medical assistance program, a provider shall  
2 certify to the department that the provider satisfactorily meets the  
3 requirements of this section. Additionally, the commissioner of health  
4 and Medicaid inspector general shall have the authority to determine at  
5 any time if a provider has a compliance program that satisfactorily  
6 meets the requirements of this section. IT SHALL BE A REBUTTABLE  
7 PRESUMPTION THAT A COMPLIANCE PROGRAM THAT CONTAINS THE ELEMENTS LISTED  
8 IN SUBDIVISION TWO OF THIS SECTION SATISFACTORILY MEETS THE REQUIREMENTS  
9 OF THIS SECTION.

10 (a) A compliance program that is accepted by the federal department of  
11 health and human services office of inspector general and remains in  
12 compliance with the standards promulgated by such office shall be deemed  
13 in compliance with the provisions of this section, so long as such plans  
14 adequately address medical assistance program risk areas and compliance  
15 issues.

16 (b) In the event that the commissioner of health or the Medicaid  
17 inspector general finds that the provider does not have a satisfactory  
18 program within ninety days after the effective date of the regulations  
19 issued pursuant to subdivision four of this section, THE PROVIDER SHALL  
20 BE NOTIFIED PROMPTLY AND DEFICIENCIES IDENTIFIED. THE PROVIDER SHALL  
21 THEN BE GIVEN AN OPPORTUNITY, NOT TO EXCEED THIRTY DAYS, TO CURE SUCH  
22 DEFICIENCIES TO THE SATISFACTION OF THE COMMISSIONER OF HEALTH, HIS OR  
23 HER DESIGNEE, OR THE MEDICAID INSPECTOR GENERAL. IF THE PROVIDER FAILS  
24 TO CURE THE DEFICIENCIES WITHIN THIRTY DAYS AFTER THE RECEIPT OF AN  
25 INITIAL NOTICE, the provider may be subject to any sanctions or penal-  
26 ties permitted by federal or state laws and regulations, including revo-  
27 cation of the provider's agreement to participate in the medical assist-  
28 ance program.

29 S 2. Subdivision 6 of section 32 of the public health law, as added by  
30 chapter 442 of the laws of 2006, is amended to read as follows:

31 6. to pursue civil and administrative enforcement actions against any  
32 individual or entity that engages in fraud, abuse, or illegal or improper  
33 acts or unacceptable practices perpetrated within the medical assist-  
34 ance program, including but not limited to: (a) referral of information  
35 and evidence to regulatory agencies and licensure boards; (b) withhold-  
36 ing payment of medical assistance funds in accordance with state and  
37 federal laws and regulations, PROVIDED THAT ANY FUNDS AND INTEREST THERE-  
38 ON DETERMINED BY THE INSPECTOR, THE COMMISSIONER OR DESIGNEE, OR A  
39 COURT OF LAW TO HAVE BEEN IMPROPERLY WITHHELD OR RECOUPED FROM A PROVID-  
40 ER OF MEDICAL ASSISTANCE SHALL BE REFUNDED TO THE PROVIDER AS SOON AS  
41 PRACTICABLE BUT IN NO EVENT MORE THAN SIXTY DAYS AFTER SUCH DETERMI-  
42 NATION; (c) imposition of administrative sanctions and penalties in  
43 accordance with state and federal laws and regulations; (d) exclusion of  
44 providers, vendors and contractors from participation in the program;  
45 (e) initiating and maintaining actions for civil recovery and, where  
46 authorized by law, seizure of property or other assets connected with  
47 improper payments; and entering into civil settlements; and (f) recovery  
48 of improperly expended medical assistance program funds from those who  
49 engage in fraud or abuse, or illegal or improper acts perpetrated within  
50 the medical assistance program. In the pursuit of such civil and admin-  
51 istrative enforcement actions under this subdivision, the inspector  
52 shall consider the quality and availability of medical care and services  
53 and the best interest of both the medical assistance program and recipi-  
54 ents;



1 S 3. Paragraph (b) of subdivision 1 of section 365-j of the social  
2 services law, as added by chapter 442 of the laws of 2006, is amended to  
3 read as follows:

4 (b) Areas in which advisory opinions may be requested. An advisory  
5 opinion may be sought with respect to a substantive question, or a  
6 procedural matter. Advisory opinions may be requested with respect to  
7 questions arising prior to an audit or investigation with respect to  
8 questions relating to a provider's claim for payment or reimbursement.  
9 ONCE A PROVIDER HAS REQUESTED AN ADVISORY OPINION, THE COMMISSIONER OR  
10 HIS OR HER DESIGNEE SHALL ISSUE AN OPINION WITHIN SIXTY DAYS OF SUCH  
11 REQUEST. UPON ISSUANCE OF SUCH OPINION, THE PROVIDER SHALL BE HELD  
12 HARMLESS FROM ANY INTEREST OR PENALTIES THAT MIGHT OTHERWISE BE IMPOSED,  
13 PROVIDED, THE PROVIDER HAS REIMBURSED OR OTHERWISE ENTERED INTO A  
14 SETTLEMENT AGREEMENT WITH THE MEDICAL ASSISTANCE PROGRAM IF SUCH AGREE-  
15 MENT WAIVES INTEREST OR PENALTIES FOR ANY OVERPAYMENTS AS A RESULT OF  
16 THE ADVISORY OPINION WITHIN FORTY-FIVE DAYS OF THE ISSUANCE OF SUCH  
17 OPINION. Advisory opinions may also be utilized for purposes of service  
18 planning. Thus, they may be requested with respect to a hypothetical or  
19 projected future set of facts.

20 S 4. This act shall take effect immediately.

21 PART T

22 Section 1. (a) The commissioner of health shall create and implement a  
23 plan for the state to assume the administrative responsibilities of the  
24 medical assistance program performed by social services districts.

25 (b) In developing such plan, the commissioner of health shall: (i)  
26 define the scope of administrative services performed by social services  
27 districts and expenditures related thereto; (ii) require social services  
28 districts to provide any information necessary to determine the scope of  
29 services currently provided and expenditures related thereto; (iii)  
30 review administrative processes and make determinations necessary for  
31 the state to assume responsibility for such services; and (iv) establish  
32 a process for a five-year implementation for state assumption of admin-  
33 istrative services to begin April 1, 2011, with full implementation by  
34 April 1, 2016.

35 (c) Such plan developed by the commissioner of health shall include,  
36 but is not limited to: (i) a definition of administrative services; (ii)  
37 a cost analysis related to the delivery of such administrative services;  
38 (iii) operational objectives that create efficiency in administrative  
39 functions; (iv) standards that provide greater uniformity in eligibility  
40 criteria and continued enrollment; (v) a plan to transition social  
41 services district employees to state employment and to ensure that such  
42 transition shall not interfere with existing collective bargaining  
43 contracts; (vi) a statewide informational system that facilitates and  
44 monitors enrollment and promotes efficient transfer of information;  
45 (vii) a streamlined approach to communicating medical assistance policy  
46 changes; and (viii) other critical issues as determined by the commis-  
47 sioner of health to increase efficiency in administration of the medical  
48 assistance program.

49 (d) The commissioner of health shall submit a report to the governor,  
50 temporary president of the senate and speaker of the assembly by January  
51 1, 2011, on the anticipated implementation of such plan, its elements, a  
52 timeline for such implementation, any recommendations for legislative  
53 action, and such other matters as may be pertinent.

1 (e) The commissioner of health shall promulgate regulations addressing  
2 the elements described in subdivision (c) of this section. Such regu-  
3 lations to implement the plan to assume state administration of services  
4 in social services districts shall become effective on April 1, 2011.

5 (f) For expenditures related to the costs of administering the medical  
6 assistance program occurring on or after April 1, 2011, the state shall  
7 annually assume a proportionate share of local administrative expendi-  
8 tures with full assumption of such expenditures beginning April 1, 2016.

9 (g) Beginning state fiscal year April 1, 2011, reimbursement for  
10 expenditures made on or after such date, by or on behalf of social  
11 services districts for medical assistance pursuant to section 368-a of  
12 the social services law and chapter 58 of the laws of 2005 shall be  
13 adjusted to reflect the state assumption of local administrative func-  
14 tions and the expenditures thereto pursuant to this section.

15 S 2. This act shall take effect immediately.

16 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
17 sion, section or part of this act shall be adjudged by any court of  
18 competent jurisdiction to be invalid, such judgment shall not affect,  
19 impair, or invalidate the remainder thereof, but shall be confined in  
20 its operation to the clause, sentence, paragraph, subdivision, section  
21 or part thereof directly involved in the controversy in which such judg-  
22 ment shall have been rendered. It is hereby declared to be the intent of  
23 the legislature that this act would have been enacted even if such  
24 invalid provisions had not been included herein.

25 S 3. This act shall take effect immediately provided, however, that  
26 the applicable effective date of Parts A through T of this act shall be  
27 as specifically set forth in the last section of such Parts.