

S. 6608--B

A. 9708--C

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

January 19, 2010

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

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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 public health law, in relation to duties of the department and in relation to cardiac service information; to amend the public health law, in relation to the health information technology demonstration program; to amend chapter 178 of the laws of 2006 relating to establishing an advisory council on children's environmental health and safety, in relation to the effectiveness thereof; to amend the public health law, in relation to medical record access review committees; to amend the public health law, in relation to the commissioner's powers to promulgate rules and regulations pertaining to the practice of radiologic technology; to amend chapter 387 of the laws of 2004 amending the environmental conservation law relating to restricting the use of certain flame retardants, in relation to the effectiveness of certain provisions thereof; to amend chapter 356 of the laws of 2005 amending the public health law relating to establishing the New York state toxic mold task force, in relation to the effectiveness thereof; to amend the public health law, in relation to the state council on home care services; to amend the public health law, in relation to the powers and duties of the tick-borne disease institute; to amend the elder law, in relation to the naturally occurring retirement community supportive service program and replaces the term "elderly" with "older adult"; to repeal section 2707 of the public health law relating to the osteoporosis advisory council; to

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

repeal title 1-c of article 24 of the public health law relating to prostate and testicular cancer detection and education; to repeal subdivision 13 of section 3501 of the public health law relating to the definition of board; to repeal section 3503 of the public health law relating to the radiologic technologist advisory board; to repeal section 2 of chapter 41 of the laws of 1992 containing health care provider reimbursement rates relating to the work group to review the provision of and payment for certain adult day services; to repeal chapter 554 of the laws of 1996 creating the Brookhaven National Laboratory local oversight and monitoring committee relating thereto; to repeal section 18 of chapter 537 of the laws of 1998 amending the public health law relating to modifying the use of prescription forms for dispensing controlled substances relating to the task force appointed therefore; to repeal subdivision 7 of section 502 of the public health law relating to the environmental laboratories advisory board; to repeal section 123 of chapter 1 of the laws of 1999 enacting the New York Health Care Reform Act of 2000 relating to the commission on financially distressed residential health care facilities; to repeal section 3604 of the public health law relating to the state council on home care services; to repeal subdivision 4 of section 3222 of the public health law relating to the recombinant DNA advisory committee; to repeal section 3702 of the public health law relating to the advisory council on physician's assistants and specialist's assistants; to repeal section 1399-uu of the public health law relating to the technical advisory committee on the regulation of sharps; to repeal sections 2796 and 2799 of the public health law relating to the tick-borne disease institute research council; to repeal section 2799-a of the public health law relating to the tick-borne disease institute advisory council; to repeal section 216 of the elder law relating to the creation of the advisory council to the recreation program for the elderly; to repeal article III of the elder law relating to mature worker initiatives; and to repeal certain provisions of the public health law relating to a health systems agency; and to amend the business corporation law, the county law, the general business law, the general municipal law, the mental hygiene law, the not-for-profit corporation law, the social services law, the town law, the workers' compensation law and the public health law, in relation to the public health and health planning council (Part A); to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursement; authorizes the department of health to make certain payments for diagnostic treatment centers; in relation to Medicaid payments; to amend section 1 of part C of chapter 58 of the laws of 2005 amending the public health law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, in relation to diagnostic treatment centers; to amend the social services law and the public health law, in relation to prescription drug coverage for needy persons and health care initiatives pools; to amend the public health law, the social services law and the tax law, in relation to eligibility verification; to amend the public health law and the social services law, in relation to establishing an 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 general hospital reimbursement rate periods; to amend the public health law, in relation to a physician loan repayment program; to amend the public health law, in relation to

audits of service providers; to amend the public health law, in relation to hospital mortgage loan construction; to amend chapter 392 of the laws of 1973 constituting the New York medical care facilities finance agency act, in relation to special hospital project bonds and secured hospital projects reserve funds and appropriations; to amend the social services law, in relation to documentation and eligibility under the medical assistance program; to amend section 17 of part C of chapter 58 of the laws of 2005, in relation to extending coverage for specialty outpatient services; to amend the social services law, in relation to diabetes self-management training services; to amend the public health law, in relation to violations of health laws or regulations, penalties and injunctions; to amend the public health law, in relation to reimbursements to certain diagnostic and treatment and ambulatory care centers; to amend the social services law, in relation to providing smoking cessation counseling services to adolescents to the age of nineteen; to 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; and to repeal subdivision 2 of section 105 of 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 of certain provisions thereof (Part B); to amend the social services law, in relation to creating the long term care financing demonstration programs; to amend the public health law, in relation to requiring a study of resident data, in relation to matters regarding fiscal solvency, in relation to certificates of authority and in relation to reporting requirements and in relation to the voluntary residential health care facility rightsizing demonstration program; to amend the public health law, in relation to general hospital indigent care pools, high need indigent care adjustment pool and hospital reimbursement rates; and creating a joint legislative task force to examine distribution methodology; to amend section 47 of part B of chapter 58 of the laws of 2008 amending the social services law and other laws relating to enacting major components of legislation necessary to implement the health and mental hygiene budget for the 2008-2009 state fiscal year, in relation to the effectiveness of certain provisions thereof; to repeal certain provisions of the public health law relating to managed long term care plans; and to repeal paragraph (g) of subdivision 5-a of section 2807-k of the public health law relating to the effectiveness thereof (Part C); to amend the public health law, in relation to residential health care facilities; and 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 (Part D); to amend the social services law, in relation to electronic benefit transfers (Part E); to amend the social services law, the family court act and the surrogate's court procedure act, in relation to establishing a kinship guardianship assistance program (Part F); to amend the social services law, the family court act and the executive law, in relation to sexually exploited children (Part G); in relation to fair share payments by certain child care providers; and providing for the repeal of such provisions upon expiration thereof (Part H); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons (Part I); to amend the social services law, in relation to the nutrition outreach and education program; and to repeal certain

provisions of the public health law relating thereto (Part J); to amend the social services law, in relation to establishing the savings plan demonstration project; and providing for the repeal of such provisions upon expiration thereof (Part K); and relating to the effectiveness and applicability of certain provisions of law (Part L)

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 L. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Intentionally omitted.

14 S 2. Intentionally omitted.

15 S 3. Intentionally omitted.

16 S 4. Paragraph (m) of subdivision 1 of section 201 of the public
17 health law, as amended by section 3 of part A of chapter 58 of the laws
18 of 2009, is amended to read as follows:

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

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

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

37 S 6. Intentionally omitted.

38 S 7. Paragraph (a) of subdivision 5 of section 2819 of the public
39 health law, as amended by chapter 239 of the laws of 2005, is amended to
40 read as follows:

41 (a) Subject to paragraph (c) of this subdivision, on or before [May]
42 SEPTEMBER first of each year the commissioner shall submit a report to
43 the governor and the legislature, which shall simultaneously be
44 published in its entirety on the department's web site, that includes,

1 but is not limited to, hospital acquired infection rates adjusted for
2 the potential differences in risk factors for each reporting hospital,
3 an analysis of trends in the prevention and control of hospital acquired
4 infection rates in hospitals across the state, regional and, if avail-
5 able, national comparisons for the purpose of comparing individual
6 hospital performance, and a narrative describing lessons for safety and
7 quality improvement that can be learned from leadership hospitals and
8 programs.

9 S 8. Section 2995-a of the public health law is amended by adding a
10 new subdivision 1-a to read as follows:

11 1-A. EACH PHYSICIAN LICENSED AND REGISTERED TO PRACTICE IN THIS STATE
12 SHALL WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS
13 SUBDIVISION AND UPON ENTERING OR UPDATING HIS OR HER PROFILE INFORMA-
14 TION:

15 (A) REGISTER AND MAINTAIN AN ACCOUNT WITH THE DEPARTMENT'S HEALTH
16 PROVIDER NETWORK AND ANY SUCCESSOR ELECTRONIC SYSTEM ESTABLISHED TO
17 FACILITATE COMMUNICATIONS BETWEEN THE DEPARTMENT AND LICENSED HEALTH
18 CARE PROVIDERS; OR

19 (B) PROVIDE AN E-MAIL ADDRESS TO THE DEPARTMENT WHICH SHALL BE USED BY
20 THE DEPARTMENT TO COMMUNICATE WITH THE PHYSICIAN. LICENSEES SHALL
21 PROVIDE NOTICE TO THE DEPARTMENT OF CHANGED E-MAIL ADDRESSES WITHIN
22 THIRTY DAYS OF THE CHANGE. LICENSEE E-MAIL ADDRESSES SHALL BE CONFIDEN-
23 TIAL AND SHALL NOT BE PUBLISHED AS PART OF THE LICENSEE'S PROFILE. THE
24 E-MAIL ADDRESSES MAY BE USED FOR DEPARTMENT PURPOSES ONLY.

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

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

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

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

36 2. NOTWITHSTANDING ARTICLES SIX AND SIX-A OF THE PUBLIC OFFICERS LAW,
37 THE COMMISSIONER MAY COLLECT AND MAINTAIN CARDIAC SERVICES INFORMATION
38 AND PREPARE AND RELEASE CARDIAC DATA SETS FOR USE IN RESEARCH PROJECTS
39 AS SET FORTH IN THIS SUBDIVISION. ANY CARDIAC DATA SET RELEASED SHALL
40 CONTAIN THE MINIMUM AMOUNT OF PERSONALLY IDENTIFIABLE AND DEMOGRAPHIC
41 INFORMATION WHICH THE COMMISSIONER DETERMINES IS NECESSARY TO CONDUCT
42 THE RESEARCH PROJECT PROVIDED, HOWEVER, THAT NO CARDIAC DATA SET SHALL
43 BE RELEASED THAT CONTAINS PATIENT NAMES, SOCIAL SECURITY NUMBERS, OR
44 OTHER DATA ELEMENTS THAT DIRECTLY IDENTIFY ANY PATIENT.

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

47 (A) THE RESEARCH PROJECT'S POTENTIAL CONTRIBUTION TO IMPROVING THE
48 QUALITY OF CARE AND OUTCOMES EXPERIENCED BY PATIENTS RECEIVING CARDIAC
49 SERVICES, THE APPROPRIATENESS OF CARDIAC SERVICES, ACCESS TO CARDIAC
50 SERVICES, AND/OR THE COST EFFECTIVENESS OF CARDIAC SERVICES;

51 (B) THE TECHNICAL FEASIBILITY OF PREPARING THE CARDIAC DATA SET
52 REQUESTED;

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

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

55 (E) THE RESEARCH PROJECT'S FEASIBILITY;

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

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

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

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

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

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

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

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

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

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

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

26 S 10. Intentionally omitted.

27 S 11. Subdivision 18-a of section 206 of the public health law, as
28 added by section 74 of part B of chapter 58 of the laws of 2005, is
29 amended to read as follows:

30 18-a. (A) Health information technology demonstration program. [1.]

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

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

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

44 [(b)] (B) interconnection of physicians through regional collab-
45 orations;

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

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

51 [3.] (III) The department shall issue a report to the governor, the
52 temporary president of the senate and the speaker of the assembly within
53 one year following the issuance of the grants. Such report shall
54 contain, at a minimum, the following information: the demonstration
55 projects implemented pursuant to this [section] PARAGRAPH, their date of
56 implementation, their costs and the appropriateness of a broader appli-

1 cation of the health information technology program to increase the
2 quality and efficiency of health care across the state.

3 (B) THE COMMISSIONER SHALL MAKE SUCH RULES AND REGULATIONS AS MAY BE
4 NECESSARY TO IMPLEMENT FEDERAL POLICIES AND DISBURSE FUNDS AS REQUIRED
5 BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND TO PROMOTE THE
6 DEVELOPMENT OF A STATEWIDE HEALTH INFORMATION NETWORK OF NEW YORK
7 (SHIN-NY) TO ENABLE WIDESPREAD INTEROPERABILITY AMONG DISPARATE HEALTH
8 INFORMATION SYSTEMS, INCLUDING ELECTRONIC HEALTH RECORDS, PERSONAL
9 HEALTH RECORDS AND PUBLIC HEALTH INFORMATION SYSTEMS, WHILE PROTECTING
10 PRIVACY AND SECURITY. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT
11 BE LIMITED TO, REQUIREMENTS FOR ORGANIZATIONS COVERED BY 42 U.S.C. 17938
12 OR ANY OTHER ORGANIZATIONS THAT EXCHANGE HEALTH INFORMATION THROUGH THE
13 SHIN-NY.

14 S 12. Section 3 of chapter 178 of the laws of 2006 relating to estab-
15 lishing an advisory council on children's environmental health and safe-
16 ty, is amended to read as follows:

17 S 3. This act shall take effect on the one hundred eightieth day
18 after it shall have become a law AND SHALL EXPIRE AND BE DEEMED REPEALED
19 ON MARCH 31, 2013; provided that the commissioners of health, education
20 and environmental conservation are authorized to promulgate any and all
21 rules and regulations and take any other measures necessary to implement
22 this act on its effective date on or before such date.

23 S 13. Subdivision 4 of section 18 of the public health law, as added
24 by chapter 497 of the laws of 1986, is amended to read as follows:

25 4. Medical record access review committees. The commissioner shall
26 [appoint] DESIGNATE medical record access review committees to hear
27 appeals of the denial of access to patient information as provided in
28 paragraph (e) of subdivision three of this section. [Members of such
29 committees shall be appointed by the commissioner from a list of nomi-
30 nees submitted by statewide associations of providers in the particular
31 licensed profession involved; provided, however, that, with respect to
32 patient information maintained by a psychiatrist, the list of nominees
33 shall be composed of psychiatrists. In the case of the licensed physi-
34 cians, such association shall be the medical society of the state of New
35 York. Such medical record access review committees shall consist of no
36 less than three nor more than five licensed professionals.] The commis-
37 sioner shall promulgate rules and regulations necessary to effectuate
38 the provisions of this subdivision.

39 S 14. Section 2707 of the public health law is REPEALED.

40 S 15. Title 1-C of article 24 of the public health law is REPEALED.

41 S 16. Subdivision 13 of section 3501 of the public health law is
42 REPEALED.

43 S 17. Section 3503 of the public health law is REPEALED.

44 S 18. Section 3504 of the public health law, as added by chapter 175
45 of the laws of 2006, is amended to read as follows:

46 S 3504. Rules and regulations. The commissioner shall have power to
47 make such rules and regulations, not inconsistent with law, as may be
48 necessary to carry out the provisions of this article, including but not
49 limited to, the availability of emergency equipment appropriate to
50 provide treatment in the event of an unanticipated reaction to the
51 administration of contrast media. [In promulgating such rules and regu-
52 lations, the commissioner shall act with benefit of advice of the
53 board.]

54 S 19. Subdivision 1 of section 3511 of the public health law, as added
55 by chapter 175 of the laws of 2006, is amended to read as follows:

1 1. Proceedings against any licensee under this section shall be begun
2 by filing with the department a written charge or charges in the form of
3 a petition under oath against such licensee. The charges may be
4 preferred by any person, corporation, association or public officer, or
5 by the department in the first instance. [A copy thereof, together with
6 a report of such investigation as the department shall deem proper,
7 shall be referred to the board for its recommendation to the commission-
8 er.]

9 S 20. Section 4 of chapter 387 of the laws of 2004 amending the envi-
10 ronmental conservation law relating to restricting the use of certain
11 flame retardants, is amended to read as follows:

12 S 4. This act shall take effect immediately; provided, however, that
13 sections one and two of this act shall take effect January 1, 2006;
14 provided, however that effective immediately, the addition, amendment
15 and/or repeal of any rule or regulation necessary for the implementation
16 of this act on its effective date is authorized and directed to be made
17 and completed on or before such effective date; AND PROVIDED, HOWEVER
18 THAT SECTION THREE OF THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT
19 UNTIL APRIL 1, 2013 WHEN UPON SUCH DATE THE PROVISIONS OF SUCH SECTION
20 SHALL EXPIRE AND BE DEEMED REPEALED.

21 S 20-a. Section 3 of chapter 356 of the laws of 2005 amending the
22 public health law relating to establishing the New York state toxic mold
23 task force, is amended to read as follows:

24 S 3. This act shall take effect immediately AND SHALL REMAIN IN FULL
25 FORCE AND EFFECT UNTIL APRIL 1, 2012 WHEN UPON SUCH DATE THE PROVISIONS
26 OF THIS ACT SHALL EXPIRE AND BE DEEMED REPEALED.

27 S 21. Section 2 of chapter 41 of the laws of 1992 containing health
28 care provider reimbursement rates, is REPEALED.

29 S 22. Chapter 554 of the laws of 1996 creating the Brookhaven National
30 Laboratory local oversight and monitoring committee, is REPEALED.

31 S 23. Section 18 of chapter 537 of the laws of 1998 amending the
32 public health law relating to modifying the use of prescription forms
33 for dispensing controlled substances, is REPEALED.

34 S 24. Subdivision 7 of section 502 of the public health law is
35 REPEALED and subdivisions 8, 9 and 10 are renumbered subdivisions 7, 8
36 and 9.

37 S 25. Section 123 of chapter 1 of the laws of 1999 enacting the New
38 York Health Care Reform Act of 2000, is REPEALED.

39 S 26. Section 3604 of the public health law is REPEALED.

40 S 27. Subdivision 9 of section 3607 of the public health law, as
41 amended by chapter 831 of the laws of 1985 and as renumbered by chapter
42 891 of the laws of 1990, is amended to read as follows:

43 9. The commissioner, [after consultation with the state council on
44 home care services,] shall promulgate rules and regulations necessary to
45 administer this section. [The state council on home care services shall
46 advise the department of the availability and quality of home care
47 services and on the methods that may be used to enhance the availabili-
48 ty, appropriate utilization and coordination of home care services
49 through the implementation of the grant program.]

50 S 28. Subdivision 4 of section 3609 of the public health law, as
51 amended by chapter 831 of the laws of 1985, is amended to read as
52 follows:

53 4. The grant applications shall include such information as required
54 by the commissioner[, after consultation with the state council on home
55 care services].

1 S 29. Subdivision 5 of section 3612 of the public health law, as
2 amended by chapter 622 of the laws of 1988, is amended to read as
3 follows:

4 5. The [state hospital review and planning council] PUBLIC HEALTH AND
5 HEALTH PLANNING COUNCIL, by a majority vote of its members, shall adopt
6 and amend rules and regulations, subject to the approval of the commis-
7 sioner, to effectuate the provisions and purposes of this article with
8 respect to certified home health agencies, providers of long term home
9 health care programs and providers of AIDS home care programs, includ-
10 ing, but not limited to, (a) the establishment of requirements for a
11 uniform statewide system of reports and audits relating to the quality
12 of services provided and their utilization and costs; (b) establishment
13 by the department of schedules of rates, payments, reimbursements,
14 grants and other charges; (c) standards and procedures relating to
15 certificates of approval and authorization to provide long term home
16 health care programs and AIDS home care programs; (d) uniform standards
17 for quality of care and services to be provided by certified home health
18 agencies, providers of long term home health care programs and providers
19 of AIDS home care programs; (e) requirements for minimum levels of
20 staffing, taking into consideration the size of the agency, provider of
21 a long term home health care program or provider of an AIDS home care
22 program, the type of care and service provided, and the special needs of
23 the persons served; (f) standards and procedures relating to contractual
24 arrangements between home care services agencies; (g) requirements for
25 the establishment of plans for the coordination of home care services
26 and discharge planning for former patients or residents of facilities
27 under the regulatory jurisdiction of the department, the departments of
28 social services or mental hygiene, the board of social welfare, or the
29 office for the aging; (h) requirements for uniform review of the appro-
30 priate utilization of services; and (i) requirements for minimum quali-
31 fications and standards of training for personnel as appropriate. The
32 commissioner [and the state council on home care services] may propose
33 rules and regulations and amendments thereto for consideration by the
34 council.

35 S 30. Subdivision 10 of section 3615 of the public health law, as
36 amended by chapter 884 of the laws of 1990, is amended to read as
37 follows:

38 10. The commissioner is authorized to promulgate such rules and regu-
39 lations, [in consultation with the state council on home care services,]
40 as are necessary to carry out the provisions of this section. Such
41 rules and regulations may include, but not be limited to, minimum and
42 maximum grant levels.

43 S 31. Subdivision 4 of section 3222 of the public health law is
44 REPEALED and subdivisions 5, 6, 7, 8 and 9 are renumbered subdivisions
45 4, 5, 6, 7 and 8.

46 S 32. Section 3702 of the public health law is REPEALED.

47 S 33. Section 1399-uu of the public health law is REPEALED.

48 S 34. Section 2796 of the public health law, as added by chapter 550
49 of the laws of 1988, is REPEALED.

50 S 35. The opening paragraph of section 2798 of the public health law,
51 as added by chapter 550 of the laws of 1988, is amended to read as
52 follows:

53 The TICK-BORNE DISEASE institute ESTABLISHED BY SECTION TWENTY-SEVEN
54 HUNDRED NINETY-SEVEN OF THIS ARTICLE shall have the following powers and
55 duties:

56 S 36. Section 2799-a of the public health law is REPEALED.

1 S 37. Section 2799 of the public health law is REPEALED.

2 S 38. Intentionally omitted.

3 S 39. Section 216 of the elder law is REPEALED.

4 S 40. Article III of the elder law is REPEALED.

5 S 41. Section 209 of the elder law, subdivision 5-a as added and the
6 opening paragraph of subdivision 8 as amended by section 2 of part E of
7 chapter 58 of the laws of 2005, subdivision 6 as added and subdivisions
8 7 and 8 as renumbered by chapter 82 of the laws of 2008, is amended to
9 read as follows:

10 S 209. Naturally occurring retirement community supportive service
11 program. 1. As used in this section:

12 (a) "Advisory committee" or "committee" shall mean the advisory
13 committee convened by the director [pursuant to subdivision three of]
14 FOR THE PURPOSES SPECIFIED IN this section. Such committee shall be
15 broadly representative of housing and senior citizen groups, and all
16 geographic areas of the state.

17 (b) ["Elderly" or "elderly persons"] "OLDER ADULTS" shall mean persons
18 who are sixty years of age or older and who are heads of households.

19 (c) "Eligible applicant" shall mean a not-for-profit agency specializ-
20 ing in housing, health or other human services which serves or would
21 serve the community within which a naturally occurring retirement commu-
22 nity is located.

23 (d) "Eligible services" shall mean services including, but not limited
24 to: case management, care coordination, counseling, health assessment
25 and monitoring, transportation, socialization activities, home care
26 facilitation and monitoring, and other services designed to address the
27 needs of residents of naturally occurring retirement communities by
28 helping them extend their independence, improve their quality of life,
29 and avoid unnecessary hospital and nursing home stays.

30 (e) "Government assistance" shall mean and be broadly interpreted to
31 mean any monetary assistance provided by the federal, the state or a
32 local government, or any agency thereof, or any authority or public
33 benefit corporation, in any form, including loans or loan subsidies, for
34 the construction of an apartment building or housing complex for low and
35 moderate income persons, as such term is defined by the United States
36 Department of Housing and Urban Development.

37 (f) "Naturally occurring retirement community" shall mean an apartment
38 building or housing complex which:

39 (1) was constructed with government assistance;

40 (2) was not originally built for [elderly persons] OLDER ADULTS;

41 (3) does not restrict admissions solely to [the elderly] OLDER ADULTS;

42 (4) AT LEAST fifty percent of the units have an occupant who is
43 [elderly] AN OLDER ADULT or in which AT LEAST twenty-five hundred of the
44 residents are [elderly] OLDER ADULTS; and

45 (5) a majority of the [elderly] OLDER ADULTS to be served are low or
46 moderate income, as defined by the United States Department of Housing
47 and Urban Development.

48 2. A naturally occurring retirement community supportive service
49 program is established as a demonstration program to be administered by
50 the director.

51 3. The director shall [convene an] BE ASSISTED BY THE advisory commit-
52 tee [to aid in developing] IN THE DEVELOPMENT OF appropriate criteria
53 for the selection of grantees of funds provided pursuant to this section
54 AND PROGRAMMATIC ISSUES AS DEEMED APPROPRIATE BY THE DIRECTOR. [The
55 functions otherwise required to be performed by the advisory committee
56 shall be performed by the director until such committee is convened;

1 provided, however, that the director shall under no circumstances
2 perform such functions after the expiration of six months after the
3 effective date of this section.]

4 4. The criteria recommended by the committee and adopted by the direc-
5 tor for the award of grants shall be consistent with the provisions of
6 this section and shall include, at a minimum:

7 (a) the number, size, type and location of the projects to be served;
8 provided, that the committee and director shall make reasonable efforts
9 to assure that geographic balance in the distribution of such projects
10 is maintained, consistent with the needs to be addressed, funding avail-
11 able, applications for eligible applicants, other requirements of this
12 section, and other criteria developed by the committee and director;

13 (b) the appropriate number and concentration of [elderly] OLDER ADULT
14 residents to be served by an individual project; provided, that such
15 criteria need not specify, in the case of a project which includes
16 several buildings, the number of [elderly] OLDER ADULTS to be served in
17 any individual building;

18 (c) the demographic characteristics of the residents to be served;

19 (d) the financial support required to be provided to the project by
20 the owners, managers and residents of the housing development; provided,
21 however, that such criteria need not address whether the funding is
22 public or private, or the source of such support;

23 (e) the scope and intensity of the services to be provided, and their
24 appropriateness for the residents proposed to be served. The criteria
25 shall not require that the applicant agency be the sole provider of such
26 services, but shall require that the applicant at a minimum actively
27 manage the provision of such services;

28 (f) the experience and financial stability of the applicant agency,
29 provided that the criteria shall require that priority be given to
30 programs already in operation, including those projects participating in
31 the resident advisor program administered by the office, and enriched
32 housing programs which meet the requirements of this section and which
33 have demonstrated to the satisfaction of the director and the committee
34 their fiscal and managerial stability and programmatic success in serv-
35 ing residents;

36 (g) the nature and extent of requirements proposed to be established
37 for active, meaningful participation for residents proposed to be served
38 in project design, implementation, monitoring, evaluation and gover-
39 nance;

40 (h) an agreement by the applicant to participate in the data
41 collection and evaluation project necessary to complete the report
42 required by this section;

43 (i) the policy and program roles of the applicant agency and any other
44 agencies involved in the provision of services or the management of the
45 project, including the housing development governing body, or other
46 owners or managers of the apartment buildings and housing complexes and
47 the residents of such apartment buildings and housing complexes. The
48 criteria shall require a clear delineation of such policy and program
49 roles;

50 (j) a requirement that each eligible agency document the need for the
51 project and financial commitments to it from such sources as the commit-
52 tee and the director shall deem appropriate given the character and
53 nature of the proposed project, and written evidence of support from the
54 appropriate housing development governing body or other owners or manag-
55 ers of the apartment buildings and housing complexes. The purpose of
56 such documentation shall be to demonstrate the need for the project,

1 support for it in the areas to be served, and the financial and manage-
2 rial ability to sustain the project;

3 (k) a requirement that any aid provided pursuant to this section be
4 matched by an equal amount from other sources and that at least twenty-
5 five percent of such amount be contributed by the housing development
6 governing body or other owners or managers and residents of the apart-
7 ment buildings and housing complexes in which the project is proposed;
8 and

9 (l) the circumstances under which the director may waive all or part
10 of the requirement for provision of an equal amount of funding from
11 other sources required pursuant to paragraph (k) of this subdivision,
12 provided that such criteria shall include provision for waiver at the
13 discretion of the director upon a finding by the director that the
14 program will serve a low income or hardship community, and that such
15 waiver is required to assure that such community receive a fair share of
16 the funding available. The committee shall develop appropriate criteria
17 for determining whether a community is a low income or hardship communi-
18 ty.

19 5. Within amounts specifically appropriated therefor and consistent
20 with the criteria developed and required pursuant to this section the
21 director shall approve grants to eligible applicants in amounts not to
22 exceed one hundred fifty thousand dollars for a project in any twelve
23 month period. The director shall not approve more than ten grants in the
24 first twelve month period after the effective date of this section.

25 5-a. The director may, in addition recognize neighborhood naturally
26 occurring retirement communities, or Neighborhood NORCs, and provide
27 program support within amounts specifically available by appropriation
28 therefor, which shall be subject to the requirements, rules and regu-
29 lations of this section, provided however that:

30 (a) the term Neighborhood NORC as used in this subdivision shall mean
31 and refer to a residential dwelling or group of residential dwellings in
32 a geographically defined neighborhood of a municipality containing not
33 more than two thousand persons who are [elderly] OLDER ADULTS reside in
34 at least forty percent of the units and which is made up of low-rise
35 buildings six stories or less in height and/or single and multi-family
36 homes and which area was not originally developed for [elderly persons]
37 OLDER ADULTS, and which does not restrict admission strictly to [the
38 elderly] OLDER ADULTS;

39 (b) grants to an eligible Neighborhood NORC shall be no less than
40 sixty thousand dollars for any twelve-month period;

41 (c) the director shall [convene an] BE ASSISTED BY THE advisory
42 committee [to help develop] IN THE DEVELOPMENT OF criteria for the
43 selection of grants provided pursuant to this section AND PROGRAMMATIC
44 ISSUES AS DEEMED APPROPRIATE BY THE DIRECTOR. [The functions otherwise
45 required to be performed by the advisory committee shall be performed by
46 the director until the committee is convened, or for six months after
47 the effective date of this subdivision, whichever occurs earlier.] The
48 criteria recommended by the committee and adopted by the director for
49 the award of grants shall be consistent with the provisions of this
50 subdivision and shall include, at a minimum, the following requirements
51 or items of information using such criteria as the advisory committee
52 and the director shall approve:

53 (1) the number, size, type and location of residential dwellings or
54 group of residential dwellings selected as candidates for neighborhood
55 NORCs funding. The director shall make reasonable efforts to assure that
56 geographic balance in the distribution of such grants is maintained,

1 consistent with the needs to be addressed, funding available, applica-
2 tions from eligible applicants, ability to coordinate services and other
3 requirements of this section;

4 (2) the appropriate number and concentration of [elderly] OLDER ADULT
5 residents to be served by an individual Neighborhood NORC. The criteria
6 need not specify the number of [elderly] OLDER ADULTS to be served in
7 any individual building;

8 (3) the demographic characteristics of the residents to be served;

9 (4) a requirement that the applicant demonstrate the development or
10 intent to develop community wide support from residents, neighborhood
11 associations, community groups, nonprofit organizations and others;

12 (5) a requirement that the boundaries of the geographic area to be
13 served are clear and coherent and create an identifiable program and
14 supportive community;

15 (6) a requirement that the applicant commit to raising matching funds
16 from non-state sources of fifteen percent of the state grant in the
17 second year after the program is approved, twenty-five percent in the
18 third year, forty percent in the fourth year, and fifty percent in the
19 fifth year, and further commit that in each year, twenty-five percent of
20 such required matching funds be raised within the community served. Such
21 local community matching funds shall include but not be limited to:
22 dues, fees for service, individual and community contributions, and such
23 other funds as the advisory committee and the director shall deem appro-
24 priate;

25 (7) a requirement that the applicant demonstrate experience and finan-
26 cial stability;

27 (8) a requirement that priority in selection be given to programs in
28 existence prior to the effective date of this subdivision which, except
29 for designation and funding requirements established herein, would have
30 otherwise generally qualified as a Neighborhood NORC;

31 (9) a requirement that the applicant conduct or have conducted a needs
32 assessment on the basis of which such applicant shall establish the
33 nature and extent of services to be provided; and further that such
34 services shall provide a mix of appropriate services that provide active
35 and meaningful participation for residents;

36 (10) a requirement that residents to be served shall be involved in
37 design, implementation, monitoring, evaluation and governance of the
38 Neighborhood NORC;

39 (11) an agreement by the applicant that it will participate in the
40 data collection and evaluation necessary to complete the reporting
41 requirements as established by the director;

42 (12) the policy and program roles of the applicant agency and any
43 other agencies involved in the provision of services or the management
44 of the Neighborhood NORC, provided that the criteria shall require a
45 clear delineation of such policy and program roles;

46 (13) a requirement that each applicant document the need for the grant
47 and financial commitments to it from such sources as the advisory
48 committee and the director shall deem appropriate given the character
49 and nature of the proposed Neighborhood NORC and written evidence of
50 support from the community;

51 (14) the circumstances under which the director may waive all or part
52 of the requirement for provision of an equal amount of funding from
53 other sources required pursuant to this subdivision, provided that such
54 criteria shall include provision for waiver at the discretion of the
55 director upon a finding by the director that the Neighborhood NORC will
56 serve a low income or hardship community, and that such waiver is

1 required to assure that such community receive a fair share of the fund-
2 ing available. For purposes of this paragraph, a hardship community may
3 be one that has developed a successful model but which needs additional
4 time to raise matching funds required herein. An applicant applying for
5 a hardship exception shall submit a written plan in a form and manner
6 determined by the director detailing its plans to meet the matching
7 funds requirement in the succeeding year;

8 (15) a requirement that any proposed Neighborhood NORC in a geograph-
9 ically defined neighborhood of a municipality containing more than two
10 thousand [seniors] OLDER ADULTS shall require the review and recommenda-
11 tion by the advisory committee before being approved by the director;

12 (d) on or before March first, two thousand eight, the director shall
13 report to the governor and the fiscal and aging committees of the senate
14 and the assembly concerning the effectiveness of Neighborhood NORCs in
15 achieving the objectives set forth by this subdivision. Such report
16 shall address each of the items required for Neighborhood NORCs in
17 achieving the objectives set forth in this section and such other items
18 of information as the director shall deem appropriate, including recom-
19 mendations concerning continuation or modification of the program, and
20 any recommendations from the advisory committee.

21 (e) in providing program support for Neighborhood NORCs as authorized
22 by this subdivision, the director shall in no event divert or transfer
23 funding for grants or program support from any naturally occurring
24 retirement community supportive service programs authorized pursuant to
25 other provisions of this section.

26 6. The director may allow services provided by a naturally occurring
27 retirement community supportive service program or by a neighborhood
28 naturally occurring retirement community to also include services to
29 residents who live in neighborhoods contiguous to the boundaries of the
30 geographic area served by such programs if: (a) the persons served are
31 [elderly persons] OLDER ADULTS; (b) the services affect the health and
32 welfare of such persons; and (c) the services are provided on a one-time
33 basis in the year in which they are provided, and not in a manner which
34 is said or intended to be continuous. The director may also consent to
35 the provision of such services by such program if the program has
36 received a grant which requires services to be provided beyond the
37 geographic boundaries of the program. The director shall establish
38 procedures under which a program may request the ability to provide such
39 services.

40 7. The director shall promulgate rules and regulations as necessary to
41 carry out the provisions of this section.

42 8. On or before March first, two thousand five, the director shall
43 report to the governor and the finance committee of the senate and the
44 ways and means committee of the assembly concerning the effectiveness of
45 the naturally occurring retirement community supportive services
46 program, other than Neighborhood NORCs, as defined in subdivision five-a
47 of this section, in achieving the objectives set forth by this section,
48 which include helping to address the needs of residents in such
49 naturally occurring retirement communities, assuring access to a contin-
50 uum of necessary services, increasing private, philanthropic and other
51 public funding for programs, and preventing unnecessary hospital and
52 nursing home stays. The report shall also include recommendations
53 concerning continuation or modification of the program from the director
54 and the committee, and shall note any divergence between the recommenda-
55 tions of the director and the committee. The director shall provide the
56 required information and any other information deemed appropriate to the

1 report in such form and detail as will be helpful to the legislature and
2 the governor in determining to extend, eliminate or modify the program
3 including, but not limited to, the following:

4 (a) the number, size, type and location of the projects developed and
5 funded, including the number, kinds and functions of staff in each
6 program;

7 (b) the number, size, type and location of the projects proposed but
8 not funded, and the reasons for denial of funding for such projects;

9 (c) the age, sex, religion and other appropriate demographic informa-
10 tion concerning the residents served;

11 (d) the services provided to residents, reported in such manner as to
12 allow comparison of services by demographic group and region;

13 (e) a listing of the services provided by eligible applicants, includ-
14 ing the number, kind and intensity of such services; and

15 (f) a listing of other organizations providing services, the number,
16 kind and intensity of such services, the number of referrals to such
17 organizations and, to the extent practicable, the outcomes of such
18 referrals.

19 S 42. Subdivision 1 of section 210 of the elder law is amended to read
20 as follows:

21 1. There shall be within the office an advisory committee for the
22 aging, consisting of not more than [twenty-five] THIRTY-FIVE members,
23 appointed by the governor. In making such appointments, the governor
24 shall give due consideration to representation from the major regions of
25 the state. One member of the advisory committee shall be designated as
26 chairperson by the governor and shall serve as chairperson at the pleas-
27 ure of the governor. The advisory committee shall meet from time to time
28 at the call of such chairperson or the director. The director shall seek
29 the advice of the advisory committee with respect to the needs of the
30 aging and, if so requested by the director, such committee shall make
31 particular studies relating to the aging.

32 S 43. Section 2 of the public health law is amended by adding a new
33 subdivision 3 to read as follows:

34 3. WHENEVER THE TERM "PUBLIC HEALTH COUNCIL" OR "STATE HOSPITAL REVIEW
35 AND PLANNING COUNCIL" OCCURS, OR ANY REFERENCE IS MADE THERETO, IN ANY
36 LAW, IT SHALL BE DEEMED TO MEAN OR REFER TO THE PUBLIC HEALTH AND HEALTH
37 PLANNING COUNCIL AS DESCRIBED IN ARTICLE TWO OF THIS CHAPTER.

38 S 44. Subdivision 3 of section 201 of the public health law is amended
39 to read as follows:

40 3. All the provisions of this chapter shall apply to the department
41 continued by this chapter and to the commissioner, the public health
42 council AND ANY SUCCESSOR COUNCIL, and to the divisions, bureaus and
43 officers in such department.

44 S 45. Section 220 of the public health law, as amended by chapter 301
45 of the laws of 1989, is amended to read as follows:

46 S 220. Public health AND HEALTH PLANNING council; appointment of
47 members. There shall continue to be in the department a public health
48 AND HEALTH PLANNING council to consist of the commissioner and fourteen
49 members to be appointed by the governor with the advice and consent of
50 the senate; PROVIDED THAT EFFECTIVE DECEMBER FIRST, TWO THOUSAND TEN,
51 THE MEMBERSHIP OF THE COUNCIL SHALL CONSIST OF THE COMMISSIONER AND
52 TWENTY-FOUR MEMBERS TO BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND
53 CONSENT OF THE SENATE. Membership on the council shall be reflective of
54 the diversity of the state's population including, but not limited to,
55 the various geographic areas and population densities throughout the
56 state. THE MEMBERS SHALL INCLUDE REPRESENTATIVES OF THE PUBLIC HEALTH

1 SYSTEM, HEALTH CARE PROVIDERS THAT COMPRISE THE STATE'S HEALTH CARE
2 DELIVERY SYSTEM, INDIVIDUALS WITH EXPERTISE IN THE CLINICAL AND ADMINIS-
3 TRATIVE ASPECTS OF HEALTH CARE DELIVERY, ISSUES AFFECTING HEALTH CARE
4 CONSUMERS, HEALTH PLANNING, HEALTH CARE FINANCING AND REIMBURSEMENT,
5 HEALTH CARE REGULATION AND COMPLIANCE, AND PUBLIC HEALTH PRACTICE AND AT
6 LEAST TWO MEMBERS SHALL ALSO BE MEMBERS OF THE MENTAL HEALTH SERVICES
7 COUNCIL; AT LEAST FOUR MEMBERS SHALL BE REPRESENTATIVES OF GENERAL
8 HOSPITALS OR NURSING HOMES; AND AT LEAST ONE MEMBER SHALL BE A REPRES-
9 TATIVE OF EACH OF THE FOLLOWING GROUPS: HOME CARE AGENCIES, DIAGNOSTIC
10 AND TREATMENT CENTERS, HEALTH CARE PAYORS, LABOR ORGANIZATIONS FOR
11 HEALTH CARE EMPLOYEES, AND HEALTH CARE CONSUMER ADVOCACY ORGANIZATIONS.

12 S 46. Section 221 of the public health law, as amended by chapter 301
13 of the laws of 1989, is amended to read as follows:

14 S 221. Public health AND HEALTH PLANNING council; terms of office;
15 vacancies. 1. The terms of office of members of the public health AND
16 HEALTH PLANNING council shall be six years. The members of the council
17 shall continue in office until the expiration of their terms and until
18 their successors are appointed and have qualified. Such appointments
19 shall be made by the governor, with the advice and consent of the
20 senate, within one year following the expiration of such terms.

21 2. Vacancies shall be filled by appointment by the governor for the
22 unexpired terms within one year of the date upon which such vacancies
23 occur. [Any vacancy existing on the effective date of subdivision three
24 of this section shall be filled by appointment within one year of such
25 effective date.]

26 3. In making appointments to the council, the governor shall seek to
27 ensure that membership on the council reflects the diversity of the
28 state's population including, but not limited to the various geographic
29 areas and population densities throughout the state.

30 4. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, OF THE TEN MEMBERS
31 APPOINTED OR REAPPOINTED TO THE COUNCIL ON OR AFTER DECEMBER FIRST, TWO
32 THOUSAND TEN, TWO SHALL SERVE A TERM OF THREE YEARS, TWO SHALL SERVE A
33 TERM OF FOUR YEARS, THREE SHALL SERVE A TERM OF FIVE YEARS, AND THREE
34 SHALL SERVE A TERM OF SIX YEARS. THEREAFTER, MEMBERS APPOINTED OR REAP-
35 POINTED UPON EXPIRATION OF A TERM OF OFFICE SHALL BE APPOINTED FOR A
36 TERM OF SIX YEARS AND SHALL CONTINUE IN OFFICE UNTIL THEIR SUCCESSORS
37 ARE APPOINTED.

38 S 47. Section 222 of the public health law is amended to read as
39 follows:

40 S 222. Public health AND HEALTH PLANNING council; meetings; by-laws.
41 1. The public health AND HEALTH PLANNING council shall meet as frequent-
42 ly as its business may require, and at least twice in each year.

43 2. The governor shall designate one of the members of the public
44 health AND HEALTH PLANNING council as its [chairman] CHAIR.

45 3. The public health AND HEALTH PLANNING council shall enact and from
46 time to time may amend by-laws in relation to its meetings and the tran-
47 sactions of its business.

48 4. All meetings of the public health AND HEALTH PLANNING council shall
49 in every proceeding be deemed to have been duly called and regularly
50 held, and all regulations and proceedings to have been duly authorized
51 unless the contrary be proved.

52 S 48. Section 223 of the public health law, as amended by chapter 55
53 of the laws of 1992, is amended to read as follows:

54 S 223. Public health AND HEALTH PLANNING council; compensation and
55 expenses. The members of the public health AND HEALTH PLANNING council
56 other than the commissioner of health shall [each] receive [two hundred

1 twenty-five dollars for each day devoted to council work not to exceed
2 two thousand seven hundred dollars in any one year plus necessary
3 expenses] NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE REIMBURSED
4 FOR EXPENSES ACTUALLY AND NECESSARILY INCURRED IN THE PERFORMANCE OF
5 THEIR DUTIES.

6 S 49. Section 224 of the public health law is amended to read as
7 follows:

8 S 224. Public health AND HEALTH PLANNING council; secretary, employ-
9 ees. The commissioner upon request of the public health AND HEALTH
10 PLANNING council, shall designate an officer or employee of the depart-
11 ment to act as secretary of the public health AND HEALTH PLANNING coun-
12 cil, and shall assign from time to time such other employees as the
13 public health AND HEALTH PLANNING council may require.

14 S 50. The public health law is amended by adding a new section 224-b
15 to read as follows:

16 S 224-B. PUBLIC HEALTH AND HEALTH PLANNING COUNCIL; POWERS AND DUTIES;
17 HEALTH CARE FACILITIES, HOME CARE AGENCIES AND HOSPICES. THE PUBLIC
18 HEALTH AND HEALTH PLANNING COUNCIL SHALL HAVE SUCH POWERS AND DUTIES AS
19 ARE SET FORTH IN THIS CHAPTER, INCLUDING THE CONSIDERATION OF APPLICA-
20 TIONS FOR THE ESTABLISHMENT AND CONSTRUCTION OF HEALTH CARE FACILITIES,
21 HOME CARE AGENCIES AND HOSPICES LICENSED UNDER ARTICLES TWENTY-EIGHT,
22 THIRTY-SIX OR FORTY OF THIS CHAPTER. IN CARRYING OUT ITS POWERS AND
23 DUTIES, THE COUNCIL SHALL TAKE INTO ACCOUNT THE IMPACT OF ITS ACTIONS
24 AND RECOMMENDATIONS ON THE QUALITY, ACCESSIBILITY, EFFICIENCY AND COST-
25 EFFECTIVENESS OF HEALTH CARE THROUGHOUT THE STATE. THE COUNCIL SHALL
26 UNDERTAKE A COMPREHENSIVE REVIEW OF REGULATIONS AND COUNCIL PROCEDURES
27 GOVERNING THE ESTABLISHMENT AND CONSTRUCTION OF SUCH HEALTH CARE FACILI-
28 TIES, HOME CARE AGENCIES AND HOSPICES AND SHALL SUBMIT TO THE COMMIS-
29 SIONER ANY RECOMMENDATIONS FOR THE REVISIONS OF SUCH REGULATIONS. SUCH
30 REVIEW SHALL BE CONDUCTED EVERY FIVE YEARS, AND THE FIRST SET OF RECOM-
31 MENDATIONS SHALL BE SUBMITTED TO THE COMMISSIONER ON OR BEFORE DECEMBER
32 FIRST, TWO THOUSAND SIXTEEN.

33 S 51. The section heading and subdivisions 1, 2, 3, 4 and paragraphs
34 (a) and (m) of subdivision 5 of section 225 of the public health law,
35 subdivision 2 as added and subdivisions 3, 4 and paragraphs (a) and (m)
36 of subdivision 5 as renumbered by chapter 626 of the laws of 1971,
37 subdivision 3 as amended by chapter 617 of the laws of 1970 and para-
38 graph (m) of subdivision 5 as amended by chapter 894 of the laws of
39 1958, are amended to read as follows:

40 Public health AND HEALTH PLANNING council; powers and duties; sanitary
41 code. 1. The public health AND HEALTH PLANNING council shall, at the
42 request of the commissioner, consider any matter relating to the preser-
43 vation and improvement of public health, and may advise the commissioner
44 thereon; and it may, from time to time, submit to the commissioner, any
45 recommendations relating to the preservation and improvement of public
46 health.

47 2. The public health AND HEALTH PLANNING council shall appoint one or
48 more advisory committees expert in the major areas of public health
49 concern, including but not limited to health education, health manpower,
50 economics and delivery of health service, sanitation problems and inter-
51 professional relationships. Members of advisory committees need not be
52 members of the public health AND HEALTH PLANNING council.

53 3. The public health AND HEALTH PLANNING council shall have no execu-
54 tive, administrative or appointive duties except as otherwise provided
55 by law.

1 4. The public health AND HEALTH PLANNING council shall have power by
2 the affirmative vote of a majority of its members to establish, and from
3 time to time, amend and repeal sanitary regulations, to be known as the
4 sanitary code of the state of New York, subject to approval by the
5 commissioner.

6 (a) deal with any matters affecting the security of life or health or
7 the preservation and improvement of public health in the state of New
8 York, and with any matters as to which the jurisdiction is conferred
9 upon the public health AND HEALTH PLANNING council;

10 (m) require that application be made for a permit to operate a farm or
11 food processing labor camp as defined in the sanitary code; authorize
12 appropriate officers or agencies to issue such a permit when the appli-
13 cant is in compliance with the established regulations; prescribe stand-
14 ards for living quarters at farm and food processing labor camps,
15 including provisions for sanitary conditions; light, air, and safety;
16 protection from fire hazards; maintenance; and such other matters as may
17 be appropriate for security of life or health, provided however, that
18 the provisions of the sanitary code established pursuant to the
19 provisions hereof shall apply to all farm and food processing labor
20 camps intended to house migrant workers and which are occupied by five
21 or more persons. In the preparation of such regulations, the public
22 health AND HEALTH PLANNING COUNCIL may request and shall receive techni-
23 cal assistance from the board of standards and appeals of the state
24 department of labor and the state building code commission. Such regu-
25 lation shall be enforced in the same manner as are other provisions of
26 the sanitary code;

27 S 52. Section 226 of the public health law is amended to read as
28 follows:

29 S 226. Sanitary code; filing and publication. 1. Every regulation
30 adopted by the public health AND HEALTH PLANNING council shall state the
31 date on which it takes effect, and a copy thereof, duly signed by the
32 secretary of the public health AND HEALTH PLANNING council, shall be
33 filed as a public record in the department and in the office of the
34 secretary of state.

35 2. A copy of every regulation adopted by the public health AND HEALTH
36 PLANNING council shall be sent by the commissioner to each health offi-
37 cer within the state, and shall be published in such manner as the
38 public health AND HEALTH PLANNING council may from time to time deter-
39 mine.

40 S 53. Subdivisions 1 and 2 of section 228 of the public health law, as
41 amended by chapter 626 of the laws of 1971, are amended to read as
42 follows:

43 1. The provisions of the sanitary code, unless otherwise stated by the
44 public health AND HEALTH PLANNING council, shall apply to and be effec-
45 tive in all portions of the state and shall supersede all local ordi-
46 nances heretofore or hereafter enacted inconsistent therewith.

47 2. Each county, city, town or village, in the manner hereinafter
48 prescribed, may enact sanitary regulations not inconsistent with the
49 sanitary code established by the public health AND HEALTH PLANNING coun-
50 cil.

51 S 54. Section 238 of the public health law is amended by adding a new
52 subdivision 17 to read as follows:

53 17. "PUBLIC HEALTH COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH
54 PLANNING COUNCIL.

1 S 55. Subdivision 3 of section 243 of the public health law, as added
2 by chapter 757 of the laws of 1992, and such section as renumbered by
3 chapter 443 of the laws of 1993, is amended to read as follows:

4 3. Meetings. a. The minority health council shall meet as frequently
5 as its business may require, and at least twice in each year.

6 b. The governor shall designate one of the members of the public
7 health AND HEALTH PLANNING council as its chair.

8 S 56. Subdivision 6 of section 2801 of the public health law, as
9 added by chapter 795 of the laws of 1965, and as renumbered by chapter
10 653 of the laws of 1975, is amended to read as follows:

11 6. "Council" [means the state hospital review and planning council]
12 AND "PUBLIC HEALTH COUNCIL" MEAN THE PUBLIC HEALTH AND HEALTH PLANNING
13 COUNCIL.

14 S 57. Section 2801-a of the public health law, as amended by chapter
15 667 of the laws of 1997, subdivision 2-a as added by chapter 588 of the
16 laws of 1998, paragraph (c) of subdivision 4 as amended by chapter 538
17 of the laws of 1998, subdivision 15 as added by chapter 315 of the laws
18 of 2007, and subdivision 16 as added by section 86 of part C of chapter
19 58 of the laws of 2009, is amended to read as follows:

20 S 2801-a. Establishment or incorporation of hospitals. 1. No hospi-
21 tal, as defined in this article, shall be established except with the
22 written approval of the public health AND HEALTH PLANNING council. No
23 certificate of incorporation of a business membership or not-for-profit
24 corporation shall hereafter be filed which includes among its corporate
25 purposes or powers the establishment or operation of any hospital, as
26 defined in this article, or the solicitation of contributions for any
27 such purpose, or two or more of such purposes, except with the written
28 approval of the public health AND HEALTH PLANNING council, and when
29 otherwise required by law of a justice of the supreme court, endorsed on
30 or annexed to the certificate of incorporation. No articles of organiza-
31 tion of a limited liability company established pursuant to the New York
32 limited liability company law which includes among its powers or
33 purposes the establishment or operation of any hospital as defined in
34 this article, shall be filed with the department of state except upon
35 the approval of the public health AND HEALTH PLANNING council.

36 2. With respect to the incorporation or establishment of any hospital,
37 as defined in this article, the public health AND HEALTH PLANNING coun-
38 cil shall give written approval after all of the following requirements
39 have been met. An application for approval of the proposed certificate
40 of incorporation, articles of organization or establishment shall be
41 filed with the public health AND HEALTH PLANNING council together with
42 such other forms and information as shall be prescribed by, or accepta-
43 ble to, the public health AND HEALTH PLANNING council. Thereafter, the
44 public health AND HEALTH PLANNING council shall forward a copy of the
45 proposed certificate or application for establishment, and accompanying
46 documents, to [the state hospital review and planning council and] the
47 health systems agency, IF ANY, having geographical jurisdiction of the
48 area where the proposed institution is to be located. The public health
49 AND HEALTH PLANNING council shall act upon such application after [the
50 state council and] the health systems agency [have] HAS had a reasonable
51 time to submit their recommendations. At the time members of the public
52 health AND HEALTH PLANNING council are notified that an application is
53 scheduled for consideration, the applicant and the health systems agency
54 shall be so notified in writing. The public health AND HEALTH PLANNING
55 council shall afford the applicant an opportunity to present information
56 in person concerning the application to a committee designated by the

1 council. The public health AND HEALTH PLANNING council shall not take
2 any action contrary to the advice of [either the state council or] the
3 health systems agency until it affords to [either] THE HEALTH SYSTEMS
4 AGENCY an opportunity to request a public hearing and, if so requested,
5 a public hearing shall be held. If the public health AND HEALTH PLANNING
6 council proposes to disapprove the application it shall afford the
7 applicant an opportunity to request a public hearing. The public health
8 AND HEALTH PLANNING council may hold a public hearing on the application
9 on its own motion. Any public hearing held pursuant to this subdivision
10 may be conducted by the public health AND HEALTH PLANNING council, or by
11 any individual designated by the public health AND HEALTH PLANNING coun-
12 cil. Beginning on January first, nineteen hundred ninety-four, and each
13 year thereafter, a complete application received between January first
14 and June thirtieth of each year shall be reviewed by the appropriate
15 health systems agency and the department and presented to the [state
16 hospital review and] PUBLIC HEALTH AND HEALTH planning council for its
17 consideration prior to June thirtieth of the following year and a
18 complete application received between July first and December thirty-
19 first of each year shall be reviewed by the appropriate health systems
20 agency and the department presented to the [state hospital review and]
21 PUBLIC HEALTH AND HEALTH planning council for consideration prior to
22 December thirty-first of the following year.

23 2-a. (a) Notwithstanding any provision of law to the contrary, the
24 commissioner is authorized to approve a certificate of incorporation or
25 articles of organization for establishment of a hospital, provided that:
26 (i) the certificate of incorporation or articles of organization
27 reflects solely a change in the form of the business organization of an
28 existing entity which had been approved by the public health AND HEALTH
29 PLANNING council OR ITS PREDECESSOR; and (ii) every incorporator, stock-
30 holder, member, director and sponsor of the new entity shall have been
31 an owner, partner, incorporator, stockholder, member, director or spon-
32 sor of the existing entity; and (iii) the distribution of ownership,
33 interests and voting rights in the new entity shall be the same as in
34 the existing entity; and (iv) there shall be no change in the operator
35 of a hospital other than the form of its business organization, as a
36 result of the approval of such certificate of incorporation or articles
37 of organization. Any approval by the public health AND HEALTH PLANNING
38 council of a person as an owner, incorporator, stockholder, member,
39 director or sponsor in the existing entity shall be deemed to be
40 approval for the same degree of participation in the new entity. If the
41 proposal is acceptable to the commissioner an amended operating certif-
42 icate shall be issued. In the event the commissioner determines that the
43 proposed transfer is not approvable the application shall be referred to
44 the public health AND HEALTH PLANNING council for its review and action.
45 If the public health AND HEALTH PLANNING council proposes to disapprove
46 the application, it shall afford the applicant an opportunity to request
47 a public hearing and, if so requested, a public hearing shall be held.
48 Any public hearing held pursuant to this subdivision may be conducted by
49 the public health AND HEALTH PLANNING council, or by any individual
50 designated by the public health AND HEALTH PLANNING council.

51 3. The public health AND HEALTH PLANNING council shall not approve a
52 certificate of incorporation, articles of organization or application
53 for establishment unless it is satisfied, insofar as applicable, as to
54 (a) the public need for the existence of the institution at the time and
55 place and under the circumstances proposed, provided, however, that in
56 the case of an institution proposed to be established or operated by an

1 organization defined in subdivision one of section one hundred seventy-
2 two-a of the executive law, the needs of the members of the religious
3 denomination concerned, for care or treatment in accordance with their
4 religious or ethical convictions, shall be deemed to be public need; (b)
5 the character, competence, and standing in the community, of the
6 proposed incorporators, directors, sponsors, stockholders, members or
7 operators; with respect to any proposed incorporator, director, sponsor,
8 stockholder, member or operator who is already or within the past ten
9 years has been an incorporator, director, sponsor, member, principal
10 stockholder, principal member, or operator of any hospital, private
11 proprietary home for adults, residence for adults, or non-profit home
12 for the aged or blind which has been issued an operating certificate by
13 the state department of social services, or a halfway house, hostel or
14 other residential facility or institution for the care, custody or
15 treatment of the mentally disabled which is subject to approval by the
16 department of mental hygiene, no approval shall be granted unless the
17 public health AND HEALTH PLANNING council, having afforded an adequate
18 opportunity to members of health systems agencies, IF ANY, having
19 geographical jurisdiction of the area where the institution is to be
20 located to be heard, shall affirmatively find by substantial evidence as
21 to each such incorporator, director, sponsor, principal stockholder or
22 operator that a substantially consistent high level of care is being or
23 was being rendered in each such hospital, home, residence, halfway
24 house, hostel, or other residential facility or institution with which
25 such person is or was affiliated; for the purposes of this paragraph,
26 the public health AND HEALTH PLANNING council shall adopt rules and
27 regulations, subject to the approval of the commissioner, to establish
28 the criteria to be used to determine whether a substantially consistent
29 high level of care has been rendered, provided, however, that there
30 shall not be a finding that a substantially consistent high level of
31 care has been rendered where there have been violations of the state
32 hospital code, or other applicable rules and regulations, that (i)
33 threatened to directly affect the health, safety or welfare of any
34 patient or resident, and (ii) were recurrent or were not promptly
35 corrected; (c) the financial resources of the proposed institution and
36 its sources of future revenues; and (d) such other matters as it shall
37 deem pertinent.

38 3-a. Notwithstanding any other provisions of this chapter, the public
39 health council is hereby empowered to approve the establishment, for
40 demonstration purposes, of not more than one existing hospital within
41 the geographical jurisdiction of each health systems agency established
42 under the provisions of subdivision (c) of section twenty-nine hundred
43 four of this chapter. The purposes of such hospitals shall be to offer
44 and provide nursing home services, board and lodging to persons requir-
45 ing such services within one hospital. The public health council may
46 approve the establishment of such hospitals without regard to the
47 requirement of public need as set forth in subdivision three of this
48 section.

49 4. (a) Any change in the person who is the operator of a hospital
50 shall be approved by the public health AND HEALTH PLANNING council in
51 accordance with the provisions of subdivisions two and three of this
52 section. Notwithstanding any inconsistent provision of this paragraph,
53 any change by a natural person who is the operator of a hospital seeking
54 to transfer part of his or her interest in such hospital to another
55 person or persons so as to create a partnership shall be approved in
56 accordance with the provisions of paragraph (b) of this subdivision.

1 (b) (i) Any transfer, assignment or other disposition of ten percent
2 or more of an interest or voting rights in a partnership or limited
3 liability company, which is the operator of a hospital to a new partner
4 or member, shall be approved by the public health AND HEALTH PLANNING
5 council, in accordance with the provisions of subdivisions two and three
6 of this section, except that: (A) any such change shall be subject to
7 the approval by the public health AND HEALTH PLANNING council in accord-
8 ance with paragraph (b) of subdivision three of this section only with
9 respect to the new partner or member, and any remaining partners or
10 members who have not been previously approved for that facility in
11 accordance with such paragraph, and (B) such change shall not be subject
12 to paragraph (a) of subdivision three of this section.

13 (ii) With respect to a transfer, assignment or disposition involving
14 less than ten percent of an interest or voting rights in such partner-
15 ship or limited liability company to a new partner or member, no prior
16 approval of the public health AND HEALTH PLANNING council shall be
17 required. However, no such transaction shall be effective unless at
18 least ninety days prior to the intended effective date thereof, the
19 partnership or limited liability company fully completes and files with
20 the public health AND HEALTH PLANNING council notice on a form, to be
21 developed by the public health AND HEALTH PLANNING council, which shall
22 disclose such information as may reasonably be necessary for the public
23 health AND HEALTH PLANNING council to determine whether it should bar
24 the transaction for any of the reasons set forth in item (A), (B), (C)
25 or (D) below. Within ninety days from the date of receipt of such
26 notice, the public health AND HEALTH PLANNING council may bar any trans-
27 action under this subparagraph: (A) if the equity position of the part-
28 nership or limited liability company, determined in accordance with
29 generally accepted accounting principles, would be reduced as a result
30 of the transfer, assignment or disposition; (B) if the transaction would
31 result in the ownership of a partnership or membership interest by any
32 persons who have been convicted of a felony described in subdivision
33 five of section twenty-eight hundred six of this article; (C) if there
34 are reasonable grounds to believe that the proposed transaction does not
35 satisfy the character and competence criteria set forth in subdivision
36 three of this section; or (D) if the transaction, together with all
37 transactions under this subparagraph for the partnership, or successor,
38 during any five year period would, in the aggregate, involve twenty-five
39 percent or more of the interest in the partnership. The public health
40 AND HEALTH PLANNING council shall state specific reasons for barring any
41 transaction under this subparagraph and shall so notify each party to
42 the proposed transaction.

43 (iii) With respect to a transfer, assignment or disposition of an
44 interest or voting rights in such partnership or limited liability
45 company to any remaining partner or member, which transaction involves
46 the withdrawal of the transferor from the partnership or limited liabil-
47 ity company, no prior approval of the public health AND HEALTH PLANNING
48 council shall be required. However, no such transaction shall be effec-
49 tive unless at least ninety days prior to the intended effective date
50 thereof, the partnership or limited liability company fully completes
51 and files with the public health AND HEALTH PLANNING council notice on a
52 form, to be developed by the public health AND HEALTH PLANNING council,
53 which shall disclose such information as may reasonably be necessary for
54 the public health AND HEALTH PLANNING council to determine whether it
55 should bar the transaction for the reason set forth below. Within nine-
56 ty days from the date of receipt of such notice, the public health AND

1 HEALTH PLANNING council may bar any transaction under this subparagraph
2 if the equity position of the partnership or limited liability company,
3 determined in accordance with generally accepted accounting principles,
4 would be reduced as a result of the transfer, assignment or disposition.
5 The public health AND HEALTH PLANNING council shall state specific
6 reasons for barring any transaction under this subparagraph and shall so
7 notify each party to the proposed transaction.

8 (c) Any transfer, assignment or other disposition of ten percent or
9 more of the stock or voting rights thereunder of a corporation which is
10 the operator of a hospital or which is a member of a limited liability
11 company which is the operator of a hospital to a new stockholder, or any
12 transfer, assignment or other disposition of the stock or voting rights
13 thereunder of such a corporation which results in the ownership or
14 control of more than ten percent of the stock or voting rights there-
15 under of such corporation by any person not previously approved by the
16 public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that
17 corporation shall be subject to approval by the public health AND HEALTH
18 PLANNING council, in accordance with the provisions of subdivisions two
19 and three of this section and rules and regulations pursuant thereto;
20 except that: any such transaction shall be subject to the approval by
21 the public health AND HEALTH PLANNING council in accordance with para-
22 graph (b) of subdivision three of this section only with respect to a
23 new stockholder or a new principal stockholder; and shall not be subject
24 to paragraph (a) of subdivision three of this section. In the absence of
25 such approval, the operating certificate of such hospital shall be
26 subject to revocation or suspension. No prior approval of the public
27 health AND HEALTH PLANNING council shall be required with respect to a
28 transfer, assignment or disposition of ten percent or more of the stock
29 or voting rights thereunder of a corporation which is the operator of a
30 hospital or which is a member of a limited liability company which is
31 the owner of a hospital to any person previously approved by the public
32 health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that corpo-
33 ration. However, no such transaction shall be effective unless at least
34 ninety days prior to the intended effective date thereof, the stockhold-
35 er completes and files with the public health AND HEALTH PLANNING coun-
36 cil notice on forms to be developed by the public health AND HEALTH
37 PLANNING council, which shall disclose such information as may reason-
38 ably be necessary for the public health AND HEALTH PLANNING council to
39 determine whether it should bar the transaction. Such transaction will
40 be final as of the intended effective date unless, prior thereto, the
41 public health AND HEALTH PLANNING council shall state specific reasons
42 for barring such transactions under this paragraph and shall notify each
43 party to the proposed transaction. Nothing in this paragraph shall be
44 construed as permitting a person not previously approved by the public
45 health AND HEALTH PLANNING council for that corporation to become the
46 owner of ten percent or more of the stock of a corporation which is the
47 operator of a hospital or which is a member of a limited liability
48 company which is the owner of a hospital without first obtaining the
49 approval of the public health AND HEALTH PLANNING council.

50 (d) No hospital shall be approved for establishment which would be
51 operated by a limited partnership, or by a partnership any of the
52 members of which are not natural persons.

53 (e) No hospital shall be approved for establishment which would be
54 operated by a corporation any of the stock of which is owned by another
55 corporation or a limited liability company if any of its corporate
56 members' stock is owned by another corporation.

1 (f) No corporation shall be a member of a limited liability company
2 authorized to operate a hospital unless its proposed incorporators,
3 directors, stockholders or principal stockholders shall have been
4 approved in accordance with the provisions of subdivision three of this
5 section applicable to the approval of the proposed incorporators, direc-
6 tors or stockholders of any other corporation requiring approval for
7 establishment.

8 (g) A natural person appointed as trustee of an express testamentary
9 trust, created by a deceased sole proprietor, partner or shareholder in
10 the operation of a hospital for the benefit of a person of less than
11 twenty-five years of age, may, as the trustee, apply pursuant to subdi-
12 vision two of this section for approval to operate or participate in the
13 operation of a facility or interest therein which is included in the
14 corpus of such trust until such time as all beneficiaries attain the age
15 of twenty-five, unless the trust instrument provides for earlier termi-
16 nation, or such beneficiaries receive establishment approval in their
17 own right, or until a transfer of the trust corpus is approved by the
18 public health AND HEALTH PLANNING council, in accordance with this
19 subdivision and subdivisions two and three of this section, whichever
20 first occurs. The public health AND HEALTH PLANNING council shall not
21 approve any such application unless it is satisfied as to:

22 (i) the character, competence and standing in the community of each
23 proposed trustee operator pursuant to the provisions of paragraph (b) of
24 subdivision three of this section; and

25 (ii) the ability of the trustee under the terms of the trust instru-
26 ment to operate or participate in the operation of the hospital in a
27 manner consistent with this chapter and regulations promulgated pursuant
28 thereto.

29 (h) A natural person appointed conservator pursuant to article eight-
30 y-one of the mental hygiene law, or a natural person appointed committee
31 of the property of an incompetent pursuant to article eighty-one of the
32 mental hygiene law or a sole proprietor, partner or shareholder of a
33 hospital, may apply pursuant to subdivision two of this section for
34 approval to operate a hospital owned by the conservatee or incompetent
35 for a period not exceeding two years or until a transfer of the hospital
36 is approved by the public health AND HEALTH PLANNING council in accord-
37 ance with subdivisions two and three of this section, whichever occurs
38 first. The public health AND HEALTH PLANNING council shall not approve
39 any such application unless it is satisfied as to:

40 (i) the character, competence and standing in the community of the
41 proposed conservator operator or committee operator pursuant to the
42 provisions of paragraph (b) of subdivision three of this section; and

43 (ii) the ability of the conservator or committee under the terms of
44 the court order to operate the hospital in a manner consistent with this
45 chapter and regulations promulgated pursuant thereto.

46 5. Except as otherwise hereinafter provided, no county, city, town,
47 village or other governmental subdivision shall establish or create any
48 agency concerned with the establishment of any hospital as defined in
49 this article without securing the written approval of the public health
50 AND HEALTH PLANNING council in accordance with the requirements and
51 procedures of subdivisions two and three of this section with respect to
52 certificates of incorporation, articles of organization and establish-
53 ment, except that the requirements relating to the proposed incorpora-
54 tors, directors and sponsors shall not apply. The preceding shall not
55 apply to the establishment of state hospitals by the state of New York
56 or to the establishment of municipal hospitals by the city of New York.

1 6. No corporation having power to solicit contributions for charitable
2 purposes shall be deemed to have authority to solicit contributions for
3 any purpose for which the approval of the public health AND HEALTH PLAN-
4 NING council is required, unless the certificate of incorporation
5 specifically makes provision therefor, and the written approval of the
6 public health AND HEALTH PLANNING council, OR ITS PREDECESSOR is
7 endorsed on or annexed to such certificate.

8 7. Where such approval has not been obtained the public health AND
9 HEALTH PLANNING council may institute and maintain an action in the
10 supreme court through the attorney general to procure a judgment
11 dissolving and vacating or annulling the certificate of incorporation of

12 (a) any such corporation, or

13 (b) any corporation hereafter incorporated, the name, purposes,
14 objects or the activities of which in any manner may lead to the belief
15 that the corporation possesses or may exercise any of such purposes.

16 8. No corporation heretofore formed, having among its powers the power
17 to solicit contributions for charitable purposes, may solicit or contin-
18 ue to solicit contributions for a purpose for which the approval of the
19 public health AND HEALTH PLANNING council is required without the writ-
20 ten approval of the public health AND HEALTH PLANNING council, except:

21 (A) a corporation which, prior to June first, nineteen hundred seventy,
22 had received the approval of the state board of social welfare of a
23 certificate of incorporation containing such power; OR (B) A CORPO-
24 RATION, WHICH PRIOR TO DECEMBER FIRST, TWO THOUSAND TEN, HAD RECEIVED
25 THE APPROVAL OF THE PUBLIC HEALTH COUNCIL OF A CERTIFICATE OF INCORPO-
26 RATION CONTAINING SUCH POWER. If such approval is not obtained and the
27 corporation continues to solicit or to receive contributions for such
28 purpose or advertises that it has obtained such approval, the public
29 health AND HEALTH PLANNING council may institute and maintain an action
30 in the supreme court through the attorney general to procure a judgment
31 dissolving and vacating or annulling the certificate of incorporation of
32 any such corporation.

33 9. Only a natural person, a partnership or limited liability company
34 may hereafter undertake to engage in the business of operating or
35 conducting a hospital, as defined in this article, for profit, except
36 that: (a) a person, partnership or corporation which owned and was oper-
37 ating a hospital on April fourth, nineteen hundred fifty-six, may
38 continue to own and operate such hospital; (b) a business corporation
39 may, with the approval of the public health council, and in accordance
40 with the provisions of subdivisions two and three of this section,
41 undertake to engage in the business of operating or conducting a hospi-
42 tal, as defined in this article for profit, provided that such corpo-
43 ration shall not discriminate because of race, color, creed, national
44 origin or sponsor in admission or retention of patients; (c) a business
45 corporation owning and operating a nursing home on May twenty-second,
46 nineteen hundred sixty-nine, in accordance with applicable provisions of
47 law, may continue to own and operate such nursing home; (d) a person
48 who, or a partnership which, is operating a private proprietary nursing
49 home in accordance with applicable provisions of law may, with the
50 approval of the public health AND HEALTH PLANNING council, and in
51 accordance with the provisions of subdivision three of this section and
52 any rules and regulations thereunder form a business corporation to
53 engage in the business of operating or conducting such nursing home,
54 provided, however, that such corporation shall not discriminate because
55 of race, color, creed, national origin or sponsor in admission or
56 retention of patients; (e) a business corporation operating a nursing

1 home, which corporation was formed with the approval of the state board
2 of social welfare, may continue to own and operate such nursing home.

3 10. (a) The public health AND HEALTH PLANNING council, by a majority
4 vote of its members, shall adopt and amend rules and regulations, to
5 effectuate the provisions and purposes of this section, and to provide
6 for the revocation, limitation or annulment of approvals of establish-
7 ment.

8 (b) (i) No approval of establishment shall be revoked, limited or
9 annulled without first offering the person who received such approval
10 the opportunity of requesting a public hearing. (ii) The commissioner,
11 at the request of the public health AND HEALTH PLANNING council, shall
12 fix a time and place for any such hearing requested. (iii) Notice of the
13 time and place of the hearing shall be served in person or mailed by
14 registered mail to the person who has received establishment approval at
15 least twenty-one days before the date fixed for the hearing. (iv) Such
16 person shall file with the department, not less than eight days prior to
17 the hearing, a written answer. (v) All orders or determinations here-
18 under shall be subject to review as provided in article seventy-eight of
19 the civil practice law and rules. Application for such review must be
20 made within sixty days after service in person or by registered mail of
21 a copy of such order or determination.

22 11. Any person filing a proposed certificate of incorporation, arti-
23 cles of organization or an application for establishment of a residen-
24 tial health care facility for approval of the public health AND HEALTH
25 PLANNING council shall file with the commissioner such information on
26 the ownership of the property interests in such facility as shall be
27 prescribed by regulation, including the following:

28 (a) The name and address and a description of the interest held by
29 each of the following persons:

30 (i) any person, who directly or indirectly, beneficially owns any
31 interest in the land on which the facility is located;

32 (ii) any person who, directly or indirectly, beneficially owns any
33 interest in the building in which the facility is located;

34 (iii) any person who, directly or indirectly, beneficially owns any
35 interest in any mortgage, note, deed of trust or other obligation
36 secured in whole or in part by the land on which or building in which
37 the facility is located; and

38 (iv) any person who, directly or indirectly, has any interest as
39 lessor or lessee in any lease or sub-lease of the land on which or the
40 building in which the facility is located.

41 (b) If any person named in response to paragraph (a) of this subdivi-
42 sion is a partnership or limited liability company, then the name and
43 address of each partner or member.

44 (c) If any person named in response to paragraph (a) of this subdivi-
45 sion is a corporation, other than a corporation whose shares are traded
46 on a national securities exchange or are regularly quoted in an over-
47 the-counter market or which is a commercial bank, savings bank or
48 savings and loan association, then the name and address of each officer,
49 director, stockholder and, if known, each principal stockholder and
50 controlling person of such corporation.

51 (d) If any corporation named in response to paragraph (a) of this
52 subdivision is a corporation whose shares are traded on a national secu-
53 rities exchange or are regularly quoted in an over-the-counter market or
54 which is a commercial bank, savings bank or savings and loan associ-
55 ation, then the name and address of the principal executive officers and

1 each director and, if known, each principal stockholder of such corpo-
2 ration.

3 12. The following definitions shall be applicable to this section:

4 (a) "Controlling person" of any corporation, partnership, limited
5 liability company or other entity means any person who by reason of a
6 direct or indirect ownership interest (whether of record or beneficial)
7 has the ability, acting either alone or in concert with others with
8 ownership or membership interests, to direct or cause the direction of
9 the management or policies of said corporation, partnership, limited
10 liability company or other entity. Neither the commissioner nor any
11 employee of the department nor any member of a local legislative body of
12 a county or municipality, nor any county or municipal official except
13 when acting as the administrator of a residential health care facility,
14 shall, by reason of his or her official position, be deemed a control-
15 ling person of any corporation, partnership, limited liability company
16 or other entity, nor shall any person who serves as an officer, adminis-
17 trator or other employee of any corporation, partnership, limited
18 liability company or other entity or as a member of a board of directors
19 or trustees of any corporation be deemed to be a controlling person of
20 such corporation, partnership, limited liability company or other entity
21 as a result of such position or his or her official actions in such
22 position.

23 (b) "Principal stockholder" of a corporation means any person who
24 beneficially owns, holds or has the power to vote, ten percent or more
25 of any class of securities issued by said corporation.

26 (c) "Principal member" of a limited liability company means any person
27 who beneficially owns, holds or has the power to vote, ten percent or
28 more interest determined by such member's share in the current profits
29 of the limited liability company.

30 13. Any person who operates a hospital without the written approval of
31 the public health AND HEALTH PLANNING council shall be liable to the
32 people of the state for a civil penalty not to exceed ten thousand
33 dollars for every such violation.

34 14. (a) The public health AND HEALTH PLANNING council may approve the
35 establishment of not-for-profit rural health networks as defined in
36 article twenty-nine-A of this chapter, pursuant to the provisions of
37 subdivisions two and three of this section, except that the public
38 health AND HEALTH PLANNING council shall not consider the public need
39 for and financial resources and sources of future revenues of such
40 networks which do not seek approval to operate a hospital. In addition
41 to character and competence, the public health AND HEALTH PLANNING coun-
42 cil may take into consideration available network plans.

43 (b) The board of directors or trustees of a not-for-profit rural
44 health network shall be comprised of a representative or representatives
45 of participating providers and members of the general public residing in
46 the area served by such network.

47 15. (a) Diagnostic or treatment centers established exclusively to
48 provide end stage renal disease services may be operated by corporations
49 formed under the laws of New York whose stockholders or members, as
50 applicable, are not natural persons if such corporations and their prin-
51 cipal stockholders and members, as applicable, and controlling persons
52 comply with all applicable requirements of this section and demonstrate,
53 to the satisfaction of the public health AND HEALTH PLANNING council,
54 sufficient experience and expertise in delivering high quality end stage
55 renal disease care. For purposes of this subdivision, the public health
56 AND HEALTH PLANNING council shall adopt and amend rules and regulations,

1 notwithstanding any inconsistent provision of this section, to address
2 any matter it deems pertinent to the establishment and operation of
3 diagnostic or treatment centers pursuant to this subdivision; provided
4 that such rules and regulations shall include, but not be limited to
5 provisions governing or relating to: (i) any direct or indirect changes
6 or transfers of ownership interests or voting rights in such corpo-
7 rations or their stockholders or members, as applicable, and provide for
8 public health council approval of any change in controlling interests,
9 principal stockholders, controlling persons, parent company or sponsors;
10 (ii) oversight of the operator and its stockholders or members, as
11 applicable, including local governance of the diagnostic or treatment
12 centers; and (iii) relating to the character and competence and quali-
13 fications of, and changes relating to, the directors and officers of the
14 operator and its principal stockholders, controlling persons, parent
15 company or sponsors.

16 (b) The following provisions of this section shall not apply to diag-
17 nostic or treatment centers operated pursuant to this subdivision: (i)
18 paragraph (b) of subdivision three of this section, relating to stock-
19 holders and members; (ii) paragraph (c) of subdivision four of this
20 section, relating to the disposition of stock or voting rights; and
21 (iii) paragraph (e) of subdivision four of this section, relating to the
22 ownership of stock or membership.

23 16. (a) The commissioner shall charge to applicants for the establish-
24 ment of hospitals the following application fee:

25 (i) For general hospitals:	\$3,000
26 (ii) For nursing homes:	\$3,000
27 (iii) For safety net diagnostic and treatment centers 28 as defined in paragraph (c) of this subdivision:	\$1,000
29 (iv) For all other diagnostic and treatment centers:	\$2,000

30 (b) An applicant for both establishment and construction of a hospital
31 shall not be subject to this subdivision and shall be subject to fees
32 and charges as set forth in section twenty-eight hundred two of this
33 article.

34 (c) The commissioner may designate a diagnostic and treatment center
35 or proposed diagnostic and treatment center as a "safety net diagnostic
36 and treatment center" if it is operated or proposes to be operated by a
37 not-for-profit corporation or local health department; participates or
38 intends to participate in the medical assistance program; demonstrates
39 or projects that a significant percentage of its visits, as determined
40 by the commissioner, were by uninsured individuals; and principally
41 provides primary care services as defined by the commissioner.

42 (d) The fees and charges paid by an applicant pursuant to this subdi-
43 vision for any application for establishment of a hospital approved in
44 accordance with this section shall be deemed allowable capital costs in
45 the determination of reimbursement rates established pursuant to this
46 article. The cost of such fees and charges shall not be subject to
47 reimbursement ceiling or other penalties used by the commissioner for
48 the purpose of establishing reimbursement rates pursuant to this arti-
49 cle. All fees pursuant to this section shall be payable to the depart-
50 ment of health for deposit into the special revenue funds - other,
51 miscellaneous special revenue fund - 339, certificate of need account.

52 S 58. Subdivisions 1, 2, 2-b, 3-a and 3-c of section 2802 of the
53 public health law, subdivision 1 as amended by chapter 470 of the laws
54 of 1976, subdivision 2 as amended by chapter 609 of the laws of 1982,
55 subdivision 2-b as added by chapter 731 of the laws of 1993, subdivision
56 3-a as added by chapter 376 of the laws of 1992 and subdivision 3-c as

1 added by chapter 97 of the laws of 1993, are amended and a new subdivi-
2 sion 1-a is added to read as follows:

3 1. An application for such construction shall be filed with the
4 department, together with such other forms and information as shall be
5 prescribed by, or acceptable to, the department. Thereafter the depart-
6 ment shall forward a copy of the application and accompanying documents
7 to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning
8 council and the health systems agency, IF ANY, having geographical
9 jurisdiction of the area where the hospital is located.

10 1-A. THE FOLLOWING TYPES OF CONSTRUCTION PROJECTS BY A HOSPITAL
11 POSSESSING A VALID OPERATING CERTIFICATE SHALL NOT REQUIRE PRIOR
12 APPROVAL PURSUANT TO THIS SECTION:

13 (A) CORRECTION OF CITED DEFICIENCIES, PROVIDED THAT:

14 (I) THE CONSTRUCTION IS LIMITED TO THE CORRECTION OF THE DEFICIENCIES
15 AND IS AUTHORIZED BY A PLAN OF CORRECTION APPROVED BY THE DEPARTMENT;

16 (II) A WRITTEN NOTICE HAS BEEN SUBMITTED TO THE DEPARTMENT TOGETHER
17 WITH, WHERE APPROPRIATE, A WRITTEN ARCHITECT AND/OR ENGINEERING CERTIF-
18 ICATION THAT THE PROJECT MEETS THE APPLICABLE STATUTES, CODES AND REGU-
19 LATIONS SPECIFIED IN THE CERTIFICATION STATEMENT; AND

20 (III) THE HOSPITAL SHALL IMPLEMENT A PLAN TO PROTECT PATIENT SAFETY
21 DURING CONSTRUCTION; AND

22 (B) OTHER PROJECTS AS SPECIFIED IN REGULATIONS ADOPTED BY THE COUNCIL
23 AND APPROVED BY THE COMMISSIONER.

24 2. The commissioner shall not act upon an application for construction
25 of a hospital until the [state hospital review and] PUBLIC HEALTH AND
26 HEALTH planning council and the health systems agency have had a reason-
27 able time to submit their recommendations, and unless (a) the applicant
28 has obtained all approvals and consents required by law for its incorpo-
29 ration or establishment (including the approval of the public health AND
30 HEALTH PLANNING council pursuant to the provisions of this article)
31 provided, however, that the commissioner may act upon an application for
32 construction by an applicant possessing a valid operating certificate
33 when the application qualifies for review without the recommendation of
34 the council pursuant to regulations adopted by the council and approved
35 by the commissioner; and (b) the commissioner is satisfied as to the
36 public need for the construction, at the time and place and under the
37 circumstances proposed, provided however that, in the case of an appli-
38 cation by a hospital established or operated by an organization defined
39 in subdivision one of section [four hundred eighty-two-a] FOUR HUNDRED
40 EIGHTY-TWO-B of the social services law, the needs of the members of the
41 religious denomination concerned, for care or treatment in accordance
42 with their religious or ethical convictions, shall be deemed to be
43 public need.

44 2-b. Beginning on January first, nineteen hundred ninety-four, and
45 each year thereafter, a complete application received between January
46 first and June thirtieth of each year shall be reviewed by the appropri-
47 ate health systems agency and the department and presented to the [state
48 hospital review and] PUBLIC HEALTH AND HEALTH planning council for its
49 consideration prior to June thirtieth of the following year and a
50 complete application received between July first and December thirty-
51 first of each year shall be reviewed by the appropriate health systems
52 agency and the department and presented to the [state hospital review
53 and] PUBLIC HEALTH AND HEALTH planning council for consideration prior
54 to December thirty-first of the following year.

55 3-a. Review of applications from hospitals in epidemic areas and
56 hospitals serving state correctional facilities to renovate or provide

1 for capital improvement for the purpose of controlling the spread of
2 tuberculosis infection may be approved by the commissioner, who to the
3 extent practicable may, but shall not be required to, consider the
4 recommendations of the health systems agency and the [state hospital
5 review and] PUBLIC HEALTH AND HEALTH planning council for applications
6 for which he grants approval. In such cases the commissioner shall take
7 further measures necessary to expedite departmental reviews for such
8 approval.

9 3-c. An application shall state the proposed site or location of the
10 proposed construction. Where the applicant changes the site or location
11 after approval of the application, the commissioner may, subject to
12 regulations under this article, approve the change upon a finding that
13 the change is in the best interest of the service area. In making such
14 determination, the commissioner may seek a review of the proposed change
15 by the [state hospital review and] PUBLIC HEALTH AND HEALTH planning
16 council and the health systems agency having geographical jurisdiction.

17 S 59. Paragraph (a) of subdivision 2 of section 2802-a of the public
18 health law, as added by section 87 of part B of chapter 58 of the laws
19 of 2005, is amended to read as follows:

20 (a) The commissioner shall act upon such applications in a manner
21 consistent with section twenty-eight hundred two of this article
22 provided that the commissioner may not waive review and recommendation
23 by the [state hospital review and] PUBLIC HEALTH AND HEALTH planning
24 council. In the [state hospital review and] PUBLIC HEALTH AND HEALTH
25 planning council's evaluation of applications and the commissioner
26 acting upon such applications, priority shall be given to applicants who
27 have a memorandum of understanding or other cooperative agreement with
28 one or more skilled nursing facilities located within their service
29 area. Further, in the [state hospital review and] PUBLIC HEALTH AND
30 HEALTH planning council evaluating applications and the commissioner
31 acting upon such applications, consideration shall also be given to the
32 geographic distribution of applicants throughout the state, so that
33 applications may be approved from the various geographic regions of the
34 state.

35 S 60. Subdivisions (a), (b), (e), (f) and (k) of section 2904 of the
36 public health law are REPEALED and subdivisions (g) and (h), as amended
37 by chapter 470 of the laws of 1976, are amended to read as follows:

38 (g) [The council and any] ANY health systems agency, with respect to
39 any of the matters with which [they] IT may deal may hold such public
40 hearings as [they] IT MAY deem appropriate and may require the
41 submission of such information and documents as [they] IT may deem
42 appropriate.

43 (h) The members [of the council or] of any health systems agency shall
44 receive no compensation for their services but shall be reimbursed for
45 expenses actually and necessarily incurred in the performance of their
46 duties.

47 S 61. Section 3602 of the public health law is amended by adding a new
48 subdivision 16 to read as follows:

49 16. "PUBLIC HEALTH COUNCIL" AND "STATE HOSPITAL REVIEW AND PLANNING
50 COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL.

51 S 62. Subdivisions 2, 3 and 4 of section 3605 of the public health
52 law, as added by chapter 959 of the laws of 1984, are amended to read as
53 follows:

54 2. The commissioner shall not issue a license to any home care
55 services agency except with the written approval of the public health

1 AND HEALTH PLANNING council issued pursuant to the provisions of this
2 section.

3 3. An application for licensure as a home care services agency shall
4 be filed with the public health AND HEALTH PLANNING council together
5 with such other forms and information as shall be prescribed by, or
6 acceptable to, the public health AND HEALTH PLANNING council. Thereaft-
7 er, the public health AND HEALTH PLANNING council shall forward for
8 comment, if any, a copy of the application for licensure and accompan-
9 ing documents to the [state hospital review and planning council and
10 the] health systems agency, IF ANY, having geographical jurisdiction of
11 the area where the services of the proposed agency are to be offered.
12 The public health AND HEALTH PLANNING council shall act upon such appli-
13 cation, after the [state hospital review and planning council and the]
14 health systems agency [have] HAS had reasonable time to submit [their]
15 ITS comments, based solely upon criteria provided for in subdivision
16 four of this section. If the public health AND HEALTH PLANNING council
17 proposes to disapprove the application, it shall notify the applicant,
18 provide reasons for disapproval and afford the applicant a hearing on
19 the application, if requested, or on its own motion. Any hearing held
20 pursuant to this subdivision may be conducted by the public health AND
21 HEALTH PLANNING council or by any individual designated by the public
22 health AND HEALTH PLANNING council.

23 4. The public health AND HEALTH PLANNING council shall not approve an
24 application for licensure unless it is satisfied as to the character,
25 competence and standing in the community of the applicant's incorpora-
26 tors, directors, sponsors, stockholders or operators.

27 S 63. Subdivisions 1 and 2 of section 3606 of the public health law,
28 as amended by chapter 959 of the laws of 1984, are amended to read as
29 follows:

30 1. The commissioner shall not issue a certificate of approval to any
31 home care services agency except with the written approval of the public
32 health AND HEALTH PLANNING council. However, a residential health care
33 facility or hospital making application to the commissioner solely for
34 authorization to provide a long term home health care program shall be
35 deemed to have met such requirement, provided that the facility or
36 hospital possesses a valid operating certificate under article twenty-
37 eight of this chapter.

38 2. An application for approval of the proposed certified home health
39 agency shall be filed with the public health AND HEALTH PLANNING council
40 together with such other forms and information as shall be prescribed
41 by, or acceptable to, the public health AND HEALTH PLANNING council.
42 Thereafter, the public health AND HEALTH PLANNING council shall forward
43 a copy of the proposed application for establishment and accompanying
44 documents to the [state hospital review and planning council and the]
45 health systems agency, IF ANY, having geographical jurisdiction of the
46 area where the services of the proposed certified home health agency are
47 to be offered. The public health AND HEALTH PLANNING council shall act
48 upon such application after the [state hospital review and planning
49 council and the] health systems agency [have] HAS had a reasonable time
50 to submit [their] ITS recommendations. At the time members of the public
51 health AND HEALTH PLANNING council are notified that an application is
52 scheduled for consideration, the applicant and the health systems agency
53 shall be so notified in writing. The public health AND HEALTH PLANNING
54 council shall not take any action contrary to the advice of [either the
55 state hospital review and planning council or] the health systems agency
56 until it affords to [either] THE HEALTH SYSTEMS AGENCY an opportunity to

1 request a public hearing and, if so requested, a public hearing shall be
2 held. If the public health AND HEALTH PLANNING council proposes to
3 disapprove the application it shall afford the applicant an opportunity
4 to request a public hearing. The public health AND HEALTH PLANNING coun-
5 cil may hold a public hearing on the application on its own motion. Any
6 public hearing held pursuant to this subdivision may be conducted by the
7 public health AND HEALTH PLANNING council or by any individual desig-
8 nated by the public health AND HEALTH PLANNING council.

9 The public health AND HEALTH PLANNING council shall not approve an
10 application for establishment unless it is satisfied, insofar as appli-
11 cable, as to (a) the public need for the existence of the certified home
12 health agency at the time and place and under the circumstances
13 proposed; (b) the character, competence, and standing in the community,
14 of the proposed incorporators, directors and sponsors; (c) the financial
15 resources of the proposed certified home health agency and its sources
16 of future revenues; and (d) such other matters as it shall deem perti-
17 nent.

18 Neither the tax status nor profit-making status of proposed certified
19 home health agencies shall be criteria for establishment.

20 S 64. Subdivisions 2 and 3 of section 3606-a of the public health law,
21 as added by chapter 576 of the laws of 1981, are amended to read as
22 follows:

23 2. An application for such construction shall be filed with the
24 department, together with such other forms and information as shall be
25 prescribed by, or acceptable to, the department. Thereafter the depart-
26 ment shall forward a copy of the application and accompanying documents
27 to the [state hospital review and planning council] PUBLIC HEALTH AND
28 HEALTH PLANNING COUNCIL and the health systems agency, IF ANY, having
29 geographical jurisdiction of the area where the agency is located.

30 3. The commissioner shall not act upon an application for construction
31 unless (a) the applicant has obtained all approvals and consents
32 required by law for its incorporation or establishment (including the
33 approval of the public health AND HEALTH PLANNING council pursuant to
34 the provisions of this article) and until the [state hospital review and
35 planning] PUBLIC HEALTH AND HEALTH PLANNING council and the health
36 systems agency, IF ANY, concerned have had a reasonable time to submit
37 their recommendations; and (b) the commissioner is satisfied as to the
38 public need for the construction, at the time and place and under the
39 circumstances proposed.

40 S 65. Subdivision 2 of section 3610 of the public health law, as
41 amended by chapter 433 of the laws of 1980, is amended to read as
42 follows:

43 2. A hospital, residential health care facility, or certified home
44 health agency seeking authorization to provide a long term home health
45 care program shall transmit to the commissioner an application setting
46 forth the scope of the proposed program. Such application shall be in a
47 format and shall be submitted in a quantity determined by the commis-
48 sioner. The commissioner shall transmit the application to the [state
49 hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING
50 COUNCIL and to the health systems agency, IF ANY, having geographic
51 jurisdiction of the area where the proposed program is to be located.
52 The application shall include a detailed description of the proposed
53 program including, but not limited to, the following:

- 54 (a) an outline of the institution's or agency's plans for the program;
- 55 (b) the need for the proposed program;
- 56 (c) the number and types of personnel to be employed;

- 1 (d) the ability of the agency, hospital, or facility to provide the
2 program;
- 3 (e) the estimated number of visits to be provided;
- 4 (f) the geographic area in which the proposed programs will be
5 provided;
- 6 (g) any special or unusual services, programs, or equipment to be
7 provided;
- 8 (h) a demonstration that the proposed program is feasible and adequate
9 in terms of both short range and long range goals;
- 10 (i) such other information as the commissioner may require.

11 The health systems agency and the [state hospital review and planning
12 council] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL shall review the
13 application and submit their recommendations to the commissioner. At the
14 time members of the [state hospital review and planning council] PUBLIC
15 HEALTH AND HEALTH PLANNING COUNCIL are notified that an application is
16 scheduled for consideration, the applicant and the health systems agency
17 shall be so notified in writing. The health systems agency or the
18 [state hospital review and planning council] PUBLIC HEALTH AND HEALTH
19 PLANNING COUNCIL shall not recommend approval of the application unless
20 it is satisfied as to:

- 21 (a) the public need for the program at the time and place and under
22 the circumstances proposed;
- 23 (b) the financial resources of the provider of the proposed program
24 and its sources of future revenues;
- 25 (c) the ability of the proposed program to meet those standards estab-
26 lished for participation as a home health agency under title XVIII of
27 the federal Social Security Act; and
- 28 (d) such other matters as it shall deem pertinent.

29 After receiving and considering the recommendations of the [state
30 hospital review and planning council] PUBLIC HEALTH AND HEALTH PLANNING
31 COUNCIL and the health systems agency, the commissioner shall make his
32 OR HER determination. The commissioner shall act upon an application
33 after the [state hospital review and planning council] PUBLIC HEALTH AND
34 HEALTH PLANNING COUNCIL and the health systems agency have had a reason-
35 able time to submit their recommendations. The commissioner shall not
36 take any action contrary to the advice of either until he OR SHE affords
37 to either an opportunity to request a public hearing and, if so
38 requested, a public hearing shall be held. The commissioner shall not
39 approve the application unless he OR SHE is satisfied as to the detailed
40 description of the proposed program and

- 41 (a) the public need for the existence of the program at the time and
42 place and under the circumstances proposed;
- 43 (b) the financial resources of the provider of the proposed program
44 and its sources of future revenues;
- 45 (c) the ability of the proposed program to meet those standards estab-
46 lished for participation as a home health agency under title XVIII of
47 the federal Social Security Act; and
- 48 (d) such other matters as he OR SHE shall deem pertinent.

49 If the application is approved, the applicant shall be so notified in
50 writing. The commissioner's written approval of the application shall
51 constitute authorization to provide a long term home health care
52 program. In making his OR HER authorization, the commissioner shall
53 stipulate the maximum number of persons which a provider of a long term
54 home health care program may serve. If the commissioner proposes to
55 disapprove the application, he OR SHE shall notify the applicant in

1 writing, stating his OR HER reasons for disapproval, and afford the
2 applicant an opportunity for a public hearing.

3 S 66. Subdivision 2 of section 3611 of the public health law, as added
4 by chapter 959 of the laws of 1984, is amended to read as follows:

5 2. The public health AND HEALTH PLANNING council shall not act upon an
6 application for licensure or a certificate of approval for any agency
7 referred to in [paragraph] SUBDIVISION one of this section unless it is
8 satisfied as to the character, competence and standing in the community
9 of the proposed incorporators, directors, sponsors, controlling persons,
10 principal stockholders of the parent corporation, health related subsid-
11 iary corporation and the New York state corporation established pursuant
12 to paragraph (a) of subdivision one of this section. For the purposes of
13 this section the public health AND HEALTH PLANNING council may adopt
14 rules and regulations relative to what constitutes parent and subsidiary
15 corporations.

16 S 67. Subdivisions 1 and 2 of section 3611-a of the public health law,
17 as amended by section 92 of part C of chapter 58 of the laws of 2009,
18 are amended to read as follows:

19 1. Any change in the person who, or any transfer, assignment, or other
20 disposition of an interest or voting rights of ten percent or more, or
21 any transfer, assignment or other disposition which results in the
22 ownership or control of an interest or voting rights of ten percent or
23 more, in a limited liability company or a partnership which is the oper-
24 ator of a licensed home care services agency or a certified home health
25 agency shall be approved by the public health AND HEALTH PLANNING coun-
26 cil, in accordance with the provisions of subdivision four of section
27 thirty-six hundred five of this article relative to licensure or subdivi-
28 sion two of section thirty-six hundred six of this article relative to
29 certificate of approval, except that:

30 (a) Public health AND HEALTH PLANNING council approval shall be
31 required only with respect to the person, or the member or partner that
32 is acquiring the interest or voting rights; and

33 (b) With respect to certified home health agencies, such change shall
34 not be subject to the public need assessment described in paragraph (a)
35 of subdivision two of section thirty-six hundred six of this article.

36 (c) No prior approval of the public health AND HEALTH PLANNING council
37 shall be required with respect to a transfer, assignment or disposition
38 of:

39 (i) an interest or voting rights to any person previously approved by
40 the public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for
41 that operator; or

42 (ii) an interest or voting rights of less than ten percent in the
43 operator. However, no such transaction shall be effective unless at
44 least ninety days prior to the intended effective date thereof, the
45 partner or member completes and files with the public health AND HEALTH
46 PLANNING council notice on forms to be developed by the public health
47 council, which shall disclose such information as may reasonably be
48 necessary for the public health AND HEALTH PLANNING council to determine
49 whether it should bar the transaction. Such transaction will be final as
50 of the intended effective date unless, prior thereto, the public health
51 AND HEALTH PLANNING council shall state specific reasons for barring
52 such transactions under this paragraph and shall notify each party to
53 the proposed transaction.

54 2. Any transfer, assignment or other disposition of ten percent or
55 more of the stock or voting rights thereunder of a corporation which is
56 the operator of a licensed home care services agency or a certified home

1 health agency, or any transfer, assignment or other disposition of the
2 stock or voting rights thereunder of such a corporation which results in
3 the ownership or control of more than ten percent of the stock or voting
4 rights thereunder of such corporation by any person shall be subject to
5 approval by the public health AND HEALTH PLANNING council in accordance
6 with the provisions of subdivision four of section thirty-six hundred
7 five of this article relative to licensure or subdivision two of section
8 thirty-six hundred six of this article relative to certificate of
9 approval, except that:

10 (a) Public health [council] AND HEALTH PLANNING COUNCIL approval shall
11 be required only with respect to the person or entity acquiring such
12 stock or voting rights; and

13 (b) With respect to certified home health agencies, such change shall
14 not be subject to the public need assessment described in paragraph (a)
15 of subdivision two of section thirty-six hundred six of this article. In
16 the absence of such approval, the license or certificate of approval
17 shall be subject to revocation or suspension.

18 (c) No prior approval of the public health AND HEALTH PLANNING council
19 shall be required with respect to a transfer, assignment or disposition
20 of an interest or voting rights to any person previously approved by the
21 public health AND HEALTH PLANNING council, OR ITS PREDECESSOR, for that
22 operator. However, no such transaction shall be effective unless at
23 least one hundred twenty days prior to the intended effective date ther-
24 eof, the partner or member completes and files with the public health
25 AND HEALTH PLANNING council notice on forms to be developed by the
26 public health AND HEALTH PLANNING council, which shall disclose such
27 information as may reasonably be necessary for the public health AND
28 HEALTH PLANNING council to determine whether it should bar the trans-
29 action. Such transaction will be final as of the intended effective date
30 unless, prior thereto, the public health AND HEALTH PLANNING council
31 shall state specific reasons for barring such transactions under this
32 paragraph and shall notify each party to the proposed transaction.

33 S 68. Section 4002 of the public health law is amended by adding a new
34 subdivision 4 to read as follows:

35 4. "PUBLIC HEALTH COUNCIL" AND "STATE HOSPITAL REVIEW AND PLANNING
36 COUNCIL" SHALL MEAN THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL.

37 S 69. Subdivisions 1, 2, 3 and 4 of section 4004 of the public health
38 law, as added by chapter 416 of the laws of 1983, are amended to read as
39 follows:

40 1. The commissioner shall not issue a certificate of approval to any
41 hospice except with the written approval of the public health AND HEALTH
42 PLANNING council. However, a hospice demonstration program participant
43 making application to the commissioner solely to establish a hospice
44 shall be deemed to have met such requirement.

45 2. An application for approval of the proposed hospice shall be filed
46 with the public health AND HEALTH PLANNING council together with such
47 other forms and information as shall be prescribed by, or acceptable to,
48 the public health AND HEALTH PLANNING council. Thereafter, the public
49 health AND HEALTH PLANNING council shall forward a copy of the proposed
50 application for establishment and accompanying documents to the [state
51 hospital review and planning council and the] health systems agency, IF
52 ANY, having geographical jurisdiction of the area where the services of
53 the proposed hospice are to be offered. The public health AND HEALTH
54 PLANNING council shall act upon such application after the [state hospi-
55 tal review and planning council and the] health systems agency [have]
56 HAS had a reasonable time to submit [their] ITS recommendations. At the

1 time members of the public health AND HEALTH PLANNING council are noti-
2 fied that an application is scheduled for consideration, the applicant
3 and the health systems agency shall be so notified in writing. The
4 public health AND HEALTH PLANNING council shall not take any action
5 contrary to the advice of [either the state hospital review and planning
6 council or] the health systems agency until it affords to [either] THE
7 HEALTH SYSTEM AGENCY an opportunity to request a public hearing and, if
8 so requested, a public hearing shall be held. If the public health AND
9 HEALTH PLANNING council proposes to disapprove the application, it shall
10 afford the applicant an opportunity to request a public hearing. The
11 public health AND HEALTH PLANNING council may hold a public hearing on
12 the application on its own motion. Any public hearing held pursuant to
13 this subdivision may be conducted by the public health AND HEALTH PLAN-
14 NING council or by any individual designated by the public health AND
15 HEALTH PLANNING council. The public health AND HEALTH PLANNING council
16 shall not approve an application for establishment unless it is satis-
17 fied, insofar as applicable, as to (a) the public need for the existence
18 of the hospice at the time and place and under the circumstances
19 proposed; (b) the character, competence, and standing in the community,
20 of the proposed incorporators, directors, sponsors, stockholders or
21 operators; (c) the financial resources of the proposed hospice and its
22 sources of future revenues; and (d) such other matters as it shall deem
23 pertinent.

24 3. (a) No hospice shall be approved for establishment which would be
25 operated by a corporation any of the stock of which is owned by another
26 corporation.

27 (b) Any change in the person, principal stockholder or partnership
28 which is the operator of a hospice shall be approved by the public
29 health AND HEALTH PLANNING council in accordance with the provisions of
30 subdivisions one and two of this section.

31 4. (a) The public health AND HEALTH PLANNING council, by a majority
32 vote of its members, shall adopt and amend rules and regulations, to
33 effectuate the provisions and purposes of this section, and to provide
34 for the revocation, limitation or annulment of approvals of establish-
35 ment.

36 (b) (i) No approval of establishment shall be revoked, limited or
37 annulled without first offering the person who received such approval
38 the opportunity of requesting a public hearing, (ii) the commissioner,
39 at the request of the public health AND HEALTH PLANNING council, shall
40 fix a time and place for any such hearing requested, (iii) notice of the
41 time and place of the hearing shall be served in person or mailed by
42 registered mail to the person who has received establishment approval at
43 least twenty-one days before the date fixed for the hearing, (iv) such
44 person shall file with the department, not less than eight days prior to
45 the hearing, a written answer, (v) all orders or determinations here-
46 under shall be subject to review as provided in article seventy-eight of
47 the civil practice law and rules. Application for such review must be
48 made within sixty days after service in person or by registered mail of
49 a copy of such order or determination.

50 S 70. Subdivisions 2 and 3 of section 4006 of the public health law,
51 as added by chapter 416 of the laws of 1983, are amended to read as
52 follows:

53 2. An application for such construction shall be filed with the
54 department, together with such other forms and information as shall be
55 prescribed by, or acceptable to, the department. Thereafter the depart-
56 ment shall forward a copy of the application and accompanying documents

1 to the [state hospital review and] PUBLIC HEALTH AND HEALTH planning
2 council and the health systems agency, IF ANY, having geographical
3 jurisdiction of the area where the hospice is located.

4 3. The commissioner shall not act upon an application for construction
5 unless (a) the applicant has obtained all approvals and consents
6 required by law for its incorporation or establishment (including the
7 approval of the public health AND HEALTH PLANNING council pursuant to
8 the provisions of this article) and until the [state hospital review
9 and] PUBLIC HEALTH AND HEALTH planning council and the health systems
10 agency concerned have had a reasonable time to submit their recommenda-
11 tions, and (b) the commissioner is satisfied as to the public need for
12 the construction, at the time and place and under the circumstances
13 proposed.

14 S 71. Paragraph (e) of section 201 of the business corporation law, as
15 added by chapter 669 of the laws of 1977, is amended to read as follows:

16 (e) A corporation may not include as its purpose or among its purposes
17 the establishment or maintenance of a hospital or facility providing
18 health related services, as those terms are defined in article twenty-
19 eight of the public health law unless its certificate of incorporation
20 shall so state and such certificate shall have annexed thereto the
21 approval of the public health AND HEALTH PLANNING council.

22 S 72. Section 205-a of the county law, as added by chapter 873 of the
23 laws of 1976, is amended to read as follows:

24 S 205-a. Certain pilot projects. Any county operating a county hospi-
25 tal employing physicians and dentists pursuant to a pilot project
26 approved by the public health AND HEALTH PLANNING council, whereby such
27 physicians and dentists may receive fees for private professional
28 services rendered in accordance with section one hundred thirty of the
29 general municipal law in addition to the amount of remuneration fixed by
30 the respective county legislative bodies for regular services, shall be
31 required to adopt rules and regulations to govern such fees. Such rules
32 and regulations shall be subject to the approval of the public health
33 AND HEALTH PLANNING council.

34 S 73. Subdivision 1-a of section 250 of the county law, as added by
35 chapter 622 of the laws of 1984, is amended to read as follows:

36 1-a. For the purpose of (a) procuring by purchase, lease or other
37 means and installing water quality treatment units or devices, if
38 required; providing periodic testing and monitoring of raw and finished
39 water from private wells in the district; monitoring, modifying, repair-
40 ing, replacing, operation and maintenance, regenerating water quality
41 treatment units and devices and the administering of the treatment and
42 disposal of residuals generated in the operation of the district pursu-
43 ant to rules and regulations adopted by the public health AND HEALTH
44 PLANNING council under section two hundred twenty-five of the public
45 health law; (b) assisting local, state and federal agencies and offi-
46 cials in efforts to establish causes of, and implement remedial measures
47 to reduce water contamination and protect future water resources within
48 the district; (c) conduct public meetings and issue an annual public
49 report to members of the district on the operation, financial position
50 and water quality condition of said district; provided, however, that
51 with respect to any town in the county the board of supervisors shall
52 first determine that such district or service will not be established or
53 provided by such town.

54 S 74. Subdivision 1 of section 253 of the county law, as amended by
55 chapter 622 of the laws of 1984, is amended to read as follows:

1 1. A petition may be presented to the board of supervisors requesting
2 that a certain area or areas of the county be established as a county
3 district. Such petition shall be executed and acknowledged on behalf of
4 a municipality or district, any part of which is included within such
5 area or areas, by the chief executive officer of such municipality, or
6 of such district furnishing a similar service as the district to be
7 established hereunder. In lieu of execution of the petition by the chief
8 executive officer of such municipality or district, the petition may be
9 executed and acknowledged by at least twenty-five owners of taxable real
10 property of record situated within such municipality or district, or in
11 Suffolk county, if all of the taxable real property of record situate
12 within such municipality which is to be included within a certain area
13 or areas of the county to be established as a county district is owned
14 by one or more but less than twenty-five owners, then the petition may
15 be executed and acknowledged by one or more of said owners within the
16 area or areas to be established as a county district. Upon presentation
17 of such a petition or on its own motion, the board of supervisors may
18 direct the agency to cause maps and plans to be prepared for a project
19 as requested in the petition or for the establishment of a certain area
20 or areas of the county as a county district, provided, however, that if
21 the petitioning municipality, district or owners of taxable property
22 undertake to furnish or pay the cost of such maps and plans at its or
23 their cost and expense, the board of supervisors shall direct the agency
24 to accept or prepare the same. In the case of a petition to create or
25 extend a water quality treatment district, the petition may be executed
26 and acknowledged by one or more of the owners of taxable real property
27 of record situated within such municipality whose private well water is
28 contaminated. At the time the petition is executed and acknowledged,
29 notice and copy of such petition shall be submitted to the state depart-
30 ment of health. Such maps or plans shall show (1) the boundaries of the
31 area or areas which the agency in its judgment considers will be bene-
32 fited by the particular project, (2) a description of the area or areas
33 sufficient to permit definite and conclusive identification of all
34 parcels of property included therein, (3) the proposed location of all
35 facilities such as (a) reservoirs, stand pipes, wells, pumping stations,
36 water purification or treatment works, mains and hydrants, the source of
37 water supply, a description of the lands, streams, water or water rights
38 to be acquired and the mode of constructing the proposed water works,
39 (b) benefited parcels of properties with water quality treatment units
40 or devices installed prior to the formation of the district and/or those
41 properties requiring installation of water quality treatment units or
42 devices and the mode and frequency of testing, monitoring, modifying if
43 required, operation and maintenance, regenerating of such water quality
44 treatment units or devices and the administering of the treatment and
45 disposal of residuals and any other requirements pursuant to rules and
46 regulations adopted by the public health AND HEALTH PLANNING council
47 under section two hundred twenty-five of the public health law. Any
48 water quality treatment unit or device which has been installed prior to
49 the formation of the district must be approved pursuant to rules and
50 regulations adopted by the public health AND HEALTH PLANNING council
51 under section two hundred twenty-five of the public health law, prior to
52 acceptance of such unit or device and its benefited property within the
53 district, (c) trunk, interceptor and outfall sewers, pumping stations,
54 sewage treatment and disposal works, (d) properties requiring
55 construction or replacement of private on-site wastewater disposal
56 systems and the mode and frequency of conveying, treating and disposing

1 of wastewater and residual wastewater, (e) drains, ditches, channels,
2 pumping stations, dams, dikes, bulkheads and retaining walls, or (f)
3 refuse disposal and incinerator plants and all necessary appliances
4 appurtenant thereto, (4) estimates of the cost of construction, or
5 procurement and installation of the facilities, and/or in the case of
6 water quality treatment districts, estimates of the costs of monitoring,
7 testing, modifying, if required, operation and maintenance, regenerating
8 of such water quality treatment units or devices and the treatment and
9 disposal of residuals, as shown on the maps and plans and the method of
10 financing the same and (5) an evaluation of rehabilitation needs based
11 upon water quality, public use and private development, special wild-
12 life, scenic or other values, sedimentation, shoreland zoning, potential
13 for adequate pollution and erosion controls within the drainage basin,
14 and potential for future successful management. Such maps and plans
15 pertaining to sewer districts shall be consistent with, so far as possi-
16 ble, any comprehensive plan for sewers developed pursuant to section
17 17-1901 of the environmental conservation law. Such maps and plans
18 pertaining to water districts shall be consistent with, so far as possi-
19 ble, any comprehensive plan for public water supply systems developed
20 pursuant to title thirteen of article fifteen of the environmental
21 conservation law.

22 S 75. Paragraph b of subdivision 1 of section 483 of the general busi-
23 ness law, as added by section 3 of part B of chapter 58 of the laws of
24 2006, is amended to read as follows:

25 b. Pursuant to section two hundred twenty-five of the public health
26 law, the public health AND HEALTH PLANNING council, subject to the
27 approval of the commissioner of health, is hereby authorized and
28 directed to prescribe such rules and regulations as may be necessary and
29 proper for the administration and enforcement of this article with
30 respect to radioactive material and radiation equipment. Such regu-
31 lations may require the posting of a bond or other security.

32 S 76. The second undesignated paragraph of section 135-b of the gener-
33 al municipal law, as added by chapter 161 of the laws of 1922, is
34 amended to read as follows:

35 The chief medical officer of such public general hospital, tuberculo-
36 sis hospital or sanatorium shall have authority to employ one or more
37 occupational therapists to carry on the work of such department under
38 his supervision. The qualifications of occupational therapists so
39 employed shall be defined by the public health AND HEALTH PLANNING coun-
40 cil.

41 S 77. Paragraph 7 of subdivision (a) and subdivision (b) of section
42 7.05 of the mental hygiene law, paragraph 7 of subdivision (a) as
43 amended by chapter 725 of the laws of 1982 and as renumbered by chapter
44 410 of the laws of 2008 and subdivision (b) as added by chapter 724 of
45 the laws of 1982, are amended to read as follows:

46 7. the two members of the [state hospital review and planning council]
47 PUBLIC HEALTH AND HEALTH PLANNING COUNCIL appointed by the governor
48 pursuant to subdivision (b) of this section.

49 (b) The chairman shall recommend two members of the council for
50 appointment by the governor to the [hospital review and planning coun-
51 cil] PUBLIC HEALTH AND HEALTH PLANNING COUNCIL pursuant to section
52 [twenty-nine hundred four] TWO HUNDRED TWENTY of the public health law.

53 S 78. Subparagraph 1 of paragraph (a) of section 301 of the not-for-
54 profit corporation law, as amended by chapter 669 of the laws of 1977,
55 is amended to read as follows:

1 (1) Shall, unless the corporation is formed for charitable or reli-
2 gious purposes, or for purposes for which the approval of the commis-
3 sioner of social services or the public health AND HEALTH PLANNING coun-
4 cil is required, or is a bar association, contain the word
5 "corporation", "incorporated" or "limited" or an abbreviation of one of
6 such words; or, in the case of a foreign corporation, it shall, for use
7 in this state, add at the end of its name one of such words or an abbre-
8 viation thereof.

9 S 79. Paragraphs (o), (p) and (t) of section 404 of the not-for-profit
10 corporation law, as amended by chapter 139 of the laws of 1993 and as
11 relettered by chapter 431 of the laws of 1993, are amended to read as
12 follows:

13 (o) Every certificate of incorporation which includes among its corpo-
14 rate purposes or powers the establishment or maintenance of any hospi-
15 tal, as defined in article twenty-eight of the public health law, or the
16 solicitation of contributions for any such purpose, or purposes, shall
17 have endorsed thereon or annexed thereto the approval of the public
18 health AND HEALTH PLANNING council.

19 (p) Every certificate of incorporation of a medical corporation as
20 defined in article forty-four of the public health law and organized
21 pursuant thereto and pursuant to this chapter, shall have endorsed ther-
22 eon or annexed thereto the consent of the commissioner of health and the
23 approval of the public health AND HEALTH PLANNING council.

24 (t) Every certificate of incorporation which includes among its
25 purposes and powers the establishment or maintenance of a hospital or
26 facility providing health related services, as those terms are defined
27 in article twenty-eight of the public health law, or the solicitation of
28 contributions for any such purpose or two or more of such purposes,
29 shall have endorsed thereon the approval of the public health AND HEALTH
30 PLANNING council.

31 S 80. Subdivision 4 of section 364 of the social services law, as
32 amended by chapter 474 of the laws of 1996, is amended to read as
33 follows:

34 4. The public health AND HEALTH PLANNING council shall be responsible
35 for establishing and maintaining qualifications for persons employed by
36 social services districts as professional directors.

37 S 81. Subdivision 2 of section 365-b of the social services law, as
38 amended by chapter 770 of the laws of 1977, is amended to read as
39 follows:

40 2. The commissioner of social services of each social services
41 district shall appoint a person, possessing the qualifications estab-
42 lished by the public health AND HEALTH PLANNING council and promulgated
43 by the department pursuant to section three hundred sixty-four OF THIS
44 TITLE, to serve on a full or part-time basis. Each professional direc-
45 tor shall serve under the general direction of the commissioner of
46 social services and shall have the responsibility for supervising the
47 program of medical assistance for needy persons in his social services
48 district, pursuant to the regulations of the department. The state
49 commissioner of health may authorize two or more social services
50 districts to appoint the same person to serve as professional director
51 in each of such districts.

52 S 82. Paragraphs (b), (c), (e) and (f) of subdivision 3 of section
53 461-1 of the social services law, as added by chapter 165 of the laws of
54 1991, are amended to read as follows:

55 (b) If the application for the proposed program includes an applica-
56 tion for licensure as a home care service agency, the department of

1 health shall forward the application for the proposed program and accom-
2 panying documents to the public health AND HEALTH PLANNING council for
3 its written approval in accordance with the provisions of section thir-
4 ty-six hundred five of the public health law.

5 (c) An application for an assisted living program shall not be
6 approved unless the commissioner is satisfied as to:

7 (i) the character, competence and standing in the community of the
8 operator of the adult care facility;

9 (ii) the financial responsibility of the operator of the adult care
10 facility;

11 (iii) that the buildings, equipment, staff, standards of care and
12 records of the adult care facility to be employed in the operation
13 comply with applicable law, rule and regulation;

14 (iv) the commissioner of health is satisfied that the licensed home
15 care agency has received the written approval of the public health AND
16 HEALTH PLANNING council as required by paragraph (b) of this subdivision
17 and the equipment, personnel, rules, standards of care, and home care
18 services provided by [a] THE licensed home care agency and certified
19 home health agency or long term home health care program are fit and
20 adequate and will be provided in the manner required by article thirty-
21 six of the public health law and the rules and regulations thereunder;
22 and

23 (v) the commissioner and the commissioner of health are satisfied as
24 to the public need for the assisted living program.

25 (e) The commissioner of health shall provide written notice of
26 approval or disapproval of portions of the proposed application concern-
27 ing a licensed home care agency, certified home health agency or long
28 term home health care program, and, where applicable, of the approval or
29 disapproval of the public health AND HEALTH PLANNING council to the
30 commissioner. If an application receives all the necessary approvals,
31 the commissioner shall notify the applicant in writing. The commission-
32 er's written approval shall constitute authorization to operate an
33 assisted living program.

34 (f) No assisted living program may be operated without the written
35 approval of the department, the department of health and, where applica-
36 ble, the public health AND HEALTH PLANNING council.

37 S 83. Subdivision 21 of section 130 of the town law, as amended by
38 chapter 465 of the laws of 1955, is amended to read as follows:

39 21. House trailer camps, tourist camps and house trailers. Regulating
40 house trailer camps, tourist camps or similar establishments; requiring
41 approval of suitable plans for house trailer camps and tourist camps and
42 prescribing regulations therefor including provision for sewer
43 connection, water supply, toilets, bathing facilities, garbage removal,
44 registration of occupants, inspection of camps. The town board may
45 either adopt the provisions of the sanitary code established by the
46 public health AND HEALTH PLANNING council or may formulate other rules
47 and regulations relating to house trailer camps, tourist camps or simi-
48 lar establishments not inconsistent with the provisions of such state
49 sanitary code. Regulating the parking, storage or otherwise locating of
50 house trailers when used or occupied as living or sleeping quarters in
51 any part of the town outside an established house trailer camp, tourist
52 camp or similar establishment; providing time limits on duration of the
53 stay of such house trailers and requiring registration of such house
54 trailers when so used.

55 S 84. Subdivisions 1 and 2 of section 190-g of the town law, as added
56 by chapter 622 of the laws of 1984, is amended to read as follows:

1 1. The town board of any town is hereby authorized to establish or
2 extend a water quality treatment district, or more than one such
3 district, for the purposes of (a) procuring by purchase, lease or other
4 means, and installing water quality treatment units or devices, if
5 required; providing periodic testing and monitoring of raw and finished
6 water from private wells in the district; monitoring, modifying, repair-
7 ing, replacing, operation and maintenance, regenerating water quality
8 treatment units and devices and the administering of the treatment and
9 disposal of residuals generated in the operation of the district pursu-
10 ant to rules and regulations adopted by the public health AND HEALTH
11 PLANNING council under section two hundred twenty-five of the public
12 health law; (b) assisting local, state and federal agencies and offi-
13 cials in efforts to establish causes of, and implement remedial measures
14 to reduce, water contamination and protect future water resources within
15 the district; (c) conduct public meetings and issue an annual public
16 report to members of the district on the operation, financial position
17 and water quality condition of said district.

18 2. A water quality treatment district established hereunder may
19 consist of noncontiguous or contiguous benefited parcels of property and
20 shall be created by a resolution of the town board, upon petition after
21 a public hearing. The petition may be executed and acknowledged by one
22 or more of the owners of taxable real property of record situated within
23 the town whose private well water is contaminated and at the time the
24 petition is executed and acknowledged, notice and copy of such petition
25 shall be submitted to the state department of health. Upon a petition
26 signed and acknowledged the town board may, or on its own motion, after
27 a public hearing, assemble data relating to the number and location of
28 private wells within the town, the contaminants present in the water
29 supply in such town's private wells, (for the purposes of this section,
30 "contaminants" shall mean those substances found in amounts or concen-
31 trations which violate federal, state or local laws, guidelines or rules
32 and regulations relating to drinking water or which may pose a risk to
33 public health), the extent of contamination of the water supply in the
34 town's private wells, and the availability of appropriate treatment
35 technologies for the contaminants found to be present, or which are
36 reasonably expected to be found, currently or in the future, in the
37 water supply in the town's private wells. Upon presentation of the peti-
38 tion or on its own motion, the town board may direct or cause maps and
39 plans to be prepared, provided however, that if the owner or owners of
40 taxable real property undertake to furnish or pay the cost of such maps
41 and plans at his or their cost and expense, the town board shall accept
42 or prepare the same or the town board may adopt a resolution, subject to
43 a permissive referendum, appropriating a specific amount to pay the cost
44 of preparing a general map and plan for providing water quality treat-
45 ment units or devices and related services. The town board may determine
46 that such maps and plans shall be prepared by or under the supervision
47 of town officers and employees to be designated by the town board, or by
48 persons to be employed for that purpose, or the town board may contract
49 for the preparation thereof, within the limitations of the amount appro-
50 priated. Except as otherwise provided herein, the expense incurred for
51 the preparation of such maps and plans shall be a town charge, and shall
52 be assessed, levied and collected in the same manner as other town
53 charges. If the town board shall thereafter establish or extend a water
54 quality treatment district, the expense incurred by the town for the
55 preparation of the maps and plans therefor shall be deemed to be part of
56 the cost of such improvement, and the town shall be reimbursed the

1 amount paid therefor, or such portion of that amount which the town
2 board, at the public hearing held pursuant to section one hundred nine-
3 ty-four of this chapter, shall allocate against such district. Nothing
4 in this section contained, or in any other section of this act, shall be
5 construed to prevent the financing, in whole or in part, of expenditures
6 by private sources, grants or by other means. All such maps and plans
7 shall be filed with the town clerk. Such maps and plans shall show (1)
8 the location of all benefited parcels of properties with water quality
9 treatment units or devices installed prior to the formation of the
10 district and/or those properties requiring installation of water quality
11 treatment units or devices and the mode and frequency of testing, moni-
12 toring, modifying if required, operation and maintenance, regenerating
13 of such water quality treatment units or devices and the administering
14 of the treatment and disposal of residuals and any other requirements
15 pursuant to rules and regulations adopted by the public health AND
16 HEALTH PLANNING council under section two hundred twenty-five of the
17 public health law, and (2) estimates of the costs of procurement,
18 installation, monitoring, testing, modifying, if required, operation and
19 maintenance, regenerating of such water quality treatment units or
20 devices and the treatment and disposal of residuals, and the method of
21 financing the same. Any water quality treatment unit or device which has
22 been installed prior to the formation of the district must be approved
23 pursuant to rules and regulations adopted by the public health AND
24 HEALTH PLANNING council under section two hundred twenty-five of the
25 public health law, prior to acceptance of such unit or device and its
26 benefited property within the district.

27 S 85. Subdivision 3 of section 13-b of the workers' compensation law,
28 as amended by chapter 1068 of the laws of 1960, is amended to read as
29 follows:

30 3. Laboratories and bureaus engaged in x-ray diagnosis or treatment or
31 in physiotherapy or other therapeutic procedures and which participate
32 in the diagnosis or treatment of injured workmen under this chapter
33 shall be operated or supervised by qualified physicians duly authorized
34 under this chapter and shall be subject to the provisions of section
35 thirteen-c of this [chapter] ARTICLE. The person in charge of diagnos-
36 tic clinical laboratories duly authorized under this chapter shall
37 possess the qualifications established by the public health AND HEALTH
38 PLANNING council for approval by the state commissioner of health or, in
39 the city of New York, the qualifications approved by the board of health
40 of said city and shall maintain the standards of work required for such
41 approval.

42 S 86. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after April 1, 2010, provided
44 however that:

45 (a) section eight of this act shall take effect July 1, 2010;

46 (b) section nine of this act shall take effect on the one hundred
47 eightieth day after it shall have become a law;

48 (c) the amendments to section 1 of part C of chapter 57 of the laws of
49 2006 made by section ten of this act shall not affect the repeal of such
50 section and shall be deemed repealed therewith;

51 (c-1) the amendments to subdivision 10 of section 3615 of the public
52 health law made by section thirty of this act shall not affect the expi-
53 ration of such section and shall expire therewith;

54 (d) the amendments to subdivision 1 of section 210 of the elder law
55 made by section forty-two of this act shall take effect on the first of
56 September next succeeding the date on which it shall have become a law;

1 (e) the amendments to paragraph (a) of subdivision 2 of section 2802-a
2 of the public health law made by section fifty-nine of this act shall
3 not affect the repeal of such section and shall be deemed repealed ther-
4 ewith; and

5 (f) sections forty-three through eighty-five of this act shall take
6 effect December 1, 2010, provided however, that the public health and
7 health planning council shall be authorized to complete action on any
8 application, regulation, complaint or other matter under consideration
9 by the public health council or state hospital review and planning coun-
10 cil on such effective date; and provided further that any final approval
11 granted or regulation adopted by the public health council or state
12 hospital review and planning council shall remain in effect according to
13 its terms after the effective date of this act, unless otherwise
14 lawfully annulled, revoked, modified, amended, limited or suspended.

15 PART B

16 Section 1. Intentionally omitted.

17 S 2. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
18 the laws of 1996, amending the education law and other laws relating to
19 rates for residential health care facilities, as amended by section 12
20 of part B of chapter 58 of the laws of 2009, is amended to read as
21 follows:

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

1 initially on reported 1995 reconciled data as further reconciled to
2 actual reported 1998 reconciled data, for 1999 based initially on
3 reported 1995 reconciled data as further reconciled to actual reported
4 1999 reconciled data, for 2000 based initially on reported 1995 recon-
5 ciled data as further reconciled to actual reported 2000 data, for 2001
6 based initially on reported 1995 reconciled data as further reconciled
7 to actual reported 2001 data, for 2002 based initially on reported 2000
8 reconciled data as further reconciled to actual reported 2002 data, and
9 for state fiscal years beginning on April 1, 2005, based initially on
10 reported 2000 reconciled data as further reconciled to actual reported
11 data for 2005, and for state fiscal years beginning on April 1, 2006,
12 based initially on reported 2000 reconciled data as further reconciled
13 to actual reported data for 2006, for state fiscal years beginning on
14 and after April 1, 2007 through March 31, 2009, based initially on
15 reported 2000 reconciled data as further reconciled to actual reported
16 data for 2007 AND 2008, RESPECTIVELY, for state fiscal years beginning
17 on and after April 1, 2009, based initially on reported 2007 reconciled
18 data, adjusted for authorized Medicaid rate changes applicable to the
19 state fiscal year, and as further reconciled to actual reported data for
20 2009, FOR STATE FISCAL YEARS BEGINNING ON AND AFTER APRIL 1, 2010, BASED
21 INITIALLY ON REPORTED RECONCILED DATA FROM THE BASE YEAR TWO YEARS PRIOR
22 TO THE PAYMENT YEAR, ADJUSTED FOR AUTHORIZED MEDICAID RATE CHANGES
23 APPLICABLE TO THE STATE FISCAL YEAR, AND FURTHER RECONCILED TO ACTUAL
24 REPORTED DATA FROM SUCH PAYMENT YEAR, and to actual reported data for
25 each respective succeeding year. The payments may be added to rates of
26 payment or made as aggregate payments to an eligible public general
27 hospital.

28 S 3. Paragraph (b) of subdivision 1 of section 211 of chapter 474 of
29 the laws of 1996, amending the education law and other laws relating to
30 rates for residential health care facilities, as amended by section 13
31 of part B of chapter 58 of the laws of 2009, is amended to read as
32 follows:

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

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

41 S 3-a. 1. Notwithstanding any inconsistent provision of law, rule or
42 regulation to the contrary, and subject to the availability of federal
43 financial participation, effective for the period August 1, 2010 through
44 March 31, 2011, and each state fiscal year thereafter, the department of
45 health is authorized to make Medicaid payment increases for diagnostic
46 and treatment centers (DTC) services issued pursuant to section 2807 of
47 the public health law for public DTCs operated by the New York City
48 Health and Hospitals Corporation, at the election of the social services
49 district in which an eligible DTC is physically located, of up to twelve
50 million six hundred thousand dollars on an annualized basis for DTC
51 services pursuant to title 11 of article 5 of the social services law
52 for patients eligible for federal financial participation under title
53 XIX of the federal social security act based on each such DTC's propor-
54 tionate share of the sum of all clinic visits for all facilities eligi-
55 ble for an adjustment pursuant to this section for the base year two
56 years prior to the rate year. Such proportionate share payments may be

1 added to rates of payment or made as aggregate payments to eligible
2 DTCs.

3 2. The social services district in which an eligible public DTC is
4 physically located shall be responsible for the payment increase for
5 such public DTC as determined in accordance with this section for all
6 DTC services provided by such public DTC in accordance with section
7 365-a of the social services law, regardless of whether another social
8 services district or the department of health may otherwise be responsi-
9 ble for furnishing medical assistance to the eligible persons receiving
10 such services.

11 3. Any amounts provided pursuant to this section shall be effective
12 for purposes of determining payments for public DTCs contingent on
13 receipt of all approvals required by federal law or regulations for
14 federal financial participation in payments made pursuant to title XIX
15 of the federal social security act. If federal approvals are not granted
16 for payments based on such amounts of components thereof, payments to
17 eligible public DTCs shall be determined without consideration of such
18 amounts or such components. In the event of such federal disapproval,
19 public DTCs shall refund to the state, or the state may recoup from
20 prospective payments, any payment received pursuant to this section,
21 including those based on a retroactive reduction in the payments. Any
22 reduction in federal financial participation pursuant to title XIX of
23 the federal social security act related to federal upper payment limits
24 shall be deemed to apply first to amounts provided pursuant to this
25 section.

26 4. Reimbursement by the state for payments made whether by the depart-
27 ment of health on behalf of a social services district pursuant to
28 section 367-b of the social services law or by a social services
29 district directly, for a payment determined in accordance with this
30 section for public DTC services provided in accordance with section
31 365-a of the social services law shall be limited to the amount of
32 federal funds properly received or to be received on account of such
33 expenditures. Further, payments made pursuant to this section shall be
34 excluded from all calculations made pursuant to section 1 of part C of
35 chapter 58 of the laws of 2005.

36 5. Social services district funding of the non-federal share of any
37 payments pursuant to this section shall be deemed to be voluntary for
38 purposes of the increased federal medical assistance percentage
39 provisions of the American Recovery and Reinvestment Act of 2009;
40 provided however that, in the event the federal Centers for Medicare and
41 Medicaid Services determines that such non-federal share payments are
42 not voluntary payments for purposes of such Act or otherwise disallows
43 federal financial participation in such payments, the provisions of this
44 section shall be null and void and payments made pursuant to this
45 section shall be recouped by the commissioner of health.

46 S 3-b. 1. Notwithstanding any inconsistent provision of law, rule or
47 regulation to the contrary, and subject to the availability of federal
48 financial participation, effective for the period August 1, 2010 through
49 March 31, 2011, and each state fiscal year thereafter, the department of
50 health, is authorized to make Medicaid payment increases for county
51 operated diagnostic and treatment centers (DTC) services issued pursuant
52 to section 2807 of the public health law and for services provided by
53 county operated free-standing clinics licensed pursuant to articles 31
54 and 32 of the mental hygiene law, but not including facilities operated
55 by the New York City Health and Hospitals Corporation, of up to five
56 million four hundred thousand dollars on an annualized basis for such

1 services pursuant to title 11 of article 5 of the social services law
2 for patients eligible for federal financial participation under title
3 XIX of the federal social security act. Local social services districts
4 may decline such increased payments to their sponsored DTCs and free-
5 standing clinics, provided they provide written notification to the
6 commissioner of health, within thirty days following receipt of notifi-
7 cation of a payment pursuant to this section. Distributions pursuant to
8 this section shall be based on each facility's proportionate share of
9 the sum of all DTC and clinic visits for all facilities receiving
10 payments pursuant to this section for the base year two years prior to
11 the rate year. Such proportionate share payments may be added to rates
12 or payment or made as aggregate payments to eligible facilities.

13 2. The social services district in which an eligible public DTC is
14 physically located shall be responsible for the payment increases for
15 such public DTC as determined in accordance with subdivision one of this
16 section for all DTC services provided by such public DTC in accordance
17 with section 365-a of the social services law, regardless of whether
18 another social services district or the department of health may other-
19 wise be responsible for furnishing medical assistance to the eligible
20 persons receiving such services.

21 3. Any amounts provided pursuant to this section shall be effective
22 for purposes of determining payments for public DTCs contingent on
23 receipt of all approvals required by federal law or regulations for
24 federal financial participation in payments made pursuant to title XIX
25 of the federal social security act. If federal approvals are not granted
26 for payments based on such amounts of components thereof, payments to
27 eligible public DTCs shall be determined without consideration of such
28 amounts or such components. In the event of such federal disapproval,
29 public DTCs shall refund to the state, or the state may recoup from
30 prospective payments, any payment received pursuant to this section,
31 including those based on a retroactive reduction in the payments. Any
32 reduction in federal financial participation pursuant to title XIX of
33 the federal social security act related to federal upper payments limits
34 shall be deemed to apply first to amounts provided pursuant to this
35 section.

36 4. Reimbursement by the state for payments made whether by the depart-
37 ment of health on behalf of a social services district pursuant to
38 section 367-b of the social services law or by a social services
39 district directly, for a payment determined in accordance with this
40 section for public DTC services provided in accordance with section
41 365-a of the social services law shall be limited to the amount of
42 federal funds properly received or to be received on account of such
43 expenditures. Further, payments made pursuant to this section shall be
44 excluded from all calculations made pursuant to section 1 of part C of
45 chapter 58 of the laws of 2005.

46 5. Social services district funding of the non-federal share of any
47 payments pursuant to this section shall be deemed to be voluntary for
48 purposes of the increased federal medical assistance percentage
49 provisions of the American Recovery and Reinvestment Act of 2009;
50 provided however that, in the event the federal Centers for Medicare and
51 Medicaid Services determines that such non-federal share payments are
52 not voluntary payments for purposes of such Act or otherwise disallows
53 federal financial participation in such payments, the provisions of this
54 section shall be null and void and payments made pursuant to this
55 section shall be recouped by the commissioner of health.

1 S 3-c. 1. Notwithstanding any contrary provision of law and subject to
2 the availability of federal financial participation, effective for peri-
3 ods on or after August 1, 2010, the commissioner of health is authorized
4 to seek all necessary federal approvals to utilize certified public
5 expenditures ("CPE") with regard to Medicaid payments made to general
6 hospitals in conformance with federal statute and regulations, for the
7 purpose of recognizing otherwise un-reimbursed allowable medical assist-
8 ance costs pursuant to title 11 of article 5 of the social services law
9 for patients eligible for federal financial participation under title
10 XIX of the federal social security act. Such CPEs may be utilized with
11 regard to Medicaid payments made to or on behalf of non-state-owned
12 general public hospitals located in a city of more than one million
13 persons. General public hospitals seeking to utilize CPEs for Medicaid
14 payment purposes shall provide such documentation and supporting data as
15 the commissioner of health deems necessary to further such utilization.
16 The federal matching funds received for approved CPEs pursuant to this
17 section shall be remitted to the general public hospital whose expendi-
18 tures formed the basis for such CPE. Further, the amount of such CPEs
19 shall be excluded from all calculations made pursuant to section 1 of
20 part C of chapter 58 of the laws of 2005. The commissioner of health may
21 promulgate regulations, including emergency regulations, to implement
22 the provisions of this section.

23 2. Notwithstanding any contrary provision of law, the social services
24 district in which an eligible public general hospital is physically
25 located shall be responsible for the payments as determined in accord-
26 ance with this section for all services provided by such public general
27 hospital in accordance with section 365-a of the social services law,
28 regardless of whether another social services district or the department
29 of health may otherwise be responsible for furnishing medical assistance
30 to the eligible persons receiving such services.

31 3. Social services district funding of the non-federal share of any
32 payments pursuant to this section shall be deemed to be voluntary for
33 purposes of the increased federal medical assistance percentage
34 provisions of the American Recovery and Reinvestment Act of 2009;
35 provided however that, in the event the federal Centers for Medicare and
36 Medicaid Services determines that such non-federal share payments are
37 not voluntary payments for purposes of such Act or otherwise disallows
38 federal financial participation in such payments, the provisions of this
39 section shall be null and void and payments made pursuant to this
40 section shall be recouped by the commissioner of health.

41 S 3-d. 1. Notwithstanding any provision of law, rule or regulation to
42 the contrary, and subject to the availability of federal financial
43 participation, for periods on and after April 1, 2010, payments made to
44 managed care providers sponsored by a public benefit corporation located
45 in a city of more than one million persons which provide coverage prima-
46 rily to Medicaid patients in accordance with sections 364-j and 369-ee
47 of the social services law may, at the election of the social services
48 district, be increased up to an annual aggregate amount of two hundred
49 million dollars; provided, however that, notwithstanding the social
50 services district Medicaid cap provisions of part C of chapter 58 of the
51 laws of 2005, such social services district shall be responsible for
52 payment of one hundred percent of the non-federal share of such
53 increase, and provided further, however, that such payment increases
54 shall not be applied to payments related to the Medicaid advantage
55 program or the HIV special needs plan. Social services district funding
56 of the non-federal share of any such payments shall be deemed to be

1 voluntary for purposes of the increased federal medical assistance
2 percentage provisions of the American Recovery and Reinvestment Act of
3 2009; provided however that, in the event the federal Centers for Medi-
4 care and Medicaid Services determines that such non-federal share
5 payments are not voluntary payments for purposes of such Act, the
6 provisions of this section shall be null and void.

7 2. Notwithstanding any contrary provision of law, the social services
8 district in which an eligible managed care provider is primarily located
9 shall be responsible for the increase to payments as determined in
10 accordance with this section for services covered by such managed care
11 provider in accordance with section 365-a of the social services law,
12 regardless of whether another social services district or the department
13 of health may otherwise be responsible for furnishing medical assistance
14 to the eligible persons receiving such services.

15 S 3-e. Subdivision (a) of section 1 of part C of chapter 58 of the
16 laws of 2005, as amended by section 60 of part A of chapter 57 of the
17 laws of 2006, is amended to read as follows:

18 (a) Notwithstanding the provisions of section 368-a of the social
19 services law, or any other provision of law, the department of health
20 shall provide reimbursement for expenditures made by or on behalf of
21 social services districts for medical assistance for needy persons, and
22 the administration thereof, in accordance with the provisions of this
23 section; provided, however, that this section shall not apply to amounts
24 expended for health care services under section 369-ee of the social
25 services law, which amounts shall be reimbursed in accordance with para-
26 graph (t) of subdivision 1 of section 368-a of such law and shall be
27 excluded from all calculations made pursuant to this section; and
28 provided further that amounts paid to the public hospitals pursuant to
29 subdivision 14-f of section 2807-c of the public health law and amounts
30 expended pursuant to: subdivision 12 of section 2808 of the public
31 health law; sections 211 and 212 of chapter 474 of the laws of 1996, as
32 amended; and sections 11 through 14 of part A and sections 13 and 14 of
33 part B of chapter 1 of the laws of 2002; AND AMOUNTS PAID TO PUBLIC
34 DIAGNOSTIC AND TREATMENT CENTERS AS PROVIDED IN SECTIONS 3-A AND 3-B OF
35 PART B OF THE CHAPTER OF THE LAWS OF 2010 WHICH AMENDED THIS SUBDIVI-
36 SION, AMOUNTS PAID TO PUBLIC GENERAL HOSPITALS AS CERTIFIED PUBLIC
37 EXPENDITURES AS PROVIDED IN SECTION 3-C OF PART B OF THE CHAPTER OF THE
38 LAWS OF 2010 WHICH AMENDED THIS SUBDIVISION, AND AMOUNTS PAID TO MANAGED
39 CARE PROVIDERS PURSUANT TO SECTION 3-D OF PART B OF THE CHAPTER OF THE
40 LAWS OF 2010 WHICH AMENDED THIS SUBDIVISION, shall be excluded from all
41 calculations made pursuant to this section.

42 S 3-f. Clause (E) of subparagraph (i) of paragraph (i) of subdivision
43 35 of section 2807-c of the public health law, as added by section 3-a
44 of part B of chapter 109 of the laws of 2010, is amended to read as
45 follows:

46 (E) Subject to the availability of federal financial participation and
47 in conformance with all applicable federal statutes and regulations,
48 such payments shall be made as upper payment limit payments and,
49 further, such payments shall be made as aggregate monthly payments to
50 eligible general hospitals [and provided further, however, that payments
51 made pursuant to this paragraph shall not be available for periods after
52 the last day of the calendar year during which enhanced federal medicaid
53 assistance percentages (FMAP) payments to general hospitals in the state
54 of New York pursuant to section five thousand one of the federal Ameri-
55 can Recovery and Reinvestment Act of 2009, or pursuant to an otherwise
56 applicable federal law, cease to be available, provided, however, that

1 the department will in conjunction with hospital representatives review
2 the impact associated with the expiration of such funding availability
3 no later than sixty days prior to such expiration].

4 S 3-g. Notwithstanding any contrary provision of law or regulation,
5 for Medicaid rates of payment for non-exempt general hospital inpatient
6 discharges occurring on and after December 1, 2009 through June 30,
7 2010, reimbursement for general hospital inpatients re-admitted as inpa-
8 tients shall be in accordance with the following:

9 1. A patient shall be defined as a readmitted inpatient (hereinafter
10 "a readmission") when the inpatient is discharged and readmitted to the
11 same general hospital within thirty-one days of the original discharge
12 for the same or a related condition for which the inpatient was treated
13 at the time of the original discharge.

14 2. The hospital shall receive a case-based payment determined pursuant
15 to the provisions of subdivision 5 of this section for a readmission
16 meeting one or more of the following criteria:

17 (a) the patient was a readmission and the commissioner of health
18 determines that such readmission could reasonably have been prevented by
19 the provision of medical care more consistent with generally accepted
20 standards of medical care prior to discharge or during the immediate
21 post-discharge follow-up period;

22 (b) the readmission is for a condition or procedure related to the
23 care received prior to the previous inpatient stay or to the follow-up
24 care received immediately following the previous discharge and such
25 condition or procedure involve one or more of the following:

26 (i) a condition or procedure that is closely related to the previous
27 inpatient stay;

28 (ii) an infection or other complication related to the previous inpa-
29 tient stay;

30 (iii) a condition or procedure that reflects a failure to perform a
31 medically necessary surgical procedure during the previous inpatient
32 stay;

33 (iv) an acute decomposition of a coexisting chronic disease;

34 (v) other conditions or procedures as determined by the commissioner
35 of health.

36 (c) the patient was admitted for surgery but surgery was delayed due
37 to an operating room scheduling problem;

38 (d) a particular surgical team was not available during the previous
39 inpatient stay;

40 (e) a biopsy or other surgical procedure during the previous inpatient
41 stay indicated the need for additional surgery which could have been
42 performed during that previous inpatient stay but which was delayed
43 until a subsequent admission;

44 (f) the patient was admitted for surgery which had to be postponed
45 because the patient had an infection or other medical problem which
46 prevented surgery from being performed during the first admission;

47 (g) any bilateral procedure requiring more than one admission, except
48 planned or staged procedures;

49 (h) the patient was admitted for elective surgery with an unstable
50 medical problem which could be treated on an outpatient basis;

51 (i) there was a delay in obtaining a specific piece of equipment or
52 device required for surgery; or

53 (j) the patient was a maternity patient who was readmitted for deliv-
54 ery of a baby within twenty-four hours of having been discharged.

55 3. A hospital shall have the right to request the commissioner of
56 health to reconsider a determination under this subdivision and shall

1 have the right to submit additional documentation in support of its
2 position. Such request and additional documentation shall be submitted
3 within thirty days of the original determination of the commissioner of
4 health and the commissioner of health shall act upon such request for
5 reconsideration within forty-five days from receipt of the request and
6 complete documentation.

7 4. Notwithstanding the provisions of subdivision (2) of this section,
8 the hospital shall be eligible to receive a case-based payment for each
9 hospitalization if the hospital demonstrates that the readmission
10 occurred under any of the following circumstances:

11 (a) the original discharge was a patient initiated discharge and was
12 Against Medical Advice (AMA) and the circumstances of such discharge and
13 readmission are documented in the patient's medical record, or the
14 original discharge was for the purpose of securing treatment of a metas-
15 tic malignancy, multiple traumas or other extreme conditions as deter-
16 mined by the commissioner of health; or

17 (b) the readmission was for a planned or staged admission.

18 5. When it is determined that a patient's readmission was for any of
19 the reasons described in subdivision 2 of this section, the hospital
20 shall receive the lesser of: the total of the case-based payments for
21 the two separate admissions; or, the payment which would have been
22 otherwise received by billing for a single case-based payment by combin-
23 ing, according to the principal reason for patient admission, those
24 diagnoses and procedures of the readmission with the diagnoses and
25 procedures of the original admission, and total medically necessary days
26 in the combined admissions.

27 S 4. Subdivision 2 of section 365-a of the social services law is
28 amended by adding a new paragraph (v) to read as follows:

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

31 S 5. Section 2511 of the public health law is amended by adding a new
32 subdivision 2-b to read as follows:

33 2-B. (A) EFFECTIVE OCTOBER FIRST, TWO THOUSAND TEN, FOR PURPOSES OF
34 CLAIMING FEDERAL FINANCIAL PARTICIPATION UNDER PARAGRAPH NINE OF
35 SUBSECTION (C) OF SECTION TWENTY-ONE HUNDRED FIVE OF THE FEDERAL SOCIAL
36 SECURITY ACT, FOR INDIVIDUALS DECLARING TO BE CITIZENS AT INITIAL APPLI-
37 CATION, A HOUSEHOLD SHALL PROVIDE:

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

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

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

49 S 6. Subparagraphs (i) and (ii) of paragraph (f) of subdivision 2 of
50 section 2511 of the public health law, subparagraph (i) as amended by
51 section 4 and subparagraph (ii) as amended by section 5 of part 00 of
52 chapter 57 of the laws of 2008, are amended to read as follows:

53 (i) In order to establish income eligibility under this subdivision at
54 initial application, a household shall provide such documentation speci-
55 fied in subparagraph (iii) of this paragraph, as necessary and suffi-
56 cient to determine a child's financial eligibility for a subsidy payment

1 under this title. The commissioner may verify the accuracy of such
2 income information provided by the household by matching it against
3 income information contained in databases to which the commissioner has
4 access, including the state's wage reporting system pursuant to subdivi-
5 sion five of section one hundred seventy-one-a of the tax law and by
6 means of an income verification performed [by] PURSUANT TO A COOPERATIVE
7 AGREEMENT WITH the department of taxation and finance pursuant to subdivi-
8 sion four of section one hundred seventy-one-b of the tax law.

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

30 S 7. Paragraph (a) of subdivision 8 of section 366-a of the social
31 services law, as amended by section 45-c of part C of chapter 58 of the
32 laws of 2008, is amended to read as follows:

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

52 S 8. Subdivision 4 of section 171-b of the tax law, as amended by
53 section 45-e of part C of chapter 58 of the laws of 2008, is amended to
54 read as follows:

55 (4) The commissioner is authorized and directed to enter into an
56 agreement with the commissioner of health which shall set forth the

1 procedures by which the commissioner shall (a) [verify] FACILITATE THE
2 VERIFICATION OF income eligibility for subsidized health insurance
3 coverage under the child health insurance plan pursuant to subparagraphs
4 (i) and (ii) of paragraph (f) of subdivision two of section two thousand
5 five hundred eleven of the public health law, and for the medical
6 assistance and family health plus programs pursuant to subdivision eight
7 of section three hundred sixty-six-a and paragraphs (b) and (d) of
8 subdivision two of section three hundred sixty-nine-ee of the social
9 services law, as specified by the commissioner of health and agreed to
10 by the commissioner, and (b) shall provide the information required by
11 subdivision two-a of section two thousand five hundred eleven of the
12 public health law.

13 S 9. Section 2511 of the public health law is amended by adding a new
14 subdivision 2-c to read as follows:

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

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

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

41 S 10. Section 366-a of the social services law is amended by adding a
42 new subdivision 11 to read as follows:

43 11. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR
44 REGULATION, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO (I) ESTABLISH
45 STANDARDS AND PROCEDURES FOR EXPRESS LANE ENROLLMENT AND RENEWAL IMPL-
46 MENTED IN ACCORDANCE WITH SECTION 1902(E)(13) OF THE FEDERAL SOCIAL
47 SECURITY ACT, INCLUDING BUT NOT LIMITED TO RELIANCE ON A FINDING MADE BY
48 AN EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) AND (H) OF
49 THE FEDERAL SOCIAL SECURITY ACT, TO DETERMINE WHETHER A CHILD MEETS ONE
50 OR MORE OF THE ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE; (II) SPECIFY
51 SUCH STANDARDS AND PROCEDURES IN THE MEDICAL ASSISTANCE STATE PLAN
52 ESTABLISHED UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT; AND
53 (III) WAIVE ANY INFORMATION AND DOCUMENTATION REQUIREMENTS SET FORTH IN
54 THIS SECTION NECESSARY TO IMPLEMENT EXPRESS LANE ELIGIBILITY; PROVIDED,
55 HOWEVER, INFORMATION AND DOCUMENTATION REQUIRED PURSUANT TO SECTION ONE
56 HUNDRED TWENTY-TWO OF THIS CHAPTER MAY NOT BE WAIVED.

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

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

11 (D) FOR PURPOSES OF A MEDICAL ASSISTANCE ELIGIBILITY DETERMINATION
12 MADE IN ACCORDANCE WITH THIS SUBDIVISION, A CHILD SHALL BE DEEMED TO
13 SATISFY THE INCOME ELIGIBILITY CRITERIA FOR MEDICAL ASSISTANCE IF AN
14 EXPRESS LANE AGENCY, AS DEFINED IN SECTION 1902(E)(13)(F) AND (H) OF THE
15 FEDERAL SOCIAL SECURITY ACT AND SPECIFIED IN THE STANDARDS AND PROCE-
16 DURES ESTABLISHED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, HAS
17 DETERMINED THAT: THE CHILD'S FAMILY HAS INCOME THAT DOES NOT EXCEED A
18 SCREENING THRESHOLD AMOUNT, AS DETERMINED BY THE COMMISSIONER OF HEALTH,
19 EQUAL TO A PERCENTAGE OF THE FEDERAL POVERTY LINE (AS DEFINED AND ANNU-
20 ALLY REVISED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
21 SERVICES) THAT EXCEEDS BY THIRTY PERCENTAGE POINTS THE HIGHEST INCOME
22 ELIGIBILITY LEVEL APPLICABLE TO A FAMILY OF THE SAME SIZE UNDER THE
23 MEDICAL ASSISTANCE PROGRAM.

24 S 11. Section 369-ff of the social services law is amended by adding
25 four new subdivisions 5, 6, 7 and 8 to read as follows:

26 5. (A) INDIVIDUALS ENROLLED IN FAMILY HEALTH PLUS INSURANCE PLANS
27 UNDER THIS SECTION WHO ARE NOT OTHERWISE ELIGIBLE FOR FAMILY HEALTH PLUS
28 UNDER SECTION THREE HUNDRED SIXTY-NINE-EE OF THIS TITLE SHALL BE RESPON-
29 SIBLE TO MAKE CO-PAYMENTS IN ACCORDANCE WITH THE TERMS OF PARAGRAPH (B)
30 OF THIS SUBDIVISION; PROVIDED HOWEVER THAT THE TOTAL AMOUNT OF ANY
31 CO-PAYMENTS WHICH AN INDIVIDUAL SHALL BE REQUIRED TO MAKE MAY NOT EXCEED
32 TWO THOUSAND DOLLARS PER ANNUM.

33 (B) CO-PAYMENTS MAY BE CHARGED IN THE FOLLOWING AMOUNTS:

34 (I) THE CO-PAYMENT CHARGED FOR EACH DISCHARGE FOR INPATIENT CARE MAY
35 BE UP TO ONE HUNDRED FIFTY DOLLARS;

36 (II) THE CO-PAYMENT CHARGED FOR EACH EMERGENCY ROOM VISIT MAY BE UP TO
37 FIFTY DOLLARS;

38 (III) THE CO-PAYMENT CHARGED FOR EACH OUTPATIENT SURGERY MAY BE UP TO
39 ONE HUNDRED DOLLARS;

40 (IV) THE CO-PAYMENT CHARGED FOR EACH PRIMARY CARE PHYSICIAN OFFICE
41 VISIT, FOR EACH DENTAL SERVICE VISIT, FOR EACH LABORATORY SERVICE, FOR
42 EACH RADIOLOGY SERVICE, FOR EACH OUTPATIENT MENTAL HEALTH SERVICE, AND
43 FOR EACH OUTPATIENT SUBSTANCE ABUSE SERVICE MAY BE UP TO TEN DOLLARS;

44 (V) THE CO-PAYMENT CHARGED FOR EACH PHYSICIAN SPECIALIST SERVICE
45 OFFICE VISIT, FOR EACH PHYSICAL THERAPY SERVICE, FOR EACH OCCUPATIONAL
46 THERAPY SERVICE, FOR EACH SPEECH THERAPY SERVICE, FOR EACH HEARING
47 SERVICE, FOR EACH VISION SERVICE, AND FOR EACH PODIATRIC SERVICE MAY BE
48 UP TO TWENTY-FIVE DOLLARS; AND

49 (VI) THE CO-PAYMENT CHARGED FOR EACH GENERIC PRESCRIPTION DRUG
50 DISPENSED MAY BE UP TO FIVE DOLLARS AND FOR EACH BRAND NAME PRESCRIPTION
51 DRUG DISPENSED MAY BE FIFTEEN DOLLARS.

52 (C) AN INDIVIDUAL WHO IS ELIGIBLE FOR COVERAGE UNDER A FAMILY HEALTH
53 PLUS INSURANCE PLAN PURSUANT TO SECTION THREE HUNDRED SIXTY-NINE-EE OF
54 THIS TITLE SHALL MAKE CO-PAYMENTS IN ACCORDANCE WITH SUCH SECTION THREE
55 HUNDRED SIXTY-NINE-EE AND SHALL NOT MAKE CO-PAYMENTS AS PROVIDED IN
56 PARAGRAPH (B) OF THIS SUBDIVISION.

1 (D) AN EMPLOYER OR DESIGNATED SPONSOR PARTICIPATING IN THE FAMILY
2 HEALTH PLUS PROGRAM ON OR BEFORE JULY FIRST, TWO THOUSAND TEN, OR AN
3 EMPLOYER OR OTHER DESIGNATED SPONSOR WHO ENTERED INTO A MEMORANDUM OF
4 UNDERSTANDING WITH THE STATE ON OR BEFORE JULY FIRST, TWO THOUSAND TEN
5 WITH RESPECT TO THE PURCHASE OF HEALTH INSURANCE COVERAGE UNDER THIS
6 SECTION FOR CHILD CARE PROVIDERS REPRESENTED BY SUCH SPONSOR, SHALL HAVE
7 THE OPTION TO ESTABLISH CO-PAYMENTS IN ACCORDANCE WITH SECTION THREE
8 HUNDRED SIXTY-NINE-EE OF THIS TITLE OR TO ESTABLISH CO-PAYMENTS AS
9 PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION.

10 6. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE
11 COMMISSIONER MAY AMEND THE APPLICATION REQUIREMENTS FOR EMPLOYEES WHO
12 MAY BE ELIGIBLE FOR FAMILY HEALTH PLUS INSURANCE PLANS TO LIMIT AND
13 SIMPLIFY APPLICATION DOCUMENTATION REQUIREMENTS, PROVIDED HOWEVER, SUCH
14 APPLICATION REQUIREMENTS SHALL OTHERWISE COMPLY WITH FEDERAL LAW.

15 7. WHERE A HEALTH CARE SERVICE UNDER A FAMILY HEALTH PLUS INSURANCE
16 PLAN IS NOT COVERED UNDER A PAYMENT RATE METHODOLOGY AGREEMENT NEGOTI-
17 ATED WITH A GENERAL HOSPITAL, THE RATE OF PAYMENT FOR EMERGENCY AND
18 INPATIENT HOSPITAL SERVICES SHALL BE IN ACCORDANCE WITH SUBPARAGRAPH (I)
19 OF PARAGRAPH (A-2) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED
20 SEVEN-C OF THE PUBLIC HEALTH LAW.

21 8. AN EMPLOYER OR OTHER DESIGNATED SPONSOR SHALL NOT BE ELIGIBLE TO
22 OFFER FAMILY HEALTH PLUS INSURANCE PLANS PURSUANT TO THIS SECTION IF
23 SUCH EMPLOYER OR OTHER DESIGNATED SPONSOR HAS PROVIDED HEALTH COVERAGE
24 DURING THE SIX-MONTH PERIOD PRIOR TO APPLICATION FOR A GROUP OF EMPLOY-
25 EES. THIS PROHIBITION SHALL NOT APPLY TO:

26 (A) AN EMPLOYER OR OTHER DESIGNATED SPONSOR WHICH EMPLOYS FEWER THAN
27 FIFTY-ONE EMPLOYEES AND HAS EXPENDITURES FOR HEALTH COVERAGE OF MORE
28 THAN FIFTEEN PERCENT OF ITS PAYROLL;

29 (B) A QUALIFYING SMALL EMPLOYER OR SOLE PROPRIETOR ENROLLED IN INSUR-
30 ANCE COVERAGE PURSUANT TO SECTION FORTY-THREE HUNDRED TWENTY-SIX OF THE
31 INSURANCE LAW;

32 (C) AN EMPLOYER OR OTHER DESIGNATED SPONSOR PARTICIPATING IN THE
33 PROGRAM ON OR BEFORE JULY FIRST, TWO THOUSAND TEN; OR

34 (D) AN EMPLOYER OR OTHER DESIGNATED SPONSOR WHO ENTERED INTO A MEMO-
35 RANDUM OF UNDERSTANDING WITH THE STATE ON OR BEFORE JULY FIRST, TWO
36 THOUSAND TEN WITH RESPECT TO THE PURCHASE OF HEALTH INSURANCE COVERAGE
37 UNDER THIS SECTION FOR CHILD CARE PROVIDERS REPRESENTED BY SUCH SPONSOR.

38 S 12. Section 4327 of the insurance law is amended by adding a new
39 subsection (m-1) to read as follows:

40 (M-1) IN THE EVENT THAT THE SUPERINTENDENT SUSPENDS THE ENROLLMENT OF
41 NEW INDIVIDUALS FOR QUALIFYING GROUP HEALTH INSURANCE CONTRACTS OR QUAL-
42 IFYING INDIVIDUAL HEALTH INSURANCE CONTRACTS, THE SUPERINTENDENT SHALL
43 ENSURE THAT SMALL EMPLOYERS OR SOLE PROPRIETORS SEEKING TO ENROLL IN A
44 QUALIFIED GROUP OR INDIVIDUAL HEALTH INSURANCE CONTRACT PURSUANT TO
45 SECTION FORTY-THREE HUNDRED TWENTY-SIX OF THIS ARTICLE ARE PROVIDED
46 INFORMATION ON AND DIRECTED TO THE FAMILY HEALTH PLUS EMPLOYER PARTNER-
47 SHIP PROGRAM UNDER SECTION THREE HUNDRED SIXTY-NINE-FF OF THE SOCIAL
48 SERVICES LAW.

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

52 (a) Beginning January first, two thousand eight, the commissioner is
53 authorized, within amounts available pursuant to subdivision five-a of
54 this section, to make loan repayment awards to primary care physicians
55 or other physician specialties determined by the commissioner to be in
56 short supply, licensed to practice medicine in New York state, who agree

1 to practice for at least five years in an underserved area, as deter-
2 mined by the commissioner. Such physician shall be eligible for a loan
3 repayment award of up to one hundred fifty thousand dollars over a five
4 year period distributed as follows: fifteen percent of total loan debt
5 not to exceed twenty thousand dollars for the first year; fifteen
6 percent of total loan debt not to exceed twenty-five thousand dollars
7 for the second year; twenty percent of total loan debt not to exceed
8 thirty-five thousand dollars for the third year; and twenty-five percent
9 of total loan debt not to exceed thirty-five thousand dollars per year
10 for the fourth [and] YEAR; AND ANY UNPAID BALANCE OF THE TOTAL LOAN DEBT
11 NOT TO EXCEED THE MAXIMUM AWARD AMOUNT FOR THE fifth [years] YEAR of
12 practice in such area.

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

29 S 14. Subdivision 1 of section 2802-a of the public health law, as
30 added by section 87 of part B of chapter 58 of the laws of 2005, is
31 amended to read as follows:

32 1. Notwithstanding any other provision of law to the contrary, the
33 commissioner is authorized to approve up to [five] EIGHTEEN general
34 hospitals within the state to operate transitional care units by and
35 within such general hospitals. For purposes of this section, "transi-
36 tional care" shall mean sub acute care services provided to patients of
37 a general hospital who no longer require acute care general hospital
38 inpatient services, but continue to need specialized medical, nursing
39 and other hospital ancillary services and are not yet appropriate for
40 discharge.

41 S 15. Subdivision 2 of section 105 of part B of chapter 58 of the
42 laws of 2005, amending the public health law and other laws relating to
43 implementing the state fiscal plan for the 2005-2006 state fiscal year,
44 as amended by chapter 83 of the laws of 2010 is REPEALED.

45 S 16. Intentionally omitted.

46 S 17. Paragraph (f) of subdivision 8-a of section 2807-j of the public
47 health law, as added by section 39 of part B of chapter 58 of the laws
48 of 2008, is amended to read as follows:

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

1 quent unaudited periods when such amounts due as a result of such agree-
2 ment, other than REDUCED OR waived penalties and interest, are paid in
3 full to the commissioner or the commissioner's designee within sixty
4 days of execution of such agreement by all parties to the agreement.
5 ANY PAYMENTS MADE PURSUANT TO AGREEMENTS ENTERED INTO IN ACCORDANCE WITH
6 THIS PARAGRAPH SHALL BE DEEMED TO BE IN FULL SATISFACTION OF ANY LIABIL-
7 ITY ARISING UNDER THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-S
8 OF THIS ARTICLE, AS REFERENCED IN SUCH AGREEMENTS AND FOR THE TIME PERI-
9 ODS COVERED BY SUCH AGREEMENTS, PROVIDED, HOWEVER, THAT THE COMMISSIONER
10 MAY AUDIT FUTURE RETROACTIVE ADJUSTMENTS TO PAYMENTS MADE FOR SUCH PERI-
11 ODS BASED ON REPORTS FILED BY PROVIDERS AND PAYORS SUBSEQUENT TO SUCH
12 AGREEMENTS.

13 S 17-a. Paragraph (f) of subdivision 10 of section 2807-t of the
14 public health law, as added by section 38 of part B of chapter 58 of the
15 laws of 2008, is amended to read as follows:

16 (f) The commissioner may enter into agreements with specified third-
17 party payors in regard to which audit findings have been made pursuant
18 to this section, extending and applying such audit findings or a portion
19 thereof in settlement and satisfaction of potential audit liabilities
20 for subsequent un-audited periods through the two thousand [five] NINE
21 calendar year. The commissioner may REDUCE OR waive payment of interest
22 and penalties otherwise applicable to such subsequent unaudited periods
23 when such amounts due as a result of such agreement, other than REDUCED
24 OR waived interest and penalties, are paid in full to the commissioner
25 or the commissioner's designee within sixty days of execution of such
26 agreement by all parties to the agreement. ANY PAYMENTS MADE PURSUANT
27 TO AGREEMENTS ENTERED INTO IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE
28 DEEMED TO BE IN FULL SATISFACTION OF ANY LIABILITY ARISING UNDER THIS
29 SECTION, AS REFERENCED IN SUCH AGREEMENTS AND FOR THE TIME PERIODS
30 COVERED BY SUCH AGREEMENTS, PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY
31 AUDIT FUTURE RETROACTIVE ADJUSTMENTS TO PAYMENTS MADE FOR SUCH PERIODS
32 BASED ON REPORTS FILED BY PAYORS SUBSEQUENT TO SUCH AGREEMENTS.

33 S 18. Notwithstanding any contrary provision of law, surcharges and
34 assessments due and owing pursuant to sections 2807-j, 2807-s and 2807-t
35 of the public health law for any period prior to January 1, 2010, which
36 are paid and accompanied by all required reports and which are received
37 on or before December 31, 2010 shall not be subject to interest or
38 penalties as otherwise provided in such sections, provided, however,
39 that such reports may be based on estimates by payors and designated
40 providers of services of the amounts owed, subject to subsequent audit
41 by the commissioner of health or the commissioner's designee, and
42 provided further, however, with regard to all principal, interest and
43 penalty amounts collected by the commissioner of health prior to the
44 effective date of this act, the penalty provisions of sections 2807-j,
45 2807-s and 2807-t of the public health law shall remain in full force
46 and effect and such amounts collected shall not be subject to further
47 adjustment pursuant to this section, and provided further, however, that
48 payments of principal amounts of surcharges and assessments which were
49 paid late and received prior to the effective date of this provision,
50 and in regard to which interest and penalty amounts have not been
51 collected, shall not be subject to such interest and penalties, and
52 provided, further, however, that the provisions of this section shall
53 not apply to delinquent amounts which have been referred by the commis-
54 sioner of health for recoupment or collection proceeding. Furthermore,
55 the provisions of this section shall not apply to any surcharge or

1 assessment payments made in response to a final audit finding issued by
2 the commissioner of health or the commissioner's designee.

3 S 19. Section 2872 of the public health law is amended by adding a new
4 subdivision 3-b to read as follows:

5 3-B. "ELIGIBLE SECURED HOSPITAL BORROWER". A NOT-FOR-PROFIT HOSPITAL
6 CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS FINANCED
7 OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO THE FORMER SECTION
8 SEVEN-A OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE LAWS
9 OF NINETEEN HUNDRED SEVENTY-THREE AND FOR WHICH SPECIAL HOSPITAL PROJECT
10 BONDS (AS DEFINED IN FORMER PARAGRAPH (D) OF SUBDIVISION THREE OF
11 SECTION THREE OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE
12 LAWS OF NINETEEN HUNDRED SEVENTY-THREE) REMAIN OUTSTANDING.

13 S 20. The public health law is amended by adding a new section 2874-b
14 to read as follows:

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

55 S 21. Subdivision 3 of section 3 of section 1 of chapter 392 of the
56 laws of 1973, constituting the New York state medical care facilities

1 finance agency act, is amended by adding a new paragraph (d-1) to read
2 as follows:

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

7 S 22. Section 3 of section 1 of chapter 392 of the laws of 1973,
8 constituting the New York state medical care facilities finance agency
9 act, is amended by adding a new subdivision 6-c to read as follows:

10 6-C. "ELIGIBLE SECURED HOSPITAL BORROWER" SHALL MEAN A NOT-FOR-PROFIT
11 HOSPITAL CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE, WHICH HAS
12 FINANCED OR REFINANCED A PROJECT OR PROJECTS PURSUANT TO FORMER SECTION
13 SEVEN-A OF THIS ACT, AND FOR WHICH SPECIAL HOSPITAL PROJECT BONDS, AS
14 DEFINED IN FORMER PARAGRAPH D OF SUBDIVISION THREE OF THIS SECTION,
15 REMAIN OUTSTANDING.

16 S 23. Subdivision 10 of section 3 of section 1 of chapter 392 of the
17 laws of 1973, constituting the New York state medical care facilities
18 finance agency act, as amended by chapter 803 of the laws of 1984, is
19 amended to read as follows:

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

32 S 24. Subdivision 11 of section 3 of section 1 of chapter 392 of the
33 laws of 1973, constituting the New York state medical care facilities
34 finance agency act, is amended to read as follows:

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

43 S 25. Subdivision 12 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, as amended by chapter 156 of the laws of 1974, is
46 amended to read as follows:

47 12. "Mortgage loan" shall mean a loan made by the agency to an eligi-
48 ble borrower in an amount not to exceed the total hospital project cost
49 and secured by a first mortgage lien on the real property of which the
50 hospital project consists and the personal property attached to or used
51 in connection with the construction, acquisition, reconstruction, reha-
52 bilitation, improvement or operation of the hospital project. Such loan
53 may be further secured by such a lien upon other real property owned by
54 the eligible borrower. Notwithstanding the foregoing provisions of this
55 subdivision or any other provisions of this act to the contrary, any
56 personal property may be excluded from the lien of the mortgage provided

1 (a) the commissioner [of health] finds that such property is not essen-
2 tial for the rendition of required hospital services as such term is
3 defined in article [twenty-eight] 28 of the public health law, and (b)
4 the agency consents to such exclusion.

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

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

24 S 26. Subdivision 10 of section 5 of section 1 of chapter 392 of the
25 laws of 1973 constituting the New York state medical care facilities
26 finance agency act, as amended by chapter 387 of the laws of 2006, is
27 amended to read as follows:

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

35 S 27. Section 1 of chapter 392 of the laws of 1973, constituting the
36 New York state medical care facilities finance agency act, is amended by
37 adding a new section 7-c to read as follows:

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

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

54 FUNDS DEPOSITED IN SUCH SECURED HOSPITAL SPECIAL DEBT SERVICE RESERVE
55 FUND OR FUNDS SHALL BE USED IN THE EVENT THAT AN ELIGIBLE SECURED HOSPI-
56 TAL BORROWER, AS DEFINED IN SUBDIVISION SIX-C OF SECTION THREE OF THIS

1 ACT, FAILS TO MAKE PAYMENTS IN AN AMOUNT SUFFICIENT TO PAY THE REQUIRED
2 DEBT SERVICE PAYMENTS ON SPECIAL HOSPITAL PROJECT BONDS, AS DEFINED IN
3 PARAGRAPH (D-1) OF SUBDIVISION THREE OF SECTION THREE OF THIS ACT.

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

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

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

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

55 (B) ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO PARAGRAPH (A) OF
56 THIS SUBDIVISION SHALL PROVIDE (I) THAT THE OBLIGATION OF THE DIRECTOR

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

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

15 S 28. Notwithstanding any other provision of this act: (i) reimburse-
16 ment for interest on any indebtedness hereunder to be paid by the
17 medical assistance program established under title 11 of article 5 of
18 the social services law shall be subject to the availability of federal
19 financial participation; and (ii) the refinancing of a mortgage loan
20 pursuant to this act shall not alter, affect or change the component of
21 medical assistance reimbursement applicable to the depreciation of any
22 asset or assets.

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

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

37 S 30. Subdivision 2 of section 369-ee of the social services law is
38 amended by adding a new paragraph (b-1) to read as follows:

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

49 S 31. Paragraph (d) of subdivision 5 of section 366-a of the social
50 services law, as amended by section 1 of part R of chapter 58 of the
51 laws of 2009, is amended to read as follows:

52 (d) In order to establish place of residence and income eligibility
53 under this title at recertification, a recipient of assistance under
54 this title shall attest to place of residence and to all information
55 regarding the household's income that is necessary and sufficient to
56 determine such eligibility; provided, however, that this paragraph shall

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

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

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

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

46 S 33. Paragraph (b) of subdivision 4 of section 366 of the social
47 services law, as added by chapter 453 of the laws of 1990, subparagraph
48 (i) as amended by section 60 of part B of chapter 436 of the laws of
49 1997, is amended to read as follows:

50 (b) (i) Upon giving notice of termination of medical assistance
51 provided pursuant to subparagraph eight or nine of paragraph (a) of
52 subdivision one of this section, the department shall notify each such
53 family of its rights to extended benefits under paragraph (a) of this
54 subdivision and describe [any reporting requirements and] the conditions
55 under which such extension may be terminated. [The department shall also
56 provide subsequent notices of the option to extend coverage pursuant to

1 paragraph (a) of this subdivision in the third and sixth months of the
2 initial six month extended coverage period and notices of the reporting
3 requirements under such paragraph in each of the third and sixth months
4 of the initial six month extended coverage period and in the third month
5 of the additional extended coverage period.]

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

28 S 34. Section 17 of part C of chapter 58 of the laws of 2005 amending
29 the public health law and other laws relating to implementing the state
30 fiscal plan for the 2005-2006 state fiscal year, as added by section 21
31 of part E of chapter 63 of the laws of 2005, is amended to read as
32 follows:

33 S 17. 1. Notwithstanding any inconsistent provision of law, rule or
34 regulation, for payments made by a state governmental agency to a gener-
35 al hospital for specialty inpatient SERVICES AND FOR OUTPATIENT hospital
36 services RELATED TO AN EPISODE OF CARE THAT INCLUDES INPATIENT SERVICES
37 provided to patients eligible for payments pursuant to title 11 of arti-
38 cle 5 of the social services law discharged on or after April 1, 2005
39 through March 31, [2010] 2015, the commissioner of health, subject to
40 the approval of the director of the budget, may:

41 (a) after a hospital has agreed to participate in a program selected
42 pursuant to subdivision two of this section, establish rates of payment
43 or special payment rate methodologies for specialty [inpatient] hospital
44 services selected in accordance with subdivision two of this section
45 provided to patients eligible for payments pursuant to title 11 of arti-
46 cle 5 of the social services law through negotiations with hospitals in
47 any area of the state. Such negotiated rates, if any, shall be negoti-
48 ated with each individual selected hospital. Such negotiation shall
49 include a process for the commissioner of health and each selected
50 hospital to mutually identify services for which such negotiated rates
51 shall apply. Such rates shall be reasonable and adequate to reimburse
52 the costs of an economically and efficiently operated provider of
53 services. The commissioner of health may establish adjusted rates of
54 payment pursuant to an administrative rate appeal process to hospitals
55 that participate in such negotiations and agree to receive the negoti-
56 ated payment rates established under this paragraph for the patients

1 described in this paragraph in lieu of rates of payment otherwise appli-
2 cable pursuant to section 2807-c of the public health law without a
3 competitive bid or request for proposal process; and/or

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

8 (C) RATES ESTABLISHED PURSUANT TO THIS SUBDIVISION MAY INCLUDE
9 REIMBURSEMENT FOR BOTH INPATIENT AND OUTPATIENT SERVICES, INCLUDING
10 PHYSICIAN SERVICES, PROVIDED TO PATIENTS ELIGIBLE FOR PAYMENTS PURSUANT
11 TO TITLE 11 OF ARTICLE 5 OF THE SOCIAL SERVICES LAW APPLICABLE TO ONE
12 EPISODE OF CARE, AS DETERMINED BY THE COMMISSIONER OF HEALTH.

13 2. The commissioner of health shall select [a maximum of five
14 geographically defined inpatient] hospital sites for which reimbursement
15 may be negotiated for a maximum of five specialty inpatient AND OUTPA-
16 TIENT services RELATED TO AN EPISODE OF CARE THAT INCLUDES INPATIENT
17 SERVICES that are selected based on the following criteria:

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

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

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

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

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

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

41 (F) CRITERIA UTILIZED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID
42 SERVICES WITH REGARD TO PAYMENT METHODOLOGIES UTILIZED WITH REGARD TO
43 CENTERS OF EXCELLENCE PURSUANT TO TITLE XVIII OF THE FEDERAL SOCIAL
44 SECURITY ACT (MEDICARE).

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

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

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

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

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

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

3 (f) Such other criteria that the commissioner of health may deem
4 appropriate.

5 4. [Inpatient hospital] HOSPITAL services not selected by the commis-
6 sioner of health pursuant to this section and not subject to negotiation
7 under paragraph (a) of subdivision one of this section provided to
8 patients eligible for payments pursuant to title 11 of article 5 of the
9 social services law shall be reimbursed pursuant to [section] SECTIONS
10 2807 OR 2807-c of the public health law, AS APPLICABLE.

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

25 6. Payment of rates established pursuant to this section for purposes
26 of this program shall be contingent upon federal approval of a waiver
27 application submitted by the commissioner of health in order to receive
28 federal financial participation for services provided under this
29 section; provided, however, the commissioner of health shall provide a
30 copy of such waiver application to the legislature prior to submission
31 for federal approval. The commissioner of health may take any steps
32 necessary to implement this section prior to receiving federal approval
33 of such waiver application.

34 7. The commissioner of health shall report to the governor and the
35 legislature concerning the implementation of this section, including
36 available data regarding the cost effective delivery of specialty inpa-
37 tient services selected in accordance with this section, within eighteen
38 months from the date of issuance of adjusted rates of payment entered
39 into pursuant to paragraphs (a) and (b) of subdivision one of this
40 section.

41 S 35. Paragraph (q) of subdivision 2 of section 365-a of the social
42 services law, as added by section 32 of part C of chapter 58 of the laws
43 of 2008, is amended to read as follows:

44 (q) diabetes self-management training services for persons diagnosed
45 with diabetes when such services are ordered by a physician, registered
46 [physician's] PHYSICIAN assistant, registered nurse practitioner, or
47 licensed midwife and provided by a licensed, registered, or certified
48 health care professional, as determined by the commissioner of health,
49 who is certified as a diabetes educator by the National Certification
50 Board for Diabetes Educators, or a successor national certification
51 board, OR PROVIDED BY SUCH A PROFESSIONAL WHO IS AFFILIATED WITH A
52 PROGRAM CERTIFIED BY THE AMERICAN DIABETES ASSOCIATION, THE AMERICAN
53 ASSOCIATION OF DIABETES EDUCATORS, THE INDIAN HEALTH SERVICES, OR ANY
54 OTHER NATIONAL ACCREDITATION ORGANIZATION APPROVED BY THE FEDERAL
55 CENTERS FOR MEDICARE AND MEDICAID SERVICES; provided, however, that the
56 provisions of this paragraph shall not take effect unless all necessary

1 approvals under federal law and regulation have been obtained to receive
2 federal financial participation in the costs of health care services
3 provided pursuant to this paragraph. Nothing in this paragraph shall be
4 construed to modify any licensure, certification or scope of practice
5 provision under title eight of the education law.

6 S 36. The opening paragraph of paragraph (i) of subdivision 1 of
7 section 2807-c of the public health law, as amended by section 19 of
8 part B of chapter 58 of the laws of 2008, is amended to read as follows:

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

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

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

34 S 38. The opening paragraph of paragraph (l) of subdivision 1 of
35 section 2807-c of the public health law, as added by section 65-f of
36 part A of chapter 58 of the laws of 2007, is amended to read as follows:

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

39 S 39. Paragraph (a) of subdivision 32 of section 2807-c of the public
40 health law, as amended by section 1 of part U of chapter 57 of the laws
41 of 2007, is amended to read as follows:

42 (a) The commissioner shall adjust inpatient medical assistance rates
43 of payment established pursuant to this section for rural hospitals as
44 defined in paragraph (c) of subdivision one of section twenty-eight
45 hundred seven-w of this article in accordance with paragraph (b) of this
46 subdivision for purposes of supporting critically needed health care
47 services in rural areas in the following aggregate amounts for the
48 following periods:

49 seven million dollars for the period May first, two thousand five
50 through December thirty-first, two thousand five, seven million dollars
51 for the period January first, two thousand six through December thirty-
52 first, two thousand six, seven million dollars for the period April
53 first, two thousand seven through December thirty-first, two thousand
54 seven, [and] seven million dollars for [each] calendar year [thereafter]
55 TWO THOUSAND EIGHT, AND SIX MILLION FOUR HUNDRED SEVENTEEN THOUSAND

1 DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND NINE THROUGH NOVEMBER
2 THIRTIETH, TWO THOUSAND NINE.

3 S 40. Subparagraph (ii) of paragraph (k) of subdivision 1 of section
4 2807-c of the public health law, as amended by section 30-a of part B of
5 chapter 58 of the laws of 2008, is amended to read as follows:

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

20 S 41. The opening paragraph and subparagraphs (i) and (ii) of para-
21 graph (e-1) of subdivision 4 of section 2807-c of the public health law,
22 as added by section 12 of part C of chapter 58 of the laws of 2009, are
23 amended to read as follows:

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

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

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

51 S 42. Paragraph (u) of subdivision 2 of section 365-a of the social
52 services law, as added by section 27 of part C of chapter 58 of the laws
53 of 2009, is amended to read as follows:

54 (u) screening, brief intervention, and referral to treatment in hospi-
55 tal OUTPATIENT AND emergency departments AND FREE-STANDING DIAGNOSTIC
56 AND TREATMENT CENTERS of individuals at risk for substance abuse includ-

1 ing referral to the appropriate level of intervention and treatment in a
2 community setting; provided, however, that the provisions of this para-
3 graph relating to screening, brief intervention, and referral to treat-
4 ment services shall not take effect unless all necessary approvals under
5 federal law and regulation have been obtained to receive federal finan-
6 cial participation in such costs.

7 S 43. Subparagraph (ii) of paragraph (f) of subdivision 2-a of section
8 2807 of the public health law, as amended by section 16-a of part C of
9 chapter 58 of the laws of 2009, is amended to read as follows:

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

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

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

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

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

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

45 (F) WHEELCHAIR EVALUATION SERVICES AND EYEGLOSS DISPENSING SERVICES;
46 AND

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

49 S 44. Clauses (A) and (B) of subparagraph (iii) of paragraph (g) of
50 subdivision 35 of section 2807-c of the public health law, as added by
51 section 2 of part C of chapter 58 of the laws of 2009, are amended to
52 read as follows:

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

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

7 S 45. Subparagraphs (i) and (ii) of paragraph (b) of subdivision 2-a
8 of section 2807 of the public health law, as amended by section 14 of
9 part C of chapter 58 of the laws of 2009, are amended to read as
10 follows:

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

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

33 S 46. Paragraph (s) of subdivision 2 of section 365-a of the social
34 services law, as added by section 27 of part C of chapter 58 of the laws
35 of 2009, is amended to read as follows:

36 (s) smoking cessation counseling services for pregnant women on any
37 day of pregnancy through the end of the month in which the one hundred
38 eightieth day following the end of the pregnancy occurs, and children
39 and adolescents ten to [nineteen] TWENTY years of age, during a medical
40 visit when provided by a general hospital outpatient department or a
41 free-standing clinic, or by a physician, registered physician's assist-
42 ant, registered nurse practitioner or licensed midwife in office-based
43 settings; provided, however, that the provisions of this paragraph
44 relating to smoking cessation counseling services shall not take effect
45 unless all necessary approvals under federal law and regulation have
46 been obtained to receive federal financial participation in the costs of
47 such services.

48 S 47. Subdivision 2-a of section 2807 of the public health law is
49 amended by adding a new paragraph (f-1) to read as follows:

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

1 S 47-a. Subparagraph (i) of paragraph (a-3) of subdivision 1 of
2 section 2807-c of the public health law is amended by adding two new
3 clauses (E) and (F) to read as follows:

4 (E) NOTWITHSTANDING CLAUSES (A) THROUGH (D) OF THIS SUBPARAGRAPH, FOR
5 PERIODS ON AND AFTER DECEMBER FIRST, TWO THOUSAND NINE, THE OPERATING
6 COST COMPONENT OF RATES OF PAYMENT SUBJECT TO SUBDIVISION THIRTY-FIVE OF
7 THIS SECTION, AND

8 (F) NOTWITHSTANDING CLAUSES (A) THROUGH (D) OF THIS SUBPARAGRAPH, FOR
9 PERIODS ON AND AFTER DECEMBER FIRST, TWO THOUSAND NINE, THE OPERATING
10 COST COMPONENT OF RATES OF PAYMENT SUBJECT TO PARAGRAPHS (E-1), (E-2)
11 AND (1) OF SUBDIVISION FOUR OF THIS SECTION FOR GENERAL HOSPITALS OR
12 DISTINCT UNITS OF GENERAL HOSPITALS NOT REIMBURSED ON THE BASIS OF CASE
13 BASED PAYMENTS PER DISCHARGE; AND

14 S 47-b. 1. The commissioner of health shall create and implement a
15 plan for the state to assume the administrative responsibilities of the
16 medical assistance program performed by social services districts.

17 2. In developing such plan, the commissioner of health shall, in
18 consultation with each social services district: (i) define the scope of
19 administrative services performed by social services districts and
20 expenditures related thereto; (ii) require social services districts to
21 provide any information necessary to determine the scope of services
22 currently provided and expenditures related thereto; (iii) review admin-
23 istrative processes and make determinations necessary for the state to
24 assume responsibility for such services; and (iv) establish a process
25 for a five-year implementation for state assumption of administrative
26 services to begin April 1, 2011, with full implementation by April 1,
27 2016.

28 3. Such plan developed by the commissioner of health shall include,
29 but is not limited to: (i) a definition of administrative services; (ii)
30 a cost analysis related to the delivery of such administrative services;
31 (iii) operational objectives that create efficiency in administrative
32 functions; (iv) standards that provide greater uniformity in eligibility
33 criteria and continued enrollment; (v) a plan to transition social
34 services district employees to state employment and to ensure that such
35 transition shall not interfere with existing collective bargaining
36 contracts; (vi) a statewide informational system that facilitates and
37 monitors enrollment and promotes efficient transfer of information;
38 (vii) a streamlined approach to communicating medical assistance policy
39 changes; (viii) coordination of state assumption of medical assistance
40 administrative responsibilities with the requirements of the federal
41 Patient Protection and Affordable Care Act; (ix) a plan, consistent with
42 subdivision 6 of this section and including any recommendations for
43 legislative action, for state assumption of expenditures related to the
44 costs of administering the medical assistance program; (x) recognition
45 of the unique circumstances of the counties including, but not limited
46 to: population size, demographics, geography and existing program
47 infrastructure; and (xi) other critical issues as determined by the
48 commissioner of health to increase efficiency in administration of the
49 medical assistance program.

50 4. The commissioner of health shall submit a report to the governor,
51 temporary president of the senate and speaker of the assembly by Novem-
52 ber 30, 2010, on the anticipated implementation of such plan, its
53 elements, a timeline for such implementation, any recommendations for
54 legislative action, and such other matters as may be pertinent.

55 5. The commissioner of health is authorized to promulgate regulations
56 addressing the elements described in subdivision 3 of this section.

1 6. Subject to the approval of the director of the budget, beginning
2 state fiscal year April 1, 2011, reimbursement for expenditures made on
3 or after such date, by or on behalf of social services districts for
4 medical assistance pursuant to section 368-a of the social services law
5 and chapter 58 of the laws of 2005 shall be adjusted to reflect the
6 state assumption of local administrative functions and the expenditures
7 thereto pursuant to this section.

8 S 48. Notwithstanding any inconsistent provision of law, rule or regu-
9 lation, for purposes of implementing the provisions of the public health
10 law and the social services law, references to titles XIX and XXI of the
11 federal social security act in the public health law and the social
12 services law shall be deemed to include and also to mean any successor
13 titles thereto under the federal social security act.

14 S 49. Notwithstanding any inconsistent provision of law, rule or regu-
15 lation, the effectiveness of the provisions of sections 2807 and 3614 of
16 the public health law, section 18 of chapter 2 of the laws of 1988, and
17 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
18 or certification of rates of payment, are hereby suspended and without
19 force or effect for purposes of implementing the provisions of this act.

20 S 50. Severability clause. If any clause, sentence, paragraph, subdi-
21 vision, section or part of this act shall be adjudged by any court of
22 competent jurisdiction to be invalid, such judgment shall not affect,
23 impair or invalidate the remainder thereof, but shall be confined in its
24 operation to the clause, sentence, paragraph, subdivision, section or
25 part thereof directly involved in the controversy in which such judge-
26 ment shall have been rendered. It is hereby declared to be the intent of
27 the legislature that this act would have been enacted even if such
28 invalid provisions had not been included herein.

29 S 51. This act shall take effect immediately and shall be deemed to
30 have been in full force and effect on and after April 1, 2010, provided
31 that:

32 (a) section five of this act shall take effect October 1, 2010;
33 section eleven of this act shall take effect January 1, 2011; and
34 sections twenty-nine and thirty of this act shall take effect November
35 1, 2010;

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

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

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

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

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

1 (g) the amendments to section 2802-a of the public health law made by
2 section fourteen of this act shall not affect the repeal of such section
3 and shall be deemed to repeal therewith; and

4 (h) sections nineteen, twenty, twenty-one, twenty-two, twenty-three,
5 twenty-four, twenty-five, twenty-six, twenty-seven and twenty-eight of
6 this act shall expire and be deemed repealed on and after March 31,
7 2011;

8 (i) section forty-seven-a shall take effect December 1, 2009; and

9 (j) the amendments to clause (E) of subparagraph (i) of paragraph (i)
10 of subdivision 35 of section 2807-c of the public health law made by
11 section three-f of this act shall take effect on the same date and same
12 manner as section 3-a of part B of chapter 109 of the laws of 2010,
13 takes effect.

14 PART C

15 Section 1. The social services law is amended by adding a new section
16 366-i to read as follows:

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

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

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

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

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

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

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

28 S 2. The social services law is amended by adding a new section 367-v
29 to read as follows:

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

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

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

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

47 (II) EXPANSION OF SENIOR HOUSING;

48 (III) ASSISTED LIVING PROGRAM;

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

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

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

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

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

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

17 6. THE COMMISSIONER OF HEALTH SHALL SUBMIT A REPORT TO THE GOVERNOR,
18 TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY BY THE
19 FIRST DAY OF NOVEMBER, TWO THOUSAND FIFTEEN, ON THE IMPLEMENTATION OF
20 THIS 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 3. 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 4. 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 5. Subdivision 4 of section 4403-f of the public health law is
52 REPEALED and two new subdivisions 4 and 4-a are added to read as
53 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

7 S 7. 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 8. 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 9. Notwithstanding any contrary provision of law, assessments due
48 and owing pursuant to paragraph (b) of subdivision two of section 2807-d
49 of the public health law for monthly periods prior to January 1, 2009,
50 which are paid on or before December 1, 2010, shall not be subject to
51 interest or penalties as otherwise provided in section 2807-d of the
52 public health law, provided, however, that all assessment, interest and
53 penalty amounts collected by the commissioner of health prior to the
54 receipt of such payments, whether through recoupment or otherwise, shall
55 remain in full force and effect and such amounts collected shall not be
56 subject to further reconciliation or adjustment, and provided further,

1 however, that in the event payments are made pursuant to this section
2 which, as determined by the commissioner of health, constitute less than
3 100% of the principal amounts remaining outstanding for periods prior to
4 2009, the commissioner of health shall apply such payments to each
5 unpaid month in order, starting with the oldest unpaid month that is
6 outstanding at the time such payments are received. Furthermore, the
7 provisions of this act shall not apply to any assessment payment made in
8 response to an audit finding made by the commissioner of health, the
9 commissioner of health's designee or the office of the attorney general;
10 and, further, the provisions of this section shall not apply to recoup-
11 ments implemented through offsets applied to retroactive lump sum
12 payments.

13 S 10. Paragraph (b-1) of subdivision 1 of section 2807-c of the
14 public health law, as added by chapter 639 of the laws of 1996 and
15 subparagraph (i) as amended by section 7 of part 00 of chapter 57 of the
16 laws of 2008, is amended to read as follows:

17 (b-1) (i) For patients discharged on and after January first, nineteen
18 hundred ninety-seven and prior to January first, two thousand and on and
19 after January first, two thousand, payments to general hospitals for
20 reimbursement of inpatient hospital services provided to patients eligi-
21 ble for payments pursuant to the workers' compensation law, the volun-
22 teer firefighters' benefit law, the volunteer ambulance workers' benefit
23 law, and the comprehensive motor vehicle insurance reparations act shall
24 be at the rates of payment determined pursuant to this section for state
25 governmental agencies, excluding adjustments pursuant to subdivision
26 fourteen-f of this section and subdivision thirty-three of this section
27 AND EXCLUDING SUCH FURTHER REDUCTIONS TO SUCH PAYMENTS AS ARE ENACTED AS
28 PART OF THE STATE BUDGET FOR THE STATE FISCAL YEAR COMMENCING APRIL
29 FIRST, TWO THOUSAND TEN.

30 (ii) The provisions of paragraph (d) of subdivision eleven of this
31 section shall continue to apply to such payors for payments determined
32 pursuant to this paragraph.

33 S 11. The opening paragraph of subdivision 5-a of section 2807-k of
34 the public health law, as added by section 28-b of part B of chapter 58
35 of the laws of 2008, is amended to read as follows:

36 Notwithstanding any inconsistent provision of this section, section
37 twenty-eight hundred seven-w of this article or any other contrary
38 provision of law, subject to the availability of federal financial
39 participation and within amounts appropriated, for periods on and after
40 January first, two thousand nine [through December thirty-first, two
41 thousand ten], ten percent of the aggregate distributions to each gener-
42 al hospital made otherwise pursuant to this section and section twenty-
43 eight hundred seven-w of this article shall be reserved and set aside
44 and distributed in accordance with the following:

45 S 12. Paragraph (g) of subdivision 5-a of section 2807-k is REPEALED.

46 S 13. Subdivision 1-a of section 47 of part B of chapter 58 of the
47 laws of 2008 amending the social services law and other laws relating to
48 enacting major components of legislation necessary to implement the
49 health and mental hygiene budget for the 2008-2009 state fiscal year, is
50 amended to read as follows:

51 1-a. Section twenty-eight-b of this act shall take effect April 1,
52 2008 [and shall expire April 1, 2011 when upon such date the provisions
53 of such section shall be deemed repealed];

54 S 14. The opening paragraph, paragraph (a) of subdivision 1 and subdi-
55 vision 2 of section 2807-w of the public health law, as amended by

1 section 2 of part 00 of chapter 57 of the laws of 2008, are amended to
2 read as follows:

3 Funds allocated pursuant to paragraph (p) of subdivision one of
4 section twenty-eight hundred seven-v of this article, shall be deposited
5 as authorized and used for the purpose of making medicaid dispropor-
6 tionate share payments of up to eighty-two million dollars on an annual-
7 ized basis pursuant to subdivision twenty-one of section twenty-eight
8 hundred seven-c of this article, for the period January first, two thou-
9 sand through March thirty-first, two thousand [ten] ELEVEN, in accord-
10 ance with the following:

11 (a) Each eligible rural hospital shall receive one hundred forty thou-
12 sand dollars on an annualized basis for the periods January first, two
13 thousand through December thirty-first, two thousand [ten] ELEVEN,
14 provided as a disproportionate share payment; provided, however, that if
15 such payment pursuant to this paragraph exceeds a hospital's applicable
16 disproportionate share limit, then the total amount in excess of such
17 limit shall be provided as a nondisproportionate share payment in the
18 form of a grant directly from this pool without allocation to the
19 special revenue funds - other, indigent care fund - 068, or any succes-
20 sor fund or account, and provided further that payments for periods on
21 and after January first, two thousand nine shall be subject to the
22 provisions of subdivision five-a of section twenty-eight hundred seven-k
23 of this article;

24 2. From the funds in the pool each year, thirty-six million dollars on
25 an annualized basis for the periods January first, two thousand through
26 December thirty-first, two thousand [ten] ELEVEN, of the funds not
27 distributed in accordance with subdivision one of this section, shall be
28 distributed in accordance with the formula set forth in subdivision six
29 of section twenty-eight hundred seven-k of this article, provided,
30 however, that payments for periods on and after January first, two thou-
31 sand nine shall be subject to the provisions of subdivision five-a of
32 section twenty-eight hundred seven-k of this article.

33 S 15. Subdivision 3 and paragraph (a) of subdivision 4 of section
34 2807-k of the public health law, as amended by section 1 of part 00 of
35 chapter 57 of the laws of 2008, are amended to read as follows:

36 3. Each major public general hospital shall be allocated for distrib-
37 ution from the pools established pursuant to this section for each year
38 through December thirty-first, two thousand [ten] ELEVEN, an amount
39 equal to the amount allocated to such major public general hospital from
40 the regional pool established pursuant to subdivision seventeen of
41 section twenty-eight hundred seven-c of this article for the period
42 January first, nineteen hundred ninety-six through December thirty-
43 first, nineteen hundred ninety-six, provided, however, that payments on
44 and after January first, two thousand nine shall be subject to the
45 provisions of subdivision five-a of this section.

46 (a) From funds in the pool for each year, thirty-six million dollars
47 shall be reserved on an annual basis through December thirty-first, two
48 thousand [ten] ELEVEN, for distribution as high need adjustments in
49 accordance with subdivision six of this section, provided, however, that
50 payments on and after January first, two thousand nine shall be subject
51 to the provisions of subdivision five-a of this section.

52 S 16. To ensure transparency and accountability, a joint legislative
53 task force shall be established to examine the distribution methodology
54 and use of indigent care pool funds to public and non-public general
55 hospitals pursuant to sections 2807-k and 2807-w of the public health
56 law. The task force shall be appointed by the temporary president of the

1 senate and the speaker of the assembly. The chairs of the senate and
2 assembly standing committees on health shall serve as co-chairpersons of
3 the task force. The task force shall be comprised of various stakehold-
4 ers and experts including, but not limited to, representatives of health
5 care institutions, hospital associations, community providers, govern-
6 mental agencies, consumers, and such other individuals as the temporary
7 president of the senate and the speaker of the assembly may designate.
8 The task force shall report its findings and make recommendations to the
9 temporary president of the senate and the speaker of the assembly,
10 chairs of the senate and assembly standing committees on health, and the
11 governor on or before February 1, 2011.

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

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

24 S 19. Severability clause. If any clause, sentence, paragraph, subdi-
25 vision, section or part of this act shall be adjudged by any court of
26 competent jurisdiction to be invalid, such judgment shall not affect,
27 impair or invalidate the remainder thereof, but shall be confined in its
28 operation to the clause, sentence, paragraph, subdivision, section or
29 part thereof directly involved in the controversy in which such judgment
30 shall have been rendered. It is hereby declared to be the intent of the
31 legislature that this act would have been enacted even if such invalid
32 provisions had not been included herein.

33 S 20. This act shall take effect immediately and shall be deemed to
34 have been in full force and effect on and after April 1, 2010, provided,
35 however, that:

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

39 2. the amendments to paragraph (b-1) of subdivision 1 of section
40 2807-c of the public health law made by section ten of this act shall
41 not affect the expiration of such paragraph and shall be deemed to
42 expire therewith;

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

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

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

53 6. notwithstanding any inconsistent provision of the state administra-
54 tive procedure act or any other provision of law, rule or regulation,
55 the commissioner of health and the superintendent of insurance and any
56 appropriate council is authorized to adopt or amend or promulgate on an

1 emergency basis any regulation he or she or such council determines
2 necessary to implement any provision of this act on its effective date;
3 7. the provisions of this act shall become effective notwithstanding
4 the failure of the commissioner of health or the superintendent of
5 insurance or any council to adopt or amend or promulgate regulations
6 implementing this act.

7

PART D

8 Section 1. Subparagraph (i) of paragraph (b) of subdivision 2-b of
9 section 2808 of the public health law, as amended by section 1 of part E
10 of chapter 19 of the laws of 2010, is amended to read as follows:

11 (i) Subject to the provisions of subparagraphs (ii) through (xiv) of
12 this paragraph, for periods on and after April first, two thousand nine
13 THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN the operating cost component
14 of rates of payment shall reflect allowable operating costs as reported
15 in each facility's cost report for the two thousand two calendar year,
16 as adjusted for inflation on an annual basis in accordance with the
17 methodology set forth in paragraph (c) of subdivision ten of section
18 twenty-eight hundred seven-c of this article, provided, however, that
19 for those facilities which do not receive a per diem add-on adjustment
20 pursuant to subparagraph (ii) of paragraph (a) of this subdivision,
21 rates shall be further adjusted to include the proportionate benefit, as
22 determined by the commissioner, of the expiration of the opening para-
23 graph and paragraph (a) of subdivision sixteen of this section and of
24 paragraph (a) of subdivision fourteen of this section, and provided
25 further that the operating cost component of rates of payment for those
26 facilities which did not receive a per diem adjustment in accordance
27 with subparagraph (ii) of paragraph (a) of this subdivision shall not be
28 less than the operating component such facilities received in the two
29 thousand eight rate period, as adjusted for inflation on an annual basis
30 in accordance with the methodology set forth in paragraph (c) of subdi-
31 vision ten of section twenty-eight hundred seven-c of this article and
32 further provided, however, that rates for facilities whose operating
33 cost component reflects base year costs subsequent to January first, two
34 thousand two shall have rates computed in accordance with this para-
35 graph, utilizing allowable operating costs as reported in such subse-
36 quent base year period, and trended forward to the rate year in accord-
37 ance with applicable inflation factors.

38 S 2. The opening paragraph and subparagraph (vi) of paragraph (a) of
39 subdivision 2-c of section 2808 of the public health law, as amended by
40 section 2 of part E of chapter 19 of the laws of 2010, are amended to
41 read as follows:

42 Notwithstanding [paragraph (b) of subdivision two-b of this section
43 and] any [other] inconsistent provision of this section or any other
44 contrary provision of law and subject to the availability of federal
45 financial participation, the operating costs of rates of payment by
46 governmental agencies for inpatient services provided by residential
47 health care facilities on and after [April first, two thousand ten, or
48 on and after the date the state budget for the state fiscal year begin-
49 ning April first, two thousand ten is enacted into law, whichever is
50 later,] JULY FIRST, TWO THOUSAND ELEVEN shall be determined in accord--
51 ance with the following:

52 (vi) Notwithstanding subparagraph (i) of this paragraph, the operating
53 cost component of the rates, effective [for the periods on and after the
54 date rates pursuant to subparagraph (i) of this paragraph take effect]

1 JULY FIRST, TWO THOUSAND ELEVEN for the following categories of facili-
2 ties, as established pursuant to applicable regulations, shall reflect
3 the rates in effect for such facilities on [the day immediately preced-
4 ing the date rates pursuant to subparagraph (i) of this paragraph take
5 effect] JUNE THIRTIETH, TWO THOUSAND ELEVEN, as adjusted for inflation
6 in accordance with applicable statutes: (A) AIDS facilities or discrete
7 AIDS units within facilities, (B) discrete units for residents receiving
8 care in a long-term inpatient rehabilitation program for traumatic brain
9 injured persons, (C) discrete units providing specialized programs for
10 residents requiring behavioral interventions, (D) discrete units for
11 long-term ventilator dependent residents, and (E) facilities or discrete
12 units within facilities that provide extensive nursing, medical, psycho-
13 logical and counseling support services solely to children. Such rate
14 shall remain in effect until the department, in consultation with repre-
15 sentatives of the nursing home industry, as selected by the commission-
16 er, develops a regional pricing or alternative methodology for determin-
17 ing such rates.

18 S 3. Section 2 of part D of chapter 58 of the laws of 2009, amending
19 the public health law and other laws relating to Medicaid reimbursements
20 to residential health care facilities, as amended by section 3 of part E
21 of chapter 19 of the laws of 2010, is amended to read as follows:

22 S 2. Notwithstanding paragraph (b) of subdivision 2-b of section 2808
23 of the public health law or any other contrary provision of law, with
24 regard to adjustments to medicaid rates of payment for inpatient
25 services provided by residential health care facilities for the period
26 April 1, 2009 through March 31, 2010, made pursuant to paragraph (b) of
27 subdivision 2-b of section 2808 of the public health law, the commis-
28 sioner of health and the director of the budget shall, upon a determi-
29 nation that such adjustments, including the application of adjustments
30 authorized by the provisions of paragraph (g) of subdivision 2-b of
31 section 2808 of the public health law, shall result in an aggregate
32 increase in total Medicaid rates of payment for such services for such
33 period that is less than or more than two hundred ten million dollars
34 (\$210,000,000), make such proportional adjustments to such rates as are
35 necessary to result in an increase of such aggregate expenditures of two
36 hundred ten million dollars (\$210,000,000), [and provided further,
37 however, that the operating component of such rates for the period April
38 1, 2009 through March 31, 2010 shall not be subject to case mix adjust-
39 ments pursuant to subparagraph (ii) of paragraph (b) of subdivision 2-b
40 of section 2808 of the public health law, as otherwise scheduled pursu-
41 ant to such subparagraph for January of 2010,] and provided further,
42 however, that notwithstanding section 2808 of the public health law or
43 any other contrary provision of law, with regard to adjustments to inpa-
44 tient rates of payment made pursuant to section 2808 of the public
45 health law for inpatient services provided by residential health care
46 facilities for the period April 1, 2010 through [March 31] JUNE 30,
47 2011, the commissioner of health and the director of the budget shall,
48 upon a determination by such commissioner and such director that such
49 rate adjustments shall, prior to the application of any applicable
50 adjustment for inflation, result in an aggregate increase in total Medi-
51 caid rates of payment for such services, INCLUDING PAYMENTS MADE PURSU-
52 ANT TO SUBPARAGRAPH (I) OF PARAGRAPH (D) OF SUBDIVISION 2-C OF SECTION
53 2808 OF THE PUBLIC HEALTH LAW, make such proportional adjustments to
54 such rates as are necessary to reduce such total aggregate rate adjust-
55 ments such that the aggregate total reflects no such increase or
56 decrease, AND PROVIDED FURTHER, HOWEVER, THE CASE MIX ADJUSTMENTS AS

1 OTHERWISE AUTHORIZED BY SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVI-
2 SION 2-B OF SECTION 2808 OF THE PUBLIC HEALTH LAW AND AS SCHEDULED FOR
3 JANUARY OF 2011 SHALL NOT BE MADE. Adjustments made pursuant to this
4 section shall not be subject to subsequent correction or reconciliation.
5 S 4. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after April 1, 2010.

7

PART E

8 Section 1. Section 398-a of the social services law is amended by
9 adding a new subdivision 2-b to read as follows:

10 (2-B) PAYMENTS MADE DIRECTLY BY SOCIAL SERVICES DISTRICTS TO FOSTER
11 BOARDING HOMES FOR FOSTER CARE PURSUANT TO THIS SECTION MAY BE MADE BY
12 DIRECT DEPOSIT OR DEBIT CARD, AS ELECTED BY THE RECIPIENT, AND ADMINIS-
13 TERED ELECTRONICALLY, AND IN ACCORDANCE WITH SUCH GUIDELINES AS MAY BE
14 SET FORTH BY REGULATION OF THE OFFICE OF CHILDREN AND FAMILY SERVICES.
15 THE OFFICE OF CHILDREN AND FAMILY SERVICES MAY ENTER INTO CONTRACTS ON
16 BEHALF OF SOCIAL SERVICES DISTRICTS FOR SUCH DIRECT DEPOSIT OR DEBIT
17 CARD SERVICES IN ACCORDANCE WITH SECTION TWENTY-ONE-A OF THIS CHAPTER.

18 S 2. Subdivision 1 of section 453 of the social services law is
19 amended by adding a new paragraph (a-1) to read as follows:

20 (A-1) PAYMENTS PURSUANT TO THIS SECTION MAY BE MADE BY DIRECT DEPOSIT
21 OR DEBIT CARD, AS ELECTED BY THE RECIPIENT, AND ADMINISTERED ELECTRON-
22 ICALLY, AND IN ACCORDANCE WITH SUCH GUIDELINES AS MAY BE SET FORTH BY
23 REGULATION OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE OFFICE OF
24 CHILDREN AND FAMILY SERVICES MAY ENTER INTO CONTRACTS ON BEHALF OF LOCAL
25 SOCIAL SERVICES DISTRICTS FOR SUCH DIRECT DEPOSIT OR DEBIT CARD SERVICES
26 IN ACCORDANCE WITH SECTION TWENTY-ONE-A OF THIS CHAPTER.

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

29

PART F

30 Section 1. Paragraph (h) of subdivision 12 of section 366 of the
31 social services law, as added by section 1 of part E of chapter 58 of
32 the laws of 2006, is amended to read as follows:

33 (h) A person participating in the waiver program established by this
34 subdivision may continue participation in the program until it is no
35 longer consistent with the plan of care, or until age twenty-one, which-
36 ever occurs earlier, notwithstanding the person's status as having been
37 discharged from the care and placement of the local commissioner of a
38 social services district or the commissioner of children and family
39 services, including adoption OR PARTICIPATION IN THE KINSHIP GUARDIAN-
40 SHIP ASSISTANCE PROGRAM UNDER TITLE TEN OF ARTICLE SIX OF THIS CHAPTER.

41 S 2. Section 366 of the social services law is amended by adding a new
42 subdivision 13 to read as follows:

43 13. THE COMMISSIONER OF HEALTH, IN CONSULTATION WITH THE COMMISSIONER
44 OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, SHALL MAKE ANY AVAILABLE
45 AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE SUBMITTED PURSUANT
46 TO SECTION THREE HUNDRED SIXTY-THREE-A OF THIS TITLE, OR, IF AN AMEND-
47 MENT IS NOT POSSIBLE, DEVELOP AND SUBMIT AN APPLICATION FOR ANY WAIVER
48 UNDER THE FEDERAL SOCIAL SECURITY ACT THAT MAY BE AVAILABLE TO PROVIDE
49 MEDICAL ASSISTANCE FOR THOSE CHILDREN RECEIVING KINSHIP GUARDIANSHIP
50 ASSISTANCE PAYMENTS UNDER TITLE TEN OF ARTICLE SIX OF THIS CHAPTER WHO
51 ARE NOT AUTOMATICALLY ELIGIBLE FOR SUCH MEDICAL ASSISTANCE UNDER TITLE
52 IV-E OF THE FEDERAL SOCIAL SECURITY ACT.

1 S 3. The social services law is amended by adding a new section 392 to
2 read as follows:

3 S 392. SERVICES FOR RELATIVE CAREGIVERS. NOTWITHSTANDING ANY OTHER
4 PROVISION OF LAW TO THE CONTRARY, LOCAL SOCIAL SERVICES DISTRICTS SHALL
5 MAKE AVAILABLE THROUGH THE DISTRICT'S WEBSITE OR BY OTHER MEANS INFORMA-
6 TION FOR RELATIVES CARING FOR CHILDREN OUTSIDE OF THE FOSTER CARE
7 SYSTEM. SUCH INFORMATION SHALL INCLUDE BUT NOT NECESSARILY BE LIMITED
8 TO:

9 1. INFORMATION RELATING TO CHILD ONLY GRANTS, INCLUDING BUT NOT LIMIT-
10 ED TO, HOW TO APPLY FOR CHILD ONLY GRANTS; AND

11 2. INFORMATION ON DEPARTMENT OF FAMILY ASSISTANCE OR LOCAL DEPARTMENT
12 OF SOCIAL SERVICES FUNDED RESOURCES FOR RELATIVE CAREGIVERS, INCLUDING
13 THOSE THAT PROVIDE SUPPORTIVE SERVICES FOR RELATIVE CAREGIVERS.

14 S 4. Article 6 of the social services law is amended by adding a new
15 title 10 to read as follows:

16 TITLE 10

17 KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM

18 SECTION 458-A. DEFINITIONS.

19 458-B. KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS.

20 458-C. PAYMENTS FOR NON-RECURRING GUARDIANSHIP EXPENSES.

21 458-D. MEDICAL SUBSIDY.

22 458-E. INDEPENDENT LIVING SERVICES.

23 458-F. FAIR HEARINGS.

24 S 458-A. DEFINITIONS. AS USED IN THIS TITLE:

25 1. "CHILD" SHALL MEAN A PERSON UNDER THE AGE OF TWENTY-ONE YEARS WHOSE
26 CUSTODY, CARE AND CUSTODY, OR CUSTODY AND GUARDIANSHIP HAVE BEEN COMMIT-
27 TED TO A SOCIAL SERVICES OFFICIAL PRIOR TO SUCH PERSON'S EIGHTEENTH
28 BIRTHDAY PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED
29 EIGHTY-FOUR, THREE HUNDRED EIGHTY-FOUR-A OR THREE HUNDRED EIGHTY-FOUR-B
30 OF THIS CHAPTER OR ARTICLE THREE, SEVEN OR TEN OF THE FAMILY COURT ACT.

31 2. "APPLICABLE BOARD RATE" SHALL MEAN AN AMOUNT EQUAL TO THE MONTHLY
32 PAYMENT THAT HAS BEEN MADE BY A SOCIAL SERVICES OFFICIAL, IN ACCORDANCE
33 WITH SECTION THREE HUNDRED NINETY-EIGHT-A OF THIS ARTICLE AND OTHER
34 PROVISIONS OF THIS CHAPTER, FOR THE CARE AND MAINTENANCE OF THE CHILD,
35 WHILE SUCH CHILD WAS BOARDED OUT IN THE APPROVED OR CERTIFIED FOSTER
36 FAMILY BOARDING HOME WITH THE PROSPECTIVE RELATIVE GUARDIAN. SUCH RATE
37 SHALL REFLECT ANNUAL CHANGES IN ROOM AND BOARD RATES AND CLOTHING
38 REPLACEMENT ALLOWANCES.

39 3. "PROSPECTIVE RELATIVE GUARDIAN" SHALL MEAN A PERSON OR PERSONS WHO
40 IS RELATED TO THE CHILD THROUGH BLOOD, MARRIAGE, OR ADOPTION WHO HAS
41 BEEN CARING FOR THE CHILD AS A FULLY CERTIFIED OR APPROVED FOSTER PARENT
42 FOR AT LEAST SIX CONSECUTIVE MONTHS PRIOR TO APPLYING FOR KINSHIP GUAR-
43 DIANSHIP ASSISTANCE PAYMENTS.

44 4. "RELATIVE GUARDIAN" SHALL MEAN A PERSON OR PERSONS WHO WAS
45 APPOINTED, AS A GUARDIAN OR PERMANENT GUARDIAN FOR A CHILD AFTER ENTER-
46 ING INTO AN AGREEMENT WITH A SOCIAL SERVICES OFFICIAL FOR THE RECEIPT OF
47 PAYMENTS AND SERVICES IN ACCORDANCE WITH THIS TITLE.

48 5. "SOCIAL SERVICES OFFICIAL" SHALL MEAN A COUNTY COMMISSIONER OF
49 SOCIAL SERVICES, A CITY COMMISSIONER OF SOCIAL SERVICES, OR AN INDIAN
50 TRIBE WITH WHICH THE OFFICE OF CHILDREN AND FAMILY SERVICES HAS ENTERED
51 INTO AN AGREEMENT TO PROVIDE FOSTER CARE SERVICES IN ACCORDANCE WITH
52 SUBDIVISION TWO OF SECTION THIRTY-NINE OF THIS CHAPTER.

53 S 458-B. KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS. 1. A CHILD IS
54 ELIGIBLE FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS UNDER THIS TITLE
55 IF THE SOCIAL SERVICES OFFICIAL DETERMINES THE FOLLOWING:

1 (A) THE CHILD HAS BEEN IN FOSTER CARE FOR AT LEAST SIX CONSECUTIVE
2 MONTHS IN THE HOME OF THE PROSPECTIVE RELATIVE GUARDIAN; AND
3 (B) THE CHILD BEING RETURNED HOME OR ADOPTED ARE NOT APPROPRIATE
4 PERMANENCY OPTIONS FOR THE CHILD; AND
5 (C) THE CHILD DEMONSTRATES A STRONG ATTACHMENT TO THE PROSPECTIVE
6 RELATIVE GUARDIAN AND THE PROSPECTIVE RELATIVE GUARDIAN HAS A STRONG
7 COMMITMENT TO CARING PERMANENTLY FOR THE CHILD; AND
8 (D) THAT AGE APPROPRIATE CONSULTATION HAS BEEN HELD WITH THE CHILD,
9 PROVIDED HOWEVER WITH RESPECT TO A CHILD WHO HAS ATTAINED FOURTEEN YEARS
10 OF AGE, THAT THE CHILD HAS BEEN CONSULTED REGARDING THE KINSHIP GUARDI-
11 ANSHIP ARRANGEMENT, AND WITH RESPECT TO A CHILD WHO HAS ATTAINED EIGH-
12 TEEN YEARS OF AGE, THAT THE CHILD HAS CONSENTED TO THE KINSHIP GUARDIAN-
13 SHIP ARRANGEMENT.
14 (E) (I) IF THE CHILD HAS BEEN PLACED INTO FOSTER CARE PURSUANT TO
15 ARTICLE TEN OF THE FAMILY COURT ACT, THAT BOTH THE FACT FINDING HEARING
16 PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THE FAMILY COURT ACT AND
17 THE FIRST PERMANENCY HEARING PURSUANT TO PARAGRAPH TWO OF SUBDIVISION
18 (A) OF SECTION ONE THOUSAND EIGHTY-NINE OF THE FAMILY COURT ACT HAVE
19 BEEN COMPLETED; OR
20 (II) FOR ALL THE OTHER CHILDREN, THAT THE FIRST PERMANENCY HEARING HAS
21 BEEN COMPLETED.
22 (F) THE FINANCIAL STATUS OF THE PROSPECTIVE RELATIVE GUARDIAN SHALL
23 NOT BE CONSIDERED IN DETERMINING ELIGIBILITY FOR KINSHIP GUARDIANSHIP
24 ASSISTANCE PAYMENTS.
25 2. (A) A PROSPECTIVE RELATIVE GUARDIAN WHO HAS BEEN CARING FOR AN
26 ELIGIBLE FOSTER CHILD FOR AT LEAST SIX CONSECUTIVE MONTHS AND WHO
27 INTENDS TO SEEK GUARDIANSHIP OR PERMANENT GUARDIANSHIP OF THE CHILD MAY
28 APPLY TO THE SOCIAL SERVICES OFFICIAL WHO HAS CUSTODY, CARE AND CUSTODY,
29 OR GUARDIANSHIP AND CUSTODY OF THE CHILD TO RECEIVE KINSHIP GUARDIANSHIP
30 ASSISTANCE PAYMENTS, NON-RECURRING GUARDIANSHIP PAYMENTS, AND OTHER
31 APPLICABLE SERVICES AND PAYMENTS AVAILABLE UNDER THIS TITLE ON BEHALF OF
32 THE CHILD.
33 (B) APPLICATIONS SHALL ONLY BE ACCEPTED PRIOR TO ISSUANCE OF LETTERS
34 OF GUARDIANSHIP OF THE CHILD TO THE RELATIVE GUARDIAN PURSUANT TO THE
35 PROVISIONS OF THE FAMILY COURT ACT OR THE SURROGATE'S COURT PROCEDURE
36 ACT.
37 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A
38 PROSPECTIVE RELATIVE GUARDIAN AND ANY PERSON OVER THE AGE OF EIGHTEEN
39 LIVING IN THE HOME OF THE PROSPECTIVE RELATIVE GUARDIAN WHO HAS NOT
40 ALREADY BEEN SUBJECT TO A NATIONAL AND STATE CRIMINAL HISTORY RECORD
41 CHECK PURSUANT TO SECTION THREE HUNDRED SEVENTY-EIGHT-A OF THIS ARTICLE
42 AS PART OF THE PROCESS OF THE PROSPECTIVE RELATIVE GUARDIAN BECOMING A
43 CERTIFIED OR APPROVED FOSTER PARENT MUST COMPLETE SUCH A RECORD CHECK IN
44 ACCORDANCE WITH THE PROCEDURES AND STANDARDS SET FORTH IN SUCH SECTION
45 PRIOR TO THE SOCIAL SERVICES OFFICIAL ACTING UPON THE APPLICATION. THE
46 SOCIAL SERVICES OFFICIAL MUST INQUIRE OF THE OFFICE OF CHILDREN AND
47 FAMILY SERVICES WHETHER EACH PROSPECTIVE RELATIVE GUARDIAN AND EACH
48 PERSON OVER THE AGE OF EIGHTEEN LIVING IN THE HOME OF THE PROSPECTIVE
49 RELATIVE GUARDIAN HAS BEEN OR IS CURRENTLY THE SUBJECT OF AN INDICATED
50 REPORT OF CHILD ABUSE OR MALTREATMENT ON FILE WITH THE STATEWIDE CENTRAL
51 REGISTER OF CHILD ABUSE AND MALTREATMENT AND, IF THE PROSPECTIVE RELA-
52 TIVE GUARDIAN OR ANY OTHER PERSON OVER THE AGE OF EIGHTEEN RESIDING IN
53 THE HOME OF THE PROSPECTIVE RELATIVE GUARDIAN RESIDED IN ANOTHER STATE
54 IN THE FIVE YEARS PRECEDING THE APPLICATION, REQUEST CHILD ABUSE AND
55 MALTREATMENT INFORMATION MAINTAINED BY THE CHILD ABUSE AND MALTREATMENT
56 REGISTRY FROM THE APPLICABLE CHILD WELFARE AGENCY IN EACH SUCH STATE OF

1 PREVIOUS RESIDENCE, IF SUCH A REQUEST HAS NOT BEEN MADE AS PART OF THE
2 PROCESS OF THE PROSPECTIVE RELATIVE GUARDIAN BECOMING A CERTIFIED OR
3 APPROVED FOSTER PARENT.

4 3. IF THE SOCIAL SERVICES OFFICIAL DETERMINES THAT THE CHILD IS ELIGI-
5 BLE FOR KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS AND IT IS IN THE BEST
6 INTERESTS OF THE CHILD FOR THE RELATIVE TO BECOME THE LEGAL GUARDIAN OF
7 THE CHILD, THE SOCIAL SERVICES OFFICIAL SHALL ENTER INTO AN AGREEMENT
8 WITH THE PROSPECTIVE RELATIVE GUARDIAN AUTHORIZING THE PROVISION OF
9 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS, NON-RECURRING GUARDIANSHIP
10 PAYMENTS, AND OTHER SERVICES AND PAYMENTS AVAILABLE UNDER THIS TITLE
11 SUBJECT TO THE ISSUANCE BY THE COURT OF LETTERS OF GUARDIANSHIP OF THE
12 CHILD TO THE PROSPECTIVE RELATIVE GUARDIAN AND THE CHILD BEING FINALLY
13 DISCHARGED FROM FOSTER CARE TO SUCH RELATIVE. IN DETERMINING WHETHER IT
14 IS IN THE BEST INTERESTS OF THE CHILD FOR THE RELATIVE TO BECOME THE
15 RELATIVE GUARDIAN OF THE CHILD, THE SOCIAL SERVICES OFFICIAL MUST DETER-
16 MINE AND DOCUMENT THAT COMPELLING REASONS EXIST FOR DETERMINING THAT THE
17 RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE NOT IN THE
18 BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRIATE PERMAN-
19 ENCY OPTIONS. A COPY OF THE FULLY EXECUTED AGREEMENT MUST BE PROVIDED
20 BY THE SOCIAL SERVICES OFFICIAL TO THE PROSPECTIVE RELATIVE GUARDIAN.

21 4. (A) PAYMENTS AND ELIGIBILITY FOR SERVICES UNDER THIS TITLE SHALL BE
22 MADE PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE SOCIAL SERVICES OFFI-
23 CIAL AND THE PROSPECTIVE RELATIVE GUARDIAN.

24 (B) THE WRITTEN AGREEMENT SHALL SPECIFY, AT A MINIMUM: THE AMOUNT OF,
25 AND MANNER IN WHICH, EACH KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT WILL
26 BE PROVIDED UNDER THE AGREEMENT; THE MANNER IN WHICH THE PAYMENTS MAY BE
27 ADJUSTED PERIODICALLY, IN CONSULTATION WITH THE RELATIVE GUARDIAN, BASED
28 ON THE CIRCUMSTANCES OF THE RELATIVE GUARDIAN AND THE NEEDS OF THE
29 CHILD; THE ADDITIONAL SERVICES AND ASSISTANCE THAT THE CHILD AND THE
30 RELATIVE GUARDIAN WILL BE ELIGIBLE FOR UNDER THE AGREEMENT, WHICH SHALL
31 BE LIMITED TO THE ADDITIONAL SERVICES AND ASSISTANCE SET FORTH IN THIS
32 TITLE; THE PROCEDURES BY WHICH THE RELATIVE GUARDIAN MAY APPLY FOR ADDI-
33 TIONAL SERVICES, AS NEEDED; THAT THE SOCIAL SERVICES OFFICIAL WILL PAY
34 THE TOTAL COST OF NONRECURRING EXPENSES ASSOCIATED WITH OBTAINING LEGAL
35 GUARDIANSHIP OF THE CHILD, TO THE EXTENT THE TOTAL COST DOES NOT EXCEED
36 TWO THOUSAND DOLLARS IN ACCORDANCE WITH SECTION FOUR HUNDRED
37 FIFTY-EIGHT-C OF THIS TITLE; AND, THAT THE AGREEMENT WILL REMAIN IN
38 EFFECT REGARDLESS OF THE STATE OF RESIDENCE OF THE RELATIVE GUARDIAN AT
39 ANY TIME.

40 (C) THE AGREEMENT MUST BE FULLY EXECUTED PRIOR TO THE ISSUANCE OF
41 LETTERS OF GUARDIANSHIP OF THE CHILD TO THE RELATIVE GUARDIAN IN ORDER
42 FOR THE CHILD TO BE ELIGIBLE FOR PAYMENTS AND SERVICES UNDER THIS TITLE.

43 5. ONCE THE PROSPECTIVE RELATIVE GUARDIAN WITH WHOM A SOCIAL SERVICES
44 OFFICIAL HAS ENTERED INTO AN AGREEMENT UNDER SUBDIVISION FOUR OF THIS
45 SECTION HAS BEEN ISSUED LETTERS OF GUARDIANSHIP FOR THE CHILD AND THE
46 CHILD HAS BEEN FINALLY DISCHARGED FROM FOSTER CARE TO SUCH RELATIVE, A
47 SOCIAL SERVICES OFFICIAL SHALL MAKE MONTHLY KINSHIP GUARDIANSHIP ASSIST-
48 ANCE PAYMENTS FOR THE CARE AND MAINTENANCE OF THE CHILD.

49 6. THE AMOUNT OF THE MONTHLY KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT
50 MADE PURSUANT TO THIS SECTION SHALL BE DETERMINED PURSUANT TO REGU-
51 LATIONS OF THE OFFICE. THE AMOUNT OF THE MONTHLY PAYMENT SHALL NOT BE
52 LESS THAN SEVENTY-FIVE PER CENTUM OF THE APPLICABLE BOARD RATE NOR MORE
53 THAN ONE HUNDRED PER CENTUM OF SUCH RATE AS DETERMINED BY THE SOCIAL
54 SERVICES DISTRICT IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE;
55 PROVIDED, HOWEVER, THAT THE RATE CHOSEN BY THE SOCIAL SERVICES DISTRICT
56 SHALL BE EQUAL TO THE RATE USED BY THE DISTRICT FOR ADOPTION SUBSIDY

1 PAYMENTS UNDER SECTION FOUR HUNDRED FIFTY-THREE OF THIS ARTICLE. THE
2 SOCIAL SERVICES OFFICIAL SHALL CONSIDER THE FINANCIAL STATUS OF THE
3 PROSPECTIVE RELATIVE GUARDIAN OR RELATIVE GUARDIAN ONLY FOR THE PURPOSE
4 OF DETERMINING THE AMOUNT OF THE PAYMENTS TO BE MADE.

5 7. (A) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS SHALL BE MADE TO THE
6 RELATIVE GUARDIAN OR GUARDIANS UNTIL THE CHILD'S EIGHTEENTH BIRTHDAY OR,
7 IF THE CHILD HAD ATTAINED SIXTEEN YEARS OF AGE BEFORE THE AGREEMENT
8 BECAME EFFECTIVE, UNTIL THE CHILD ATTAINS TWENTY-ONE YEARS OF AGE
9 PROVIDED THE CHILD IS: (I) COMPLETING SECONDARY EDUCATION OR A PROGRAM
10 LEADING TO AN EQUIVALENT CREDENTIAL; (II) ENROLLED IN AN INSTITUTION
11 WHICH PROVIDES POST-SECONDARY OR VOCATIONAL EDUCATION; (III) EMPLOYED
12 FOR AT LEAST EIGHTY HOURS PER MONTH; (IV) PARTICIPATING IN A PROGRAM OR
13 ACTIVITY DESIGNED TO PROMOTE, OR REMOVE BARRIERS TO, EMPLOYMENT; OR (V)
14 INCAPABLE OF ANY OF SUCH ACTIVITIES DUE TO A MEDICAL CONDITION, WHICH
15 INCAPABILITY IS SUPPORTED BY REGULARLY UPDATED INFORMATION IN THE CASE
16 PLAN OF THE CHILD.

17 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, NO KINSHIP
18 GUARDIANSHIP ASSISTANCE PAYMENTS MAY BE MADE PURSUANT TO THIS TITLE IF
19 THE SOCIAL SERVICES OFFICIAL DETERMINES THAT THE RELATIVE GUARDIAN IS NO
20 LONGER LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD, INCLUDING IF
21 THE STATUS OF THE LEGAL GUARDIAN IS TERMINATED OR THE CHILD IS NO LONGER
22 RECEIVING ANY SUPPORT FROM SUCH GUARDIAN. IN ACCORDANCE WITH THE REGU-
23 LATIONS OF THE OFFICE, A RELATIVE GUARDIAN WHO HAS BEEN RECEIVING
24 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ON BEHALF OF A CHILD UNDER THIS
25 TITLE MUST KEEP THE SOCIAL SERVICES OFFICIAL INFORMED, ON AN ANNUAL
26 BASIS, OF ANY CIRCUMSTANCES THAT WOULD MAKE THE RELATIVE GUARDIAN INELI-
27 GIBLE FOR SUCH PAYMENTS OR ELIGIBLE FOR PAYMENTS IN A DIFFERENT AMOUNT.

28 8. THE PLACEMENT OF THE CHILD WITH THE RELATIVE GUARDIAN AND ANY
29 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS MADE ON BEHALF OF THE CHILD
30 UNDER THIS SECTION SHALL BE CONSIDERED NEVER TO HAVE BEEN MADE WHEN
31 DETERMINING THE ELIGIBILITY FOR ADOPTION SUBSIDY PAYMENTS UNDER TITLE
32 NINE OF THIS ARTICLE OF A CHILD IN SUCH LEGAL GUARDIANSHIP ARRANGEMENT.

33 S 458-C. PAYMENTS FOR NON-RECURRING GUARDIANSHIP EXPENSES. 1. A SOCIAL
34 SERVICES OFFICIAL SHALL MAKE PAYMENTS FOR NON-RECURRING GUARDIANSHIP
35 EXPENSES INCURRED BY OR ON BEHALF OF THE RELATIVES WHO HAVE BEEN
36 APPROVED BY THE SOCIAL SERVICES OFFICIAL TO RECEIVE KINSHIP GUARDIANSHIP
37 ASSISTANCE PAYMENTS, WHEN SUCH EXPENSES ARE INCURRED IN CONNECTION WITH
38 ASSUMING THE GUARDIANSHIP OF A FOSTER CHILD. THE AGREEMENT FOR THE
39 PAYMENT OF NON-RECURRING GUARDIANSHIP EXPENSES MUST BE REFLECTED IN THE
40 WRITTEN AGREEMENT SET FORTH IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED
41 FIFTY-EIGHT-B OF THIS TITLE. IN ACCORDANCE WITH SUBDIVISION TWO OF THIS
42 SECTION, THE PAYMENTS SHALL BE MADE BY THE SOCIAL SERVICES OFFICIAL
43 EITHER TO THE RELATIVE GUARDIAN OR GUARDIANS DIRECTLY OR TO AN ATTORNEY
44 ON BEHALF OF THE RELATIVE GUARDIAN OR GUARDIANS FOR THE ALLOWABLE AMOUNT
45 OF NON-RECURRING GUARDIANSHIP EXPENSES INCURRED IN CONNECTION WITH
46 OBTAINING SUCH GUARDIANSHIP.

47 2. THE AMOUNT OF THE PAYMENT MADE PURSUANT TO THIS SECTION SHALL NOT
48 EXCEED TWO THOUSAND DOLLARS FOR EACH FOSTER CHILD FOR WHOM THE RELATIVES
49 SEEK GUARDIANSHIP OR PERMANENT GUARDIANSHIP AND SHALL BE AVAILABLE ONLY
50 FOR THOSE EXPENSES THAT ARE DETERMINED TO BE ELIGIBLE FOR REIMBURSEMENT
51 BY THE SOCIAL SERVICES OFFICIAL IN ACCORDANCE WITH THE REGULATIONS OF
52 THE OFFICE OF CHILDREN AND FAMILY SERVICES.

53 3. PAYMENTS FOR NON-RECURRING GUARDIANSHIP EXPENSES MADE BY A SOCIAL
54 SERVICES OFFICIAL PURSUANT TO THIS SECTION SHALL BE TREATED AS ADMINIS-
55 TRATIVE EXPENDITURES UNDER TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT
56 AND SHALL BE REIMBURSED BY THE STATE ACCORDINGLY.

1 4. AS USED IN THIS SECTION, NON-RECURRING GUARDIANSHIP EXPENSES SHALL
2 MEAN REASONABLE AND NECESSARY FEES, COURT COSTS, ATTORNEY FEES, AND
3 OTHER EXPENSES WHICH ARE DIRECTLY RELATED TO OBTAINING LEGAL GUARDIAN-
4 SHIP OF AN ELIGIBLE CHILD AND WHICH ARE NOT INCURRED IN VIOLATION OF
5 FEDERAL LAW OR THE LAWS OF THIS STATE OR ANY OTHER STATE.

6 S 458-D. MEDICAL SUBSIDY. 1. ANY CHILD WITH RESPECT TO WHOM FEDERALLY
7 REIMBURSABLE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ARE MADE UNDER
8 THIS TITLE IS ELIGIBLE FOR MEDICAL ASSISTANCE UNDER TITLE XIX OF THE
9 FEDERAL SOCIAL SECURITY ACT.

10 2. IN ADDITION, A SOCIAL SERVICES OFFICIAL SHALL MAKE PAYMENTS FOR THE
11 COST OF CARE, SERVICES AND SUPPLIES PAYABLE UNDER THE STATE'S PROGRAM OF
12 MEDICAL ASSISTANCE FOR NEEDY PERSONS PROVIDED TO ANY CHILD FOR WHOM
13 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ARE BEING MADE UNDER THIS TITLE
14 WHO IS NOT ELIGIBLE FOR MEDICAL ASSISTANCE UNDER SUBDIVISION ONE OF THIS
15 SECTION AND FOR WHOM THE RELATIVE GUARDIAN IS UNABLE TO OBTAIN APPROPRI-
16 ATE AND AFFORDABLE MEDICAL COVERAGE THROUGH ANY OTHER AVAILABLE MEANS,
17 REGARDLESS OF WHETHER THE CHILD OTHERWISE QUALIFIES FOR MEDICAL ASSIST-
18 ANCE FOR NEEDY PERSONS. PAYMENTS PURSUANT TO THIS SUBDIVISION SHALL BE
19 MADE ONLY WITH RESPECT TO THE COST OF CARE, SERVICES, AND SUPPLIES WHICH
20 ARE NOT OTHERWISE COVERED OR SUBJECT TO PAYMENT OR REIMBURSEMENT BY
21 INSURANCE, MEDICAL ASSISTANCE OR OTHER SOURCES. PAYMENTS MADE PURSUANT
22 TO THIS SUBDIVISION SHALL ONLY BE MADE IF THE RELATIVE GUARDIAN APPLIES
23 TO OBTAIN SUCH MEDICAL COVERAGE FOR THE CHILD FROM ALL AVAILABLE SOURC-
24 ES, UNLESS THE SOCIAL SERVICES OFFICIAL DETERMINES THAT THE RELATIVE
25 GUARDIAN HAS GOOD CAUSE FOR NOT APPLYING FOR SUCH COVERAGE; WHICH SHALL
26 INCLUDE THAT APPROPRIATE COVERAGE IS NOT AVAILABLE OR AFFORDABLE.

27 3. AN APPLICATION FOR PAYMENTS UNDER THIS SECTION SHALL BE MADE PRIOR
28 TO THE ISSUANCE OF LETTERS OF GUARDIANSHIP FOR THE CHILD. AN APPROVAL OF
29 AN APPLICATION FOR PAYMENTS UNDER THIS SECTION SHALL NOT BE SUBJECT TO
30 ANNUAL REVIEW BY THE SOCIAL SERVICES OFFICIAL, AND SUCH APPROVAL SHALL
31 REMAIN IN EFFECT FOR AS LONG AS KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS
32 ARE BEING MADE UNDER THIS TITLE FOR THE CHILD. APPLICATIONS FOR SUCH
33 PAYMENTS SHALL BE ACCEPTED PRIOR TO THE ISSUANCE OF LETTERS OF GUARDIAN-
34 SHIP OF THE CHILD, AND APPROVAL THEREOF MAY BE GRANTED CONTINGENT UPON
35 SUCH ISSUANCE.

36 S 458-E. INDEPENDENT LIVING SERVICES. IN ACCORDANCE WITH REGULATIONS
37 OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, ANY CHILD WHO LEAVES
38 FOSTER CARE FOR GUARDIANSHIP WITH A RELATIVE AFTER ATTAINING SIXTEEN
39 YEARS OF AGE FOR WHOM KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS ARE BEING
40 MADE UNDER THIS TITLE SHALL BE ELIGIBLE:

41 1. TO RECEIVE THOSE INDEPENDENT LIVING SERVICES THAT ARE MADE AVAIL-
42 ABLE BY THE SOCIAL SERVICES DISTRICT TO FOSTER CHILDREN PURSUANT TO
43 SECTION 477 OF THE FEDERAL SOCIAL SECURITY ACT; AND

44 2. TO APPLY FOR EDUCATIONAL AND TRAINING VOUCHERS MADE AVAILABLE
45 PURSUANT TO SUCH SECTION, WHICH WILL BE AWARDED BASED ON THE PRIORITIES
46 ESTABLISHED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE AMOUNT
47 OF FUNDS MADE AVAILABLE THEREFOR.

48 S 458-F. FAIR HEARINGS. 1. ANY PERSON AGGRIEVED BY THE DECISION OF A
49 SOCIAL SERVICES OFFICIAL NOT TO MAKE A PAYMENT OR PAYMENTS PURSUANT TO
50 THIS TITLE OR TO MAKE SUCH PAYMENT OR PAYMENTS IN AN INADEQUATE OR INAP-
51 PROPRIATE AMOUNT OR THE FAILURE OF A SOCIAL SERVICES OFFICIAL TO DETER-
52 MINE AN APPLICATION UNDER THIS TITLE WITHIN THIRTY DAYS AFTER FILING,
53 MAY APPEAL TO THE OFFICE OF CHILDREN AND FAMILY SERVICES, WHICH SHALL
54 REVIEW THE CASE AND GIVE SUCH PERSON AN OPPORTUNITY FOR A FAIR HEARING
55 THEREON AND RENDER ITS DECISION WITHIN THIRTY DAYS. ALL DECISIONS OF
56 THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL BE BINDING UPON THE

1 SOCIAL SERVICES DISTRICT INVOLVED AND SHALL BE COMPLIED WITH BY THE
2 SOCIAL SERVICES OFFICIAL THEREOF.

3 2. THE ONLY ISSUES WHICH MAY BE RAISED IN A FAIR HEARING UNDER THIS
4 SECTION ARE: (A) WHETHER THE SOCIAL SERVICES OFFICIAL HAS IMPROPERLY
5 DENIED AN APPLICATION FOR PAYMENTS UNDER THIS TITLE; (B) WHETHER THE
6 SOCIAL SERVICES OFFICIAL HAS IMPROPERLY DISCONTINUED PAYMENTS UNDER THIS
7 TITLE; (C) WHETHER THE SOCIAL SERVICES OFFICIAL HAS DETERMINED THE
8 AMOUNT OF THE PAYMENTS MADE OR TO BE MADE IN VIOLATION OF THE PROVISIONS
9 OF THIS TITLE OR THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY
10 SERVICES PROMULGATED HEREUNDER; OR (D) WHETHER THE SOCIAL SERVICES OFFI-
11 CIAL HAS FAILED TO DETERMINE AN APPLICATION UNDER THIS TITLE WITHIN
12 THIRTY DAYS.

13 3. THE PROVISIONS OF SUBDIVISIONS TWO AND FOUR OF SECTION TWENTY-TWO
14 OF THIS CHAPTER SHALL APPLY TO FAIR HEARINGS HELD AND APPEALS TAKEN
15 PURSUANT TO THIS SECTION.

16 S 5. Section 657 of the family court act is amended by adding a new
17 subdivision (c) to read as follows:

18 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
19 PERSONS POSSESSING A LAWFUL ORDER OF GUARDIANSHIP OF A CHILD SHALL HAVE
20 THE RIGHT AND RESPONSIBILITY TO MAKE DECISIONS, INCLUDING ISSUING ANY
21 NECESSARY CONSENTS, REGARDING THE CHILD'S PROTECTION, EDUCATION, CARE
22 AND CONTROL, HEALTH AND MEDICAL NEEDS, AND THE PHYSICAL CUSTODY OF THE
23 PERSON OF THE CHILD. PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVI-
24 SION SHALL BE CONSTRUED TO LIMIT THE ABILITY OF A CHILD TO CONSENT TO
25 HIS OR HER OWN MEDICAL CARE AS MAY BE OTHERWISE PROVIDED BY LAW.

26 S 6. Section 661 of the family court act is amended by adding a new
27 subdivision (c) to read as follows:

28 (C) SPECIAL PROVISIONS IN RELATION TO GUARDIANSHIP OF A FOSTER CHILD.
29 WHERE THE PERMANENCY GOAL FOR A FOSTER CHILD WHO IS THE SUBJECT OF A
30 PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THIS ACT IS REFERRAL FOR LEGAL
31 GUARDIANSHIP, A PETITION UNDER THIS ARTICLE FILED BY A FIT AND WILLING
32 RELATIVE OR OTHER SUITABLE PERSON SHALL BE FILED WITH THE COURT BEFORE
33 WHOM THE MOST RECENT PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THIS ACT
34 IS PENDING. THE COURT PRESIDING OVER THE PROCEEDING PURSUANT TO ARTICLE
35 TEN OR TEN-A OF THIS ACT MAY CONSOLIDATE THE HEARING OF THE GUARDIANSHIP
36 PETITION OR PERMANENT GUARDIANSHIP PETITION FILED BY SUCH RELATIVE OR
37 OTHER SUITABLE PERSON WITH THE DISPOSITIONAL HEARING UNDER ARTICLE TEN
38 OF THIS ACT OR A PERMANENCY HEARING UNDER ARTICLE TEN-A OF THIS ACT, AS
39 APPLICABLE. IN GRANTING SUCH A PETITION, THE COURT MUST MAKE SUCH ORDER
40 IN ACCORDANCE WITH THE PROCEDURES AND MAKE THE FINDINGS ENUMERATED IN
41 SECTION ONE THOUSAND FIFTY-FIVE-B OR ONE THOUSAND EIGHTY-NINE-A OF THIS
42 ACT, AS APPLICABLE.

43 S 7. Section 1055-b of the family court act, as added by chapter 519
44 of the laws of 2008, paragraph (c) as amended by chapter 41 of the laws
45 of 2010, is amended to read as follows:

46 S 1055-b. Custody or guardianship with relatives or suitable persons
47 pursuant to article six of this act OR GUARDIANSHIP WITH SUCH A PERSON
48 PURSUANT TO ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT.

49 (a) At the conclusion of the dispositional hearing under this article,
50 the court may enter an order of disposition granting custody or guardi-
51 anship of the child to a relative or OTHER suitable person under article
52 six of this act OR AN ORDER OF GUARDIANSHIP OF THE CHILD TO SUCH A
53 PERSON UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT
54 if:

55 (i) the relative or suitable person has filed a petition for custody
56 or guardianship of the child pursuant to article six of this act OR A

1 PETITION FOR GUARDIANSHIP OF THE CHILD UNDER ARTICLE SEVENTEEN OF THE
2 SURROGATE'S COURT PROCEDURE ACT; and

3 (ii) the court finds that granting custody or guardianship of the
4 child to the relative or suitable person is in the best interests of the
5 child and that the safety of the child will not be jeopardized if the
6 respondent or respondents under the child protective proceeding are no
7 longer under supervision or receiving services. IN DETERMINING WHETHER
8 THE BEST INTERESTS OF THE CHILD WILL BE PROMOTED BY THE GRANTING OF
9 GUARDIANSHIP OF THE CHILD TO A RELATIVE WHO HAS CARED FOR THE CHILD AS A
10 FOSTER PARENT, THE COURT SHALL GIVE DUE CONSIDERATION TO THE PERMANENCY
11 GOAL OF THE CHILD, THE RELATIONSHIP BETWEEN THE CHILD AND THE RELATIVE,
12 AND WHETHER THE RELATIVE AND THE SOCIAL SERVICES DISTRICT HAVE ENTERED
13 INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS
14 FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF THE
15 SOCIAL SERVICES LAW, AND, IF SO, WHETHER THE FACT-FINDING HEARING PURSU-
16 ANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS PART AND A PERMANENCY
17 HEARING PURSUANT TO SECTION ONE THOUSAND EIGHTY-NINE OF THIS CHAPTER HAS
18 OCCURRED AND WHETHER COMPELLING REASONS EXIST FOR DETERMINING THAT THE
19 RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE NOT IN THE
20 BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRIATE PERMAN-
21 ENCY OPTIONS; and

22 (iii) the court finds that granting custody or guardianship of the
23 child to the relative or suitable person under article six of this act
24 OR GRANTING GUARDIANSHIP OF THE CHILD TO THE RELATIVE OR OTHER SUITABLE
25 PERSON UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT
26 will provide the child with a safe and permanent home; and

27 (iv) all parties to the child protective proceeding consent to the
28 granting of custody or guardianship under article six of this act OR THE
29 GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S
30 COURT PROCEDURE; or

31 (v) after a consolidated dispositional hearing on the child protective
32 petition and the petition under article six of this act OR UNDER ARTICLE
33 SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT;

34 (A) if a parent or parents fail to [contest] CONSENT TO the granting
35 of custody or guardianship under article six of this act OR THE GRANTING
36 OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCE-
37 DURE ACT, the court finds that extraordinary circumstances exist that
38 support granting an order of custody or guardianship [under article six
39 of this act]; or

40 (B) if a party other than the parent [of] OR parents fail to consent
41 to the granting of custody or guardianship under article six of this act
42 OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURRO-
43 GATE'S COURT PROCEDURE ACT, the court finds that granting custody or
44 guardianship of the child to the relative or suitable person is in the
45 best interests of the child.

46 (b) An order made in accordance with the provisions of this section
47 shall set forth the required findings as described in subdivision (a) of
48 this section INCLUDING, IF THE GUARDIAN AND THE LOCAL DEPARTMENT OF
49 SOCIAL SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUAR-
50 DIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE
51 TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, THAT A FACT-FINDING HEAR-
52 ING PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS PART AND A
53 PERMANENCY HEARING PURSUANT TO SECTION ONE THOUSAND EIGHTY-NINE OF THIS
54 CHAPTER HAS OCCURRED, AND THE COMPELLING REASONS THAT EXIST FOR DETER-
55 MINING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD
56 ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT

1 APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD, and shall constitute the
2 final disposition of the child protective proceeding. Notwithstanding
3 any other provision of law, the court shall not issue an order of super-
4 vision nor may the court require the local department of social services
5 to provide services to the respondent or respondents when granting
6 custody or guardianship pursuant to article six of this act under this
7 section OR GRANTING GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURRO-
8 GATE'S COURT PROCEDURE ACT.

9 (c) As part of the order granting custody or guardianship pursuant to
10 article six of this act OR GRANTING GUARDIANSHIP UNDER ARTICLE SEVENTEEN
11 OF THE SURROGATE'S COURT PROCEDURE ACT, the court may require that the
12 local department of social services and the attorney for the child
13 receive notice of, and be made parties to, any subsequent proceeding to
14 modify the order of custody or guardianship granted pursuant to the
15 article six proceeding OR THE ORDER OF GUARDIANSHIP GRANTED PURSUANT TO
16 ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT; PROVIDED,
17 HOWEVER, IF THE GUARDIAN AND THE LOCAL DEPARTMENT OF SOCIAL SERVICES HAD
18 ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP ASSISTANCE
19 PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF ARTICLE SIX OF
20 THE SOCIAL SERVICES LAW, THE ORDER MUST REQUIRE THAT THE LOCAL DEPART-
21 MENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD RECEIVE NOTICE
22 OF, AND BE MADE PARTIES TO, ANY SUCH SUBSEQUENT PROCEEDING REGARDING
23 CUSTODY OR GUARDIANSHIP OF THE CHILD.

24 (d) An order entered in accordance with this section shall conclude
25 the court's jurisdiction over the proceeding held pursuant to this arti-
26 cle and the court shall not maintain jurisdiction over the parties for
27 the purposes of permanency hearings held pursuant to article ten-A of
28 this act.

29 (E) THE COURT SHALL HOLD AGE APPROPRIATE CONSULTATION WITH THE CHILD,
30 HOWEVER, IF THE YOUTH HAS ATTAINED FOURTEEN YEARS OF AGE, THE COURT
31 SHALL ASCERTAIN HIS OR HER PREFERENCE FOR A SUITABLE GUARDIAN. NOTWITH-
32 STANDING ANY OTHER SECTION OF LAW, WHERE THE YOUTH IS OVER THE AGE OF
33 EIGHTEEN, HE OR SHE SHALL CONSENT TO THE APPOINTMENT OF A SUITABLE GUAR-
34 DIAN.

35 S 8. Section 1089-a of the family court act, as added by chapter 519
36 of the laws of 2008, subparagraph (B) of paragraph (iv) of subdivision
37 (a) and subdivision (c) as amended by chapter 41 of the laws of 2010, is
38 amended to read as follows:

39 S 1089-a. Custody or guardianship with relatives or suitable persons
40 pursuant to article six of this act OR GUARDIANSHIP PURSUANT TO ARTICLE
41 SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT. (a) Where the perman-
42 ency plan is placement with a fit and willing relative, the court may
43 issue an order of custody or guardianship in response to a petition
44 filed by a relative or suitable person seeking custody or guardianship
45 of the child under article six of this act OR AN ORDER OF GUARDIANSHIP
46 OF THE CHILD UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE
47 ACT at a permanency hearing held pursuant to this article and terminate
48 [the order] ALL PENDING ORDERS ISSUED pursuant to article ten of this
49 act if:

50 (i) the court finds that granting custody or guardianship of the child
51 to the relative or suitable person is in the best interests of the child
52 and that the termination of the order placing the child pursuant to
53 article ten of this act will not jeopardize the safety of the child. IN
54 DETERMINING WHETHER THE BEST INTERESTS OF THE CHILD WILL BE PROMOTED BY
55 THE GRANTING OF GUARDIANSHIP OF THE CHILD TO A RELATIVE WHO HAS CARED
56 FOR THE CHILD AS A FOSTER PARENT, THE COURT SHALL GIVE DUE CONSIDERATION

1 TO THE PERMANENCY GOAL OF THE CHILD, THE RELATIONSHIP BETWEEN THE CHILD
2 AND THE RELATIVE, AND WHETHER THE RELATIVE AND THE LOCAL DEPARTMENT OF
3 SOCIAL SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUAR-
4 DIANSHIP ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE
5 TEN OF ARTICLE SIX OF THE SOCIAL SERVICES LAW, AND, IF SO, WHETHER A
6 FACT-FINDING HEARING PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS
7 CHAPTER HAS OCCURRED, AND WHETHER COMPELLING REASONS EXIST FOR DETERMIN-
8 ING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE CHILD ARE
9 NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT APPROPRI-
10 ATE PERMANENCY OPTIONS; and

11 (ii) the court finds that granting custody or guardianship of the
12 child to the relative or suitable person will provide the child with a
13 safe and permanent home; and

14 (iii) the parents, the [law guardian] ATTORNEY for the child, the
15 local department of social services, and the foster parent of the child
16 who has been the foster parent for the child for one year or more
17 consent to the issuance of an order of custody or guardianship under
18 article six of this act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE
19 SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT and the termination of
20 the order of placement pursuant to article ten of this act; or

21 (iv) after a consolidated hearing on the permanency of the child and
22 the petition under article six of this act OR ARTICLE SEVENTEEN OF THE
23 SURROGATE'S COURT PROCEDURE ACT;

24 (A) if a parent [of] OR parents fail to consent to the granting of
25 custody or guardianship under article six of this act OR THE GRANTING OF
26 GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE
27 ACT, the court finds that extraordinary circumstances exist that support
28 granting an order of custody or guardianship under article six of this
29 act OR THE GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE
30 SURROGATE'S COURT PROCEDURE ACT; or

31 (B) if the local department of social services, the attorney for the
32 child, or the foster parent of the child who has been the foster parent
33 for the child for one year or more fail to consent to the granting of
34 custody or guardianship under article six of this act OR THE GRANTING OF
35 GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE
36 ACT, the court finds that granting custody or guardianship of the child
37 to the relative or suitable person is in the best interests of the
38 child.

39 (b) An order made in accordance with the provisions of this section
40 shall set forth the required findings as described in subdivision (a) of
41 this section INCLUDING, IF THE GUARDIAN AND LOCAL DEPARTMENT OF SOCIAL
42 SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP
43 ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF
44 ARTICLE SIX OF THE SOCIAL SERVICES LAW, THAT A FACT-FINDING HEARING
45 PURSUANT TO SECTION ONE THOUSAND FIFTY-ONE OF THIS CHAPTER HAS OCCURRED,
46 AND THE COMPELLING REASONS THAT EXIST FOR DETERMINING THAT THE RETURN
47 HOME OF THE CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE,
48 THEREFORE, NOT APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD, and shall
49 result in the termination of any orders in effect pursuant to article
50 ten of this act or pursuant to this article. Notwithstanding any other
51 provision of law, the court shall not issue an order of supervision nor
52 may the court require the local department of social services to provide
53 services to the respondent or respondents when granting custody or guar-
54 dianship pursuant to article six of this act OR THE GRANTING OF GUARDI-
55 ANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S COURT PROCEDURE ACT in
56 accordance with this section.

1 (c) As part of the order granting custody or guardianship to the rela-
2 tive or suitable person pursuant to article six of this act OR THE
3 GRANTING OF GUARDIANSHIP UNDER ARTICLE SEVENTEEN OF THE SURROGATE'S
4 COURT PROCEDURE ACT, the court may require that the local department of
5 social services and the attorney for the child receive notice of, and be
6 made parties to, any subsequent proceeding to modify the order of custo-
7 dy or guardianship granted pursuant to the article six proceeding;
8 PROVIDED, HOWEVER, IF THE GUARDIAN AND THE LOCAL DEPARTMENT OF SOCIAL
9 SERVICES HAVE ENTERED INTO AN AGREEMENT TO PROVIDE KINSHIP GUARDIANSHIP
10 ASSISTANCE PAYMENTS FOR THE CHILD TO THE RELATIVE UNDER TITLE TEN OF
11 ARTICLE SIX OF THE SOCIAL SERVICES LAW, THE ORDER MUST REQUIRE THAT THE
12 LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD
13 RECEIVE NOTICE OF, AND BE MADE PARTIES TO, ANY SUCH SUBSEQUENT PROCEED-
14 ING INVOLVING CUSTODY OR GUARDIANSHIP OF THE CHILD.

15 (d) Any order entered pursuant to this section shall conclude the
16 court's jurisdiction over the article ten proceeding and the court shall
17 not maintain jurisdiction over the proceeding for further permanency
18 hearings.

19 (E) THE COURT SHALL HOLD AGE APPROPRIATE CONSULTATION WITH THE CHILD,
20 HOWEVER, IF THE YOUTH HAS ATTAINED FOURTEEN YEARS OF AGE, THE COURT
21 SHALL ASCERTAIN HIS OR HER PREFERENCE FOR A SUITABLE GUARDIAN OR CUSTO-
22 DIAN. NOTWITHSTANDING ANY OTHER SECTION OF LAW, WHERE THE YOUTH IS OVER
23 THE AGE OF EIGHTEEN, HE OR SHE SHALL CONSENT TO THE APPOINTMENT OF A
24 SUITABLE GUARDIAN OR CUSTODIAN.

25 S 9. Section 1702 of the surrogate's court procedure act is amended by
26 adding a new subdivision 3 to read as follows:

27 3. WHERE THE PERMANENCY GOAL FOR A FOSTER CHILD WHO IS THE SUBJECT OF
28 A PROCEEDING UNDER ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT IS
29 REFERRAL FOR LEGAL GUARDIANSHIP, A PETITION FILED UNDER THIS ARTICLE BY
30 A FIT AND WILLING RELATIVE OR OTHER SUITABLE PERSON SHALL BE FILED WITH
31 THE COURT BEFORE WHOM THE MOST RECENT PROCEEDING UNDER ARTICLE TEN OR
32 TEN-A OF THE FAMILY COURT ACT IS PENDING.

33 S 10. Subdivision 1 of section 1706 of the surrogate's court procedure
34 act, as amended by chapter 404 of the laws of 2008, is amended to read
35 as follows:

36 1. Where process is not issued or upon the return of process, the
37 court shall ascertain the age of the infant, the amount of his or her
38 personal property, the gross amount of the rents and profits of his or
39 her real estate during his or her minority and the sufficiency of the
40 security offered by the proposed guardian. With respect to applications
41 for appointment as a [permanent] guardian of a child, the [permanent]
42 guardian shall have the right and responsibility to make decisions,
43 including issuing any necessary consents, regarding the child's
44 protection, education, care and control, health and medical needs, and
45 the physical custody of the person of the child[, and]. A PERMANENT
46 GUARDIAN may consent to the adoption of the child. Provided, however,
47 that nothing in this subdivision shall be construed to limit the ability
48 of a child to consent to his or her own medical care as may be otherwise
49 provided by law. If the [infant] YOUTH is over the age of fourteen
50 years, the court shall ascertain his or her preference for a suitable
51 guardian. Notwithstanding any other section of law, where the [infant]
52 YOUTH is over the age of eighteen, [the infant] HE OR SHE shall consent
53 to the appointment of a suitable guardian.

54 S 11. Subdivisions 1 and 2 of section 1707 of the surrogate's court
55 procedure act, as amended by chapter 404 of the laws of 2008, are
56 amended to read as follows:

1 1. If the court be satisfied that the interests of the infant will be
2 promoted by the appointment of a guardian or by the issuance of tempo-
3 rary letters of guardianship of his or her person or of his or her prop-
4 erty, or of both, it must make a decree accordingly. If the court deter-
5 mines that appointment of a permanent guardian is in the best interests
6 of the infant or child, the court shall issue a decree appointing such
7 guardian. The same person may be appointed guardian of both the person
8 and the property of the infant or the guardianship of the person and of
9 the property may be committed to different persons. The court may
10 appoint a person other than the parent of the infant or the person nomi-
11 nated by the petitioner. When the court is informed that the infant, a
12 person nominated to be a guardian of such infant, the petitioner, or any
13 individual eighteen years of age or over who resides in the home of the
14 proposed guardian is a subject of or another person named in an indi-
15 cated report, as such terms are defined in section four hundred twelve
16 of the social services law, filed with the statewide register of child
17 abuse and maltreatment pursuant to title six of article six of the
18 social services law or is or has been the subject of or the respondent
19 in or a party to a child protective proceeding commenced under article
20 ten of the family court act which resulted in an order finding that the
21 child is an abused or neglected child the court shall obtain such
22 records regarding such report or proceeding as it deems appropriate and
23 shall give the information contained therein due consideration in its
24 determination. THE COURT SHALL PROVIDE IN ITS ORDER APPOINTING A GUARD-
25 IAN OF A CHILD FOR WHOM THE GUARDIAN AND A LOCAL DEPARTMENT OF SOCIAL
26 SERVICES HAVE ENTERED INTO AN AGREEMENT UNDER TITLE TEN OF ARTICLE SIX
27 OF THE SOCIAL SERVICES LAW: (A) THE COMPELLING REASONS THAT EXIST FOR
28 DETERMINING THAT THE RETURN HOME OF THE CHILD AND THE ADOPTION OF THE
29 CHILD ARE NOT IN THE BEST INTERESTS OF THE CHILD AND ARE, THEREFORE, NOT
30 APPROPRIATE PERMANENCY OPTIONS FOR THE CHILD; AND (B) THAT THE LOCAL
31 DEPARTMENT OF SOCIAL SERVICES AND THE ATTORNEY FOR THE CHILD MUST
32 RECEIVE NOTICE OF, AND BE MADE PARTIES TO, ANY SUBSEQUENT PROCEEDING TO
33 VACATE OR MODIFY THE ORDER OF GUARDIANSHIP.

34 2. The term of office of a guardian of the person or property so
35 appointed expires when the infant attains majority, unless the infant
36 consents to the continuation of or appointment of a guardian after his
37 or her eighteenth birthday, in which case such term of office expires on
38 his or her twenty-first birthday, or after such other shorter period as
39 the court establishes upon good cause shown; except that the term of
40 office of a guardian of the person of an infant expires upon the
41 infant's marriage prior to attaining majority. The appointment of a
42 [permanent] guardian of a child shall expire when the infant or child
43 reaches the age of eighteen years, unless the infant or child consents
44 to the continuation of a guardian after his or her eighteenth birthday,
45 in which case such term of office expires on his or her twenty-first
46 birthday, or unless vacated by the court prior to the infant or child's
47 eighteenth or twenty-first birthday if the court finds that, based upon
48 clear and convincing evidence, the guardian failed to or is unable,
49 unavailable or unwilling to provide proper care and custody of the
50 infant or child, or that the guardianship is no longer in the best
51 interests of the infant or child.

52 S 12. The office of children and family services shall report to the
53 governor, the speaker of the assembly, the temporary president of the
54 senate, the minority leader of the assembly, the minority leader of the
55 senate, the chair of the assembly committee on children and families and
56 the chair of the senate committee on children and families no later than

1 February 1, 2012, and each year thereafter, detailing the implementation
2 and progress of the kinship guardianship assistance program, as estab-
3 lished by this act. The report shall include, but not be limited to, the
4 following information occurring within each yearly reporting period:

5 (a) the total number, and number per local social services district,
6 of children who have entered into the kinship guardianship assistance
7 program within the yearly reporting period, as well as the total cumula-
8 tive number of children in the program;

9 (b) the total number, and number per local social services district,
10 of applications for kinship guardianship assistance, including the
11 number of applications denied and the number accepted by the local
12 social services district;

13 (c) the ages of children entering into the kinship guardianship
14 assistance program;

15 (d) the number of fair hearings requested by applicants for, and
16 recipients of, kinship guardianship assistance, including the reasons
17 for such hearing requests, the number of fair hearings held, the time-
18 frames within which decisions were rendered, and the number of fair
19 hearings resolved in favor of the aggrieved party and in favor of the
20 local social services district;

21 (e) changes since implementation of the kinship guardianship assist-
22 ance program in: the percentage of foster children adopted, reunified,
23 and released to other permanency outcomes; the percentage of children
24 directly placed with relatives under article ten of the family court
25 act; and the average length of stay in foster care.

26 S 13. This act shall take effect April 1, 2011:

27 (a) Notwithstanding any other provision of law, this act shall not
28 take effect unless or until the state title IV-E agency submits to the
29 United States Department of Health and Human Services, Administration
30 for Children, Youth and Families an amendment to the state title IV-E
31 state plan to establish a guardianship assistance program containing the
32 provisions of this act, and the United States Department of Health and
33 Human Services, Administration for Children, Youth and Families approves
34 said title IV-E state plan amendment establishing a guardianship assist-
35 ance program;

36 (b) provided that the office of children and family services shall
37 notify the legislative bill drafting commission upon the occurrence of
38 the submission set forth in this section in order that the commission
39 may maintain an accurate and timely effective data base of the official
40 text of the laws of the state of New York in furtherance of effectuating
41 the provisions of section 44 of the legislative law and section 70-b of
42 the public officers law;

43 (c) effective immediately, the addition, amendment or repeal of any
44 rule or regulation necessary for the implementation of the kinship guar-
45 dianship assistance program as authorized under this act on its effec-
46 tive date are authorized and directed to be made and completed on or
47 before such effective date.

48

PART G

49 Section 1. Subdivisions 1, 4 and 5 of section 447-a of the social
50 services law, as added by chapter 569 of the laws of 2008, are amended
51 to read as follows:

52 1. The term "sexually exploited child" means any person under the age
53 of eighteen who has been subject to sexual exploitation because he or
54 she:

1 (a) is the victim of the crime of sex trafficking as defined in
2 section 230.34 of the penal law;

3 (b) [is an abused child as defined in paragraph (iii) of subdivision
4 (e) of section ten hundred twelve of the family court act;

5 (c)] engages in any act as defined in section 230.00 [or 240.37] of
6 the penal law;

7 [(d)] (C) is a victim of the crime of compelling prostitution as
8 defined in section 230.33 of the penal law;

9 [(e)] (D) engages in acts or conduct described in article two hundred
10 sixty-three OR SECTION 240.37 of the penal law.

11 4. The term "safe house" means a residential facility operated by an
12 authorized agency as defined in subdivision ten of section three hundred
13 seventy-one of this article including a residential facility operating
14 as part of an approved runaway program as defined in subdivision four of
15 section five hundred thirty-two-a of the executive law or a not-for-pro-
16 fit agency with experience in providing services to sexually exploited
17 youth and approved in accordance with the regulations of the office of
18 children and family services that provides shelter for sexually
19 exploited children. IN ADDITION, A LONG-TERM SAFE HOUSE MAY BE OPERATED
20 BY A TRANSITIONAL INDEPENDENT LIVING SUPPORT PROGRAM AS DEFINED IN
21 SUBDIVISION SIX OF SECTION FIVE HUNDRED THIRTY-TWO-A OF THE EXECUTIVE
22 LAW. A safe house [created under this article] SERVING SEXUALLY
23 EXPLOITED CHILDREN AS DEFINED IN THIS TITLE shall provide or assist in
24 securing necessary services for such sexually exploited children either
25 through direct provision of services, or through written agreements with
26 other community and public agencies for the provision of services
27 including but not limited to housing, assessment, case management,
28 medical care, legal, mental health and substance and alcohol abuse
29 services. Where appropriate such safe house in accordance with a service
30 plan for such sexually exploited child may also provide counseling and
31 therapeutic services, educational services including life skills
32 services and planning services to successfully transition residents back
33 to the community. [The safe house shall be available as a final disposi-
34 tion pursuant to section seven hundred fifty-six of the family court act
35 to any sexually exploited child who is in need of long term housing.]
36 Nothing in the provisions of this [article] TITLE OR ARTICLE NINETEEN-H
37 OF THE EXECUTIVE LAW shall prevent a child who is the subject of a
38 proceeding which has not reached final disposition from residing at the
39 safe house for the duration of that proceeding nor shall it prevent any
40 sexually exploited child who is not the subject of a proceeding from
41 residing at the safe house. AN ADVOCATE EMPLOYED BY A SHORT-TERM SAFE
42 HOUSE OR OTHER APPROPRIATE STAFF OF A SHORT-TERM SAFE HOUSE SHALL, TO
43 THE MAXIMUM EXTENT POSSIBLE, PREFERABLY WITHIN TWENTY-FOUR HOURS BUT
44 WITHIN NO MORE THAN SEVENTY-TWO HOURS FOLLOWING A SEXUALLY EXPLOITED
45 CHILD'S ADMISSION INTO THE PROGRAM OTHER THAN PURSUANT TO A COURT ORDER,
46 NOTIFY SUCH CHILD'S PARENT, GUARDIAN OR CUSTODIAN OF HIS OR HER PHYSICAL
47 AND EMOTIONAL CONDITION AND THE CIRCUMSTANCES SURROUNDING THE CHILD'S
48 PRESENCE AT THE PROGRAM, UNLESS THERE ARE COMPELLING CIRCUMSTANCES WHY
49 THE PARENT, GUARDIAN OR CUSTODIAN SHOULD NOT BE SO NOTIFIED. WHERE SUCH
50 CIRCUMSTANCES EXIST, THE ADVOCATE OR OTHER APPROPRIATE STAFF MEMBER
51 SHALL EITHER FILE AN APPROPRIATE PETITION IN THE FAMILY COURT, REFER THE
52 YOUTH TO THE LOCAL SOCIAL SERVICES DISTRICT, OR IN INSTANCES WHERE ABUSE
53 OR NEGLECT IS SUSPECTED, REPORT SUCH CASE PURSUANT TO TITLE SIX OF THIS
54 ARTICLE.

55 5. The term "community-based program" means a program operated by a
56 not-for-profit organization that provides services such as street

1 outreach, voluntary drop-in services, peer counseling, individual coun-
2 seling, family-therapy and referrals for services such as educational
3 and vocational training and health care. Any SUCH community-based
4 program [funded under this article shall] MAY also work with the safe
5 house [created under this article] SERVING SEXUALLY EXPLOITED CHILDREN
6 AS DEFINED IN THIS TITLE to provide transitional services to SUCH chil-
7 dren returning to the community.

8 S 2. Subdivisions 1, 2, 3, 5 and 6 of section 447-b of the social
9 services law, as added by chapter 569 of the laws of 2008, are amended
10 to read as follows:

11 1. Notwithstanding any inconsistent provision of law, pursuant to
12 regulations of the office of children and family services, every local
13 social services district shall as a component of the district's multi-
14 year consolidated services child welfare services plan address the child
15 welfare services needs of sexually exploited children and to the extent
16 that funds are available SPECIFICALLY THEREFOR ensure that [preventative
17 services including] a short-term safe house or another short-term safe
18 placement such as an approved runaway and homeless youth program,
19 approved respite or crisis program providing crisis intervention or
20 respite services or community-based program to serve sexually exploited
21 children is available to children residing in such district. Nothing in
22 this section shall prohibit a local social services district from
23 utilizing existing respite or crisis intervention services already oper-
24 ated by such social services district or homeless youth programs or
25 services for victims of human trafficking pursuant to article ten-D of
26 this chapter so long as the staff members have received appropriate
27 training approved by the office of children and family services regard-
28 ing sexually exploited children and the existing programs and facilities
29 provide a safe, secure and appropriate environment for sexually
30 exploited children. Crisis intervention services, short-term safe house
31 care and community-based programming may, where appropriate, be provided
32 by the same not-for-profit agency. Local social services districts may
33 work cooperatively to provide such short-term safe house or other short-
34 term safe placement, services and programming and access to such place-
35 ment, services and programming may be provided on a regional basis,
36 provided, however, that every local social services district shall to
37 the extent that funds are available ensure that such placement, services
38 and programs shall be readily accessible to sexually exploited children
39 residing within the district.

40 2. All of the services created under this [article] TITLE may, to the
41 extent possible provided by law, be available to all sexually exploited
42 children whether they are accessed voluntarily, as a condition of an
43 adjournment in contemplation of dismissal issued in criminal court,
44 through the diversion services created under section seven hundred thir-
45 ty-five of the family court act, through a proceeding under article
46 three of the family court act, a proceeding under article ten of the
47 family court act or through a referral from a local social services
48 agency.

49 3. The capacity of the crisis intervention services and community-
50 based programs in subdivision one of this section shall be based on the
51 number of sexually exploited children in each district who are in need
52 of such services. A determination of such need shall be made [annually]
53 IN TWO THOUSAND TEN AND EVERY FIVE YEARS THEREAFTER in every social
54 services district by the local commissioner of social services and be
55 included in the integrated county plan. Such determination shall be made
56 in consultation with local law enforcement, runaway and homeless youth

1 program providers, local probation departments, local social services
2 commissioners, the runaway and homeless youth coordinator for the local
3 social services district, local law guardians, presentment agencies,
4 public defenders and district attorney's offices and child advocates and
5 services providers who work directly with sexually exploited youth.

6 5. [The] TO THE EXTENT FUNDS ARE SPECIFICALLY APPROPRIATED THEREFOR,
7 THE office of children and family services shall contract with an appro-
8 priate not-for-profit agency with experience working with sexually
9 exploited children to operate at least one LONG-TERM safe house in a
10 geographically appropriate area of the state which shall provide safe
11 and secure long term housing and specialized services for sexually
12 exploited children throughout the state. The appropriateness of the
13 geographic location shall be determined taking into account the areas of
14 the state with high numbers of sexually exploited children and the need
15 for sexually exploited children to find shelter and long term placement
16 in a region that cannot be readily accessed by the perpetrators of sexu-
17 al exploitation. The need for more than one LONG-TERM safe house shall
18 be determined by the office of children and family services based on the
19 numbers and geographical location of sexually exploited children within
20 the state. NOTHING HEREIN SHALL BE CONSTRUED TO PRECLUDE AN AGENCY FROM
21 APPLYING FOR AND ACCEPTING GRANTS, GIFTS AND BEQUESTS OF FUNDS FROM
22 PRIVATE INDIVIDUALS, FOUNDATIONS AND THE FEDERAL GOVERNMENT FOR THE
23 PURPOSE OF CREATING OR CARRYING OUT THE DUTIES OF A LONG-TERM SAFE
24 HOUSE.

25 6. The local social services commissioner may, to the extent that
26 funds are available, in conjunction with THE DIVISION OF CRIMINAL
27 JUSTICE SERVICES AND local law enforcement officials, contract with an
28 appropriate not-for-profit agency with experience working with sexually
29 exploited children to train law enforcement officials who are likely to
30 encounter sexually exploited children in the course of their law
31 enforcement duties on the provisions of this section and how to identify
32 and obtain appropriate services for sexually exploited children. Local
33 social services districts may work cooperatively to provide such train-
34 ing and such training may be provided on a regional basis. The [office
35 of children and family services] DIVISION OF CRIMINAL JUSTICE SERVICES
36 shall assist local social services districts in obtaining any available
37 funds for the purposes of conducting law enforcement training from the
38 federal justice department [and/or] AND the office of juvenile justice
39 and delinquency prevention.

40 S 3. Paragraph (c) of subdivision 4 of section 305.2 of the family
41 court act, as added by chapter 920 of the laws of 1982, is amended and
42 two new paragraphs (d) and (e) are added to read as follows:

43 (c) take the child to a place certified by the [state division for
44 youth] OFFICE OF CHILDREN AND FAMILY SERVICES as a juvenile detention
45 facility for the reception of children[.]; OR

46 (D) TAKE THE CHILD WHO SUCH OFFICER HAS DECIDED TO TAKE INTO CUSTODY
47 IN ACCORDANCE WITH THIS SECTION OR SECTION 305.1 OF THIS PART FOR
48 VIOLATING THE PROVISIONS OF SECTION 230.00 OF THE PENAL LAW, TO AN
49 AVAILABLE SHORT-TERM SAFE HOUSE AS DEFINED IN SUBDIVISION TWO OF SECTION
50 FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW; OR

51 (E) TAKE THE CHILD, IF IT APPEARS THAT SUCH CHILD IS A SEXUALLY
52 EXPLOITED CHILD AS DEFINED IN PARAGRAPH (A), (C) OR (D) OF SUBDIVISION
53 ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, TO
54 AN AVAILABLE SHORT-TERM SAFE HOUSE, BUT ONLY IF THE CHILD CONSENTS TO BE
55 TAKEN.

1 S 4. Subdivision 3 of section 311.4 of the family court act, as added
2 by chapter 569 of the laws of 2008, is amended to read as follows:

3 3. In any proceeding under this article based upon an arrest for an
4 act of prostitution, there is a presumption that the respondent meets
5 the criteria [for a certification] as a victim of a severe form of traf-
6 ficking as defined in section 7105 of title 22 of the United States Code
7 (Trafficking Victims Protection Act of 2000). Upon the motion of the
8 respondent, without the consent of the presentment agency, a petition
9 alleging that the respondent is in need of supervision shall be substi-
10 tuted for the delinquency petition. If, however, the respondent [is not
11 a victim of a severe form of trafficking as defined by the federal Traf-
12 ficking Victims Protection Act of 2000, or] has been previously [found]
13 ADJUDICATED AS A JUVENILE DELINQUENT under this article [to have commit-
14 ted an offense] FOR AN ACT WHICH WOULD BE A CRIME pursuant to article
15 two hundred thirty of the penal law, [or has been previously adjudicated
16 under section seven hundred fifty-two of this chapter and placed with a
17 commissioner of social services pursuant to subdivisions (a) and (b) of
18 section seven hundred fifty-six of this chapter] IF THE RESPONDENT WAS
19 AN ADULT, or expresses a current unwillingness to cooperate with
20 specialized services for sexually exploited youth, continuing with the
21 delinquency proceeding shall be within the court's discretion. The
22 necessary findings of fact to support the continuation of the delinquen-
23 cy proceeding shall be reduced to writing and made part of the court
24 record. If, subsequent to issuance of a substitution order under this
25 subdivision AND PRIOR TO THE CONCLUSION OF THE FACT FINDING HEARING ON
26 THE PETITION ALLEGING THAT THE RESPONDENT IS A PERSON IN NEED OF SUPER-
27 VISION, the respondent is not in substantial compliance with a lawful
28 order of the court, the court may, in its discretion, substitute [a] THE
29 ORIGINAL petition alleging that the respondent is a juvenile delinquent
30 for the petition alleging that the respondent is in need of supervision.

31 S 5. Subdivision 3 of section 320.5 of the family court act is amended
32 by adding a new paragraph (d) to read as follows:

33 (D) IF THE RESPONDENT MAY BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN
34 SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL
35 SERVICES LAW, THE COURT MAY DIRECT THE RESPONDENT TO AN AVAILABLE
36 SHORT-TERM SAFE HOUSE AS A CONDITION OF RELEASE.

37 S 6. Section 353.3 of the family court act, as added by chapter 920 of
38 the laws of 1982, paragraphs (a), (b) and (c) of subdivision 3 as
39 amended by chapter 465 of the laws of 1992, subdivision 4 and the open-
40 ing paragraph of subdivision 7 as amended by chapter 41 of the laws of
41 2010, subdivision 5 as amended and subdivision 10 as added by chapter
42 419 of the laws of 1987 and subdivision 7 as amended by chapter 181 of
43 the laws of 2000, is amended to read as follows:

44 S 353.3 Placement. 1. In accordance with section 352.2 OF THIS PART,
45 the court may place the respondent in his OR HER own home or in the
46 custody of a suitable relative or other suitable private person or the
47 commissioner of THE LOCAL social services DISTRICT or [the division for
48 youth] THE OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to article
49 nineteen-G of the executive law, subject to the orders of the court.

50 2. Where the respondent is placed with the commissioner of THE LOCAL
51 social services DISTRICT, the court may direct the commissioner to place
52 him OR HER with an authorized agency or class of authorized agencies,
53 INCLUDING, IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY
54 EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED
55 FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE LONG-TERM SAFE
56 HOUSE. Unless the dispositional order provides otherwise, the court so

1 directing shall include one of the following alternatives to apply in
2 the event that the commissioner is unable to so place the respondent:

3 (a) the commissioner shall apply to the court for an order to stay,
4 modify, set aside, or vacate such directive pursuant to the provisions
5 of section 355.1 OF THIS PART; or

6 (b) the commissioner shall return the respondent to the family court
7 for a new dispositional hearing and order.

8 3. Where the respondent is placed with the [division for youth] OFFICE
9 OF CHILDREN AND FAMILY SERVICES, the court shall, unless it directs the
10 [division] OFFICE to place him OR HER with an authorized agency or class
11 of authorized agencies, INCLUDING IF THE COURT FINDS THAT THE RESPONDENT
12 IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION
13 FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE
14 LONG-TERM SAFE HOUSE pursuant to subdivision four OF THIS SECTION,
15 authorize the [division] OFFICE to do one of the following:

16 (a) place the respondent in a secure facility without a further hear-
17 ing at any time or from time to time during the first sixty days of
18 residency in [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES
19 facilities. Notwithstanding the discretion of the [division] OFFICE to
20 place the respondent in a secure facility at any time during the first
21 sixty days of residency in a [division for youth] OFFICE OF CHILDREN AND
22 FAMILY SERVICES facility, the respondent may be placed in a non-secure
23 facility. In the event that the [division] OFFICE desires to transfer a
24 respondent to a secure facility at any time after the first sixty days
25 of residency in [division] OFFICE facilities, a hearing shall be held
26 pursuant to subdivision three of section five hundred four-a of the
27 executive law; or

28 (b) place the respondent in a limited secure facility. The respondent
29 may be transferred by the [division] OFFICE to a secure facility after a
30 hearing is held pursuant to section five hundred four-a of the executive
31 law; provided, however, that during the first twenty days of residency
32 in [division] OFFICE facilities, the respondent shall not be transferred
33 to a secure facility unless the respondent has committed an act or acts
34 which are exceptionally dangerous to the respondent or to others; or

35 (c) place the respondent in a non-secure facility. No respondent
36 placed pursuant to this paragraph may be transferred by the [division
37 for youth] OFFICE OF CHILDREN AND FAMILY SERVICES to a secure facility.

38 4. Where the respondent is placed with the [division for youth] OFFICE
39 OF CHILDREN AND FAMILY SERVICES, the court may direct the [division]
40 OFFICE to place the respondent with an authorized agency or class of
41 authorized agencies, INCLUDING, IF THE COURT FINDS THAT THE RESPONDENT
42 IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION
43 FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE
44 LONG-TERM SAFE HOUSE, and in the event the [division] OFFICE is unable
45 to so place the respondent or, discontinues the placement with the
46 authorized agency, the respondent shall be deemed to have been placed
47 with the [division] OFFICE pursuant to paragraph (b) or (c) of subdivi-
48 sion three of this section. In such cases, the [division] OFFICE shall
49 notify the court, presentment agency, respondent's attorney and parent
50 or other person responsible for the respondent's care, of the reason for
51 discontinuing the placement with the authorized agency and the level and
52 location of the youth's placement.

53 5. If the respondent has committed a felony the initial period of
54 placement shall not exceed eighteen months. If the respondent has
55 committed a misdemeanor such initial period of placement shall not
56 exceed twelve months. If the respondent has been in detention pending

1 disposition, the initial period of placement ordered under this section
2 shall be credited with and diminished by the amount of time spent by the
3 respondent in detention prior to the commencement of the placement
4 unless the court finds that all or part of such credit would not serve
5 the needs and best interests of the respondent or the need for
6 protection of the community.

7 6. The court may at any time conduct a hearing in accordance with
8 section 355.1 OF THIS PART concerning the need for continuing a place-
9 ment.

10 7. The place in which or the person with whom the respondent has been
11 placed under this section shall submit a report to the court, respond-
12 ent's attorney of record, and presentment agency at the conclusion of
13 the placement period, except as provided in paragraphs (a) and (b) of
14 this subdivision. Such report shall include recommendations and such
15 supporting data as is appropriate. The court may extend a placement
16 pursuant to section 355.3 of this [article] PART.

17 (a) Where the respondent is placed pursuant to subdivision two or
18 three of this section and where the agency is not seeking an extension
19 of the placement pursuant to section 355.3 of this [article] PART, such
20 report shall be submitted not later than thirty days prior to the
21 conclusion of the placement.

22 (b) Where the respondent is placed pursuant to subdivision two or
23 three of this section and where the agency is seeking an extension of
24 the placement pursuant to section 355.3 of this [article] PART and a
25 permanency hearing pursuant to section 355.5 of this [article] PART,
26 such report shall be submitted not later than sixty days prior to the
27 date on which the permanency hearing must be held and shall be annexed
28 to the petition for a permanency hearing and extension of placement.

29 (c) Where the respondent is placed pursuant to subdivision two or
30 three of this section, such report shall contain a plan for the release,
31 or conditional release (pursuant to section five hundred ten-a of the
32 executive law), of the respondent to the custody of his or her parent or
33 other person legally responsible, to independent living or to another
34 permanency alternative as provided in paragraph (d) of subdivision seven
35 of section 355.5 of this [article] PART. If the respondent is subject
36 to article sixty-five of the education law or elects to participate in
37 an educational program leading to a high school diploma, such plan shall
38 include, but not be limited to, the steps that the agency with which the
39 respondent is placed has taken and will be taking to facilitate the
40 enrollment of the respondent in a school or educational program leading
41 to a high school diploma following release, or, if such release occurs
42 during the summer recess, upon the commencement of the next school term.
43 If the respondent is not subject to article sixty-five of the education
44 law and does not elect to participate in an educational program leading
45 to a high school diploma, such plan shall include, but not be limited
46 to, the steps that the agency with which the respondent is placed has
47 taken and will be taking to assist the respondent to become gainfully
48 employed or enrolled in a vocational program following release.

49 8. In its discretion, the court may recommend restitution or require
50 services for the public good pursuant to section 353.6 OF THIS PART in
51 conjunction with an order of placement.

52 9. If the court places a respondent with the [division for youth]
53 OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to this section after
54 finding that such child committed a felony, the court may, in its
55 discretion, further order that such respondent shall be confined in a

1 residential facility for a minimum period set by the order, not to
2 exceed six months.

3 10. A placement pursuant to this section with the commissioner of THE
4 LOCAL social services DISTRICT shall not be directed in any detention
5 facility, but the court may direct detention pending transfer to a
6 placement authorized and ordered under this section for no more than
7 thirty days after the order of placement is made or in a city of one
8 million or more, for no more than fifteen days after such order of
9 placement is made. Such direction shall be subject to extension pursuant
10 to subdivision three of section three hundred ninety-eight of the social
11 services law.

12 S 7. Subdivision (a) of section 712 of the family court act, as
13 amended by chapter 569 of the laws of 2008, is amended to read as
14 follows:

15 (a) "Person in need of supervision". A person less than eighteen years
16 of age who does not attend school in accordance with the provisions of
17 part one of article sixty-five of the education law or who is incorrigi-
18 ble, ungovernable or habitually disobedient and beyond the lawful
19 control of a parent or other person legally responsible for such child's
20 care, or other lawful authority, or who violates the provisions of
21 section 221.05[,]OR 230.00[, or 240.37] of the penal law, OR WHO APPEARS
22 TO BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN PARAGRAPH (A), (C) OR (D)
23 OF SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL
24 SERVICES LAW, BUT ONLY IF THE CHILD CONSENTS TO THE FILING OF A PETITION
25 UNDER THIS ARTICLE.

26 S 8. Subdivision 5 of section 720 of the family court act is amended
27 by adding a new paragraph (c) to read as follows:

28 (C) IF THE RESPONDENT MAY BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN
29 SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL
30 SERVICES LAW, THE COURT MAY DIRECT THE RESPONDENT TO AN AVAILABLE
31 SHORT-TERM SAFE HOUSE AS DEFINED IN SUBDIVISION TWO OF SECTION FOUR
32 HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW AS AN ALTERNATIVE TO
33 DETENTION.

34 S 9. Subdivisions (a), (b), (c) and (d) of section 732 of the family
35 court act, subdivision (a) as amended by chapter 569 of the laws of
36 2008, subdivisions (b) and (c) as amended and subdivision (d) as added
37 by section 6 of part E of chapter 57 of the laws of 2005, are amended to
38 read as follows:

39 (a) (I) the respondent is an habitual truant or is incorrigible, ungo-
40 vernable, or habitually disobedient and beyond the lawful control of his
41 or her parents, guardian or lawful custodian, or has been the victim of
42 sexual exploitation as defined in subdivision one of section four
43 hundred forty-seven-a of the social services law, and specifying the
44 acts on which the allegations are based and the time and place they
45 allegedly occurred. Where habitual truancy is alleged or the petitioner
46 is a school district or local educational agency, the petition shall
47 also include the steps taken by the responsible school district or local
48 educational agency to improve the school attendance and/or conduct of
49 the respondent;

50 [(b)] (II) the respondent was under eighteen years of age at the time
51 of the specified acts;

52 [(c)] (III) the respondent requires supervision or treatment; and

53 [(d)] (IV) the petitioner has complied with the provisions of section
54 seven hundred thirty-five of this article[.]; OR

55 (B) THE RESPONDENT APPEARS TO BE A SEXUALLY EXPLOITED CHILD AS DEFINED
56 IN PARAGRAPH (A), (C) OR (D) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED

1 FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW BUT ONLY IF THE CHILD CONSENTS
2 TO THE FILING OF A PETITION UNDER THIS ARTICLE.

3 S 10. Subdivision (a) of section 739 of the family court act, as
4 amended by section 8 of part E of chapter 57 of the laws of 2005, is
5 amended to read as follows:

6 (a) After the filing of a petition under section seven hundred thir-
7 ty-two of this [article] PART, the court in its discretion may release
8 the respondent or direct his or her detention. IF THE RESPONDENT MAY BE
9 A SEXUALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR
10 HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, THE COURT MAY DIRECT
11 THE RESPONDENT TO AN AVAILABLE SHORT-TERM SAFE HOUSE AS AN ALTERNATIVE
12 TO DETENTION. However, the court shall not direct detention unless it
13 finds and states the facts and reasons for so finding that unless the
14 respondent is detained there is a substantial probability that the
15 respondent will not appear in court on the return date and all available
16 alternatives to detention have been exhausted.

17 S 11. Paragraph (ii) of subdivision (a) of section 756 of the family
18 court act, as amended by chapter 920 of the laws of 1982, is amended to
19 read as follows:

20 (ii) Where the child is placed with the commissioner of THE LOCAL
21 social services DISTRICT, the court may direct the commissioner to place
22 the child with an authorized agency or class of authorized agencies,
23 INCLUDING, IF THE COURT FINDS THAT THE RESPONDENT IS A SEXUALLY
24 EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED
25 FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, AN AVAILABLE LONG-TERM SAFE
26 HOUSE. Unless the dispositional order provides otherwise, the court so
27 directing shall include one of the following alternatives to apply in
28 the event that the commissioner is unable to so place the child:

29 S 12. Paragraph (i) of subdivision (a) of section 1055 of the family
30 court act, as amended by chapter 519 of the laws of 2008, is amended to
31 read as follows:

32 (i) For purposes of section one thousand fifty-two of this part the
33 court may place the child in the custody of a relative or other suitable
34 person pursuant to this article, or of the local commissioner of social
35 services or of such other officer, board or department as may be author-
36 ized to receive children as public charges, or a duly authorized associ-
37 ation, agency, society or in an institution suitable for the placement
38 of a child. THE COURT MAY ALSO PLACE A CHILD WHO IT FINDS TO BE A SEXU-
39 ALLY EXPLOITED CHILD AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR
40 HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW WITH THE LOCAL COMMIS-
41 SIONER OF SOCIAL SERVICES FOR PLACEMENT IN AN AVAILABLE LONG-TERM SAFE
42 HOUSE. The court may also place the child in the custody of the local
43 commissioner of social services and may direct such commissioner to have
44 the child reside with a relative or other suitable person who has indi-
45 cated a desire to become a foster parent for the child and further
46 direct such commissioner, pursuant to regulations of the office of chil-
47 dren and family services, to commence an investigation of the home of
48 such relative or other suitable person within twenty-four hours and
49 thereafter expedite approval or certification of such relative or other
50 suitable person, if qualified, as a foster parent. If such home is found
51 to be unqualified for approval or certification, the local commissioner
52 shall report such fact to the court forthwith so that the court may make
53 a placement determination that is in the best interests of the child.

54 S 13. Section 532-a of the executive law is amended by adding a new
55 subdivision 7 to read as follows:

1 7. "SAFE HOUSE" SHALL MEAN A RESIDENTIAL PROGRAM FOR SEXUALLY
2 EXPLOITED CHILDREN AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED
3 FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW. AN APPROVED RUNAWAY PROGRAM
4 MAY OPERATE A SHORT-TERM SAFE HOUSE, AS DEFINED IN SUBDIVISION TWO OF
5 SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, FOR SEXU-
6 ALLY EXPLOITED CHILDREN. A TRANSITIONAL INDEPENDENT LIVING SUPPORT
7 PROGRAM MAY OPERATE A LONG-TERM SAFE HOUSE FOR SEXUALLY EXPLOITED CHIL-
8 DREN.

9 S 14. This act shall take effect immediately and shall be deemed to
10 have been in full force and effect on and after April 1, 2010.

11 PART H

12 Section 1. Notwithstanding any provisions of law to the contrary, an
13 organization that is certified by the State Employment Relations Board
14 or any successor agency to be the designated unit representative of a
15 representative unit comprised of licensed group family day care home,
16 registered family day care home, or legally-exempt child care providers,
17 or some combination thereof, may require the providers in such a repre-
18 sentative unit that choose not to be members of the organization to pay
19 to the organization a payment for services rendered. The amount of the
20 payment shall not exceed the amount of dues uniformly required of the
21 providers in such representative unit who choose to be members of the
22 organization.

23 The provisions of this section shall only be applicable in the case of
24 a representative unit which has established and maintained a procedure
25 providing for the refund to any provider demanding the return of any
26 part of such a payment which represents the provider's pro rata share of
27 expenditures by the representation unit in aid of activities or causes
28 of a political or ideological nature only incidentally related to being
29 a licensed group family day care provider, registered family day care
30 provider or legally-exempt child care provider. Nothing in this section
31 shall be deemed to require a provider to become a member of such repre-
32 sentation unit.

33 For each non-member provider in a representative unit who is paid
34 directly by a social services district on behalf of one or more families
35 receiving subsidized child care services in accordance with the social
36 services law, the social services district shall deduct the amount of
37 the payment required under this section from child care subsidy funds
38 otherwise due to be paid to the provider and transmit such payment to
39 the applicable designated unit representative. The designated unit
40 representative will assume all the design, development and on-going
41 maintenance costs for any changes to the applicable payment systems of
42 the state or the city of New York, as applicable, and any other associ-
43 ated administrative costs necessary for the payments to be deducted and
44 transferred to the designated unit representative from payments due to
45 the applicable providers. Payments will only be deducted for activities
46 occurring after the completion of the necessary technical changes and
47 after the provision to the state by the designated unit representative
48 of information about those providers who are responsible for making
49 payments required under this section. Such information shall be provided
50 to the state, in a format determined by the state as is necessary to
51 electronically input the information into the applicable payment systems
52 to enable the systems to deduct and transfer the payments to the desig-
53 nated unit representative. The designated unit representative shall be
54 responsible for responding to all complaints and concerns regarding the

1 deduction of payments required under this section; provided, however,
2 that nothing in this section shall preclude any public entity from
3 appearing and making any arguments in any legal proceeding, or otherwise
4 representing their interests, concerning payments required under this
5 section. The designated unit representative shall indemnify and hold
6 the state and its social services districts harmless against any and all
7 claims, damages, suits, and other forms of liability which may arise out
8 of any action taken or not taken by the state or a social services
9 district for the purposes of complying with the provisions of this
10 section.

11 Should any part of this section or any provision contained herein be
12 determined to be contrary to law; be determined by the federal govern-
13 ment to jeopardize the receipt by the state of any federal child care
14 funds; and/or, in cases where it may be necessary, not be approved by
15 the federal government, such part or provision shall be deemed invalid;
16 provided, however, that invalidation of such part or provision shall not
17 invalidate the remaining portions of this section and the remaining
18 portions shall remain in full force and effect.

19 S 2. This act shall take effect immediately and shall expire September
20 30, 2013 when upon such date the provisions of this act shall be deemed
21 repealed.

22

PART I

23 Section 1. Paragraphs (a), (b), (c) and (d) of subdivision 1 of
24 section 131-o of the social services law, paragraphs (a), (b) and (d) as
25 amended and paragraph (c) as added by section 1 of part U of chapter 57
26 of the laws of 2009, are amended to read as follows:

27 (a) in the case of each individual receiving family care, an amount
28 equal to at least \$130.00 for each month beginning on or after January
29 first, two thousand [nine] TEN.

30 (b) in the case of each individual receiving residential care, an
31 amount equal to at least \$150.00 for each month beginning on or after
32 January first, two thousand [nine] TEN.

33 (c) in the case of each individual receiving enhanced residential
34 care, an amount equal to at least \$178.00 for each month beginning on or
35 after January first, two thousand [nine] TEN.

36 (d) for the period commencing January first, two thousand [ten]
37 ELEVEN, the monthly personal needs allowance shall be an amount equal to
38 the sum of the amounts set forth in subparagraphs one and two of this
39 paragraph:

40 (1) the amounts specified in paragraphs (a), (b) and (c) of this
41 subdivision; and

42 (2) the amount in subparagraph one of this paragraph, multiplied by
43 the percentage of any federal supplemental security income cost of
44 living adjustment which becomes effective on or after January first, two
45 thousand [ten] ELEVEN, but prior to June thirtieth, two thousand [ten]
46 ELEVEN, rounded to the nearest whole dollar.

47 S 2. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 2 of
48 section 209 of the social services law, paragraphs (a), (b), (c), (d)
49 and (e) as amended by section 3 and paragraph (f) as added by section 4
50 of part U of chapter 57 of the laws of 2009, are amended to read as
51 follows:

52 (a) On and after January first, two thousand [nine] TEN, for an eligi-
53 ble individual living alone, \$761.00; and for an eligible couple living
54 alone, \$1115.00.

1 (b) On and after January first, two thousand [nine] TEN, for an eligi-
 2 ble individual living with others with or without in-kind income,
 3 \$697.00; and for an eligible couple living with others with or without
 4 in-kind income, \$1057.00.

5 (c) On and after January first, two thousand [nine] TEN, (i) for an
 6 eligible individual receiving family care, \$940.48 if he or she is
 7 receiving such care in the city of New York or the county of Nassau,
 8 Suffolk, Westchester or Rockland; and (ii) for an eligible couple
 9 receiving family care in the city of New York or the county of Nassau,
 10 Suffolk, Westchester or Rockland, two times the amount set forth in
 11 subparagraph (i) of this paragraph; or (iii) for an eligible individual
 12 receiving such care in any other county in the state, \$902.48; and (iv)
 13 for an eligible couple receiving such care in any other county in the
 14 state, two times the amount set forth in subparagraph (iii) of this
 15 paragraph.

16 (d) On and after January first, two thousand [nine] TEN, (i) for an
 17 eligible individual receiving residential care, \$1109.00 if he or she is
 18 receiving such care in the city of New York or the county of Nassau,
 19 Suffolk, Westchester or Rockland; and (ii) for an eligible couple
 20 receiving residential care in the city of New York or the county of
 21 Nassau, Suffolk, Westchester or Rockland, two times the amount set forth
 22 in subparagraph (i) of this paragraph; or (iii) for an eligible individ-
 23 ual receiving such care in any other county in the state, \$1079.00; and
 24 (iv) for an eligible couple receiving such care in any other county in
 25 the state, two times the amount set forth in subparagraph (iii) of this
 26 paragraph.

27 (e) (i) On and after January first, two thousand [nine] TEN, for an
 28 eligible individual receiving enhanced residential care, \$1368.00; and
 29 (ii) for an eligible couple receiving enhanced residential care, two
 30 times the amount set forth in subparagraph (i) of this paragraph.

31 (f) The amounts set forth in paragraphs (a) through (e) of this subdi-
 32 vision shall be increased to reflect any increases in federal supple-
 33 mental security income benefits for individuals or couples which become
 34 effective on or after January first, two thousand [ten] ELEVEN but prior
 35 to June thirtieth, two thousand [ten] ELEVEN.

36 S 3. This act shall take effect December 31, 2010.

37 PART J

38 Section 1. Title 7 of article 25 of the public health law is REPEALED.

39 S 2. The social services law is amended by adding a new article 8-A to
 40 read as follows:

41 ARTICLE 8-A
 42 NUTRITION OUTREACH AND PUBLIC
 43 EDUCATION PROGRAM

44 SECTION 465. NUTRITION OUTREACH AND PUBLIC EDUCATION PROGRAM; ESTAB-
 45 LISHMENT.

46 465-A. DEFINITIONS.

47 465-B. RESPONSIBILITIES OF THE COMMISSIONER.

48 465-C. GRANTS TO COMMUNITY ORGANIZATIONS.

49 465-D. CRITERIA FOR HIGH RISK AREAS.

50 S 465. NUTRITION OUTREACH AND PUBLIC EDUCATION PROGRAM; ESTABLISHMENT.
 51 THE NUTRITION OUTREACH AND PUBLIC EDUCATION PROGRAM IS ESTABLISHED WITH-
 52 IN THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE. SUCH PROGRAM IS
 53 ESTABLISHED TO ENSURE MAXIMUM PARTICIPATION BY ELIGIBLE PERSONS IN

1 FEDERAL AND STATE FOOD ASSISTANCE PROGRAMS. THE PROGRAM SHALL BE STRUC-
2 TURED SO AS TO INCREASE PARTICIPATION STATEWIDE BUT WITH PARTICULAR
3 ATTENTION TO HIGH RISK AREAS WITH A FOCUS ON CERTAIN AT RISK POPU-
4 LATIONS.

5 S 465-A. DEFINITIONS. AS USED IN THIS ARTICLE:

6 1. "HIGH RISK AREAS" MEANS ANY COUNTY OR URBAN AREA WHERE A SIGNIF-
7 ICANT PERCENTAGE OR NUMBER OF THOSE POTENTIALLY ELIGIBLE FOR FOOD
8 ASSISTANCE PROGRAMS ARE NOT PARTICIPATING IN SUCH PROGRAMS.

9 2. "FOOD ASSISTANCE PROGRAMS" MEANS PROGRAMS INCLUDING BUT NOT LIMITED
10 TO FOOD STAMP PROGRAMS, SCHOOL BREAKFAST AND LUNCH PROGRAMS, CHILD CARE
11 FOOD PROGRAMS, SUMMER FOOD SERVICE PROGRAMS, SPECIAL SUPPLEMENTAL
12 PROGRAMS FOR WOMEN, INFANTS AND CHILDREN, CONGREGATE MEAL PROGRAMS AND
13 HOME DELIVERED MEAL PROGRAMS.

14 3. "AT RISK POPULATIONS" MEANS POPULATIONS INCLUDING BUT NOT LIMITED
15 TO FAMILIES WITH CHILDREN RECEIVING FAMILY ASSISTANCE, HOUSEHOLDS
16 RECEIVING FEDERAL SUPPLEMENTAL SECURITY INCOME PAYMENTS, HOUSEHOLDS WITH
17 INCOMES AT OR BELOW ONE HUNDRED EIGHTY-FIVE PERCENT OF THE POVERTY
18 LEVEL, RECIPIENTS OF EMERGENCY FOOD, ELDERLY OR DISABLED PERSONS, HOME-
19 LESS PERSONS, UNEMPLOYED PERSONS, AND FAMILIES AND PERSONS RESIDING IN
20 RURAL HOUSEHOLDS WHO ARE AT RISK OF NUTRITIONAL DEFICIENCIES.

21 S 465-B. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL
22 DIRECTLY OR THROUGH CONTRACT ADMINISTER A PROGRAM OF NUTRITION OUTREACH
23 THAT SHALL INCLUDE BUT NOT BE LIMITED TO:

24 1. STATEWIDE COORDINATION;

25 2. PROVISION OF INFORMATION AS TO THE AVAILABILITY OF, ELIGIBILITY
26 CRITERIA FOR, AND APPLICATION PROCEDURE FOR FOOD ASSISTANCE PROGRAMS;

27 3. COORDINATION OF EFFORTS AMONG STATE AGENCIES INCLUDING, BUT NOT
28 LIMITED TO, THE DEPARTMENT OF HEALTH, THE OFFICE FOR THE AGING, AND THE
29 EDUCATION DEPARTMENT AND COMMUNITY AGENCIES INVOLVED IN FOOD ASSISTANCE
30 PROGRAMS;

31 4. COMPILATION OF STATISTICAL DATA FROM STATE AND LOCAL AGENCIES AND
32 DISSEMINATION TO COMMUNITY ORGANIZATIONS; AND

33 5. NUTRITION EDUCATION.

34 S 465-C. GRANTS TO COMMUNITY ORGANIZATIONS. THE COMMISSIONER SHALL
35 MAKE GRANTS WITHIN THE AMOUNT APPROPRIATED THEREFOR TO COMMUNITY-BASED
36 ORGANIZATIONS OR CONSORTIA OF COMMUNITY-BASED ORGANIZATIONS IN HIGH RISK
37 AREAS FOR OUTREACH ACTIVITIES. SUCH OUTREACH ACTIVITIES SHALL INCLUDE
38 BUT NOT BE LIMITED TO:

39 1. IDENTIFICATION OF BARRIERS TO PARTICIPATION IN FOOD ASSISTANCE
40 PROGRAMS INCLUDING THE UNAVAILABILITY OF SUCH PROGRAMS;

41 2. INFORMATION AS TO PROGRAM AVAILABILITY, INDIVIDUAL OR HOUSEHOLD
42 ELIGIBILITY, AND APPLICATION PROCEDURE;

43 3. IDENTIFICATION OF AT RISK POPULATIONS AND INDIVIDUALS WITHIN THE AT
44 RISK POPULATIONS WHO ARE NOT PARTICIPATING;

45 4. ASSISTANCE WITH ELIGIBILITY REQUIREMENTS INCLUDING VERIFICATION AND
46 ENROLLMENT;

47 5. DISSEMINATION OF INFORMATION TO AND CONDUCTING TRAINING SESSIONS
48 FOR LOCAL GROUPS; AND

49 6. NUTRITION EDUCATION TO AT RISK POPULATIONS.

50 S 465-D. CRITERIA FOR HIGH RISK AREAS. IN SELECTING THOSE AREAS WHICH
51 WOULD BE DETERMINED TO BE HIGH RISK AND THEREFORE ELIGIBLE FOR A GRANT,
52 THE COMMISSIONER MAY CONSIDER FACTORS INCLUDING, BUT NOT LIMITED TO:

53 1. FIFTY PERCENT OR MORE OF THOSE POTENTIALLY ELIGIBLE ARE NOT PARTIC-
54 IPATING IN THE FOOD STAMP PROGRAM OR WHERE A SIGNIFICANT NUMBER OF THE
55 POPULATION POTENTIALLY ELIGIBLE, PARTICULARLY THE WORKING POOR AND THE
56 ELDERLY, ARE NOT PARTICIPATING;

1 2. TWENTY-FIVE PERCENT OR MORE OF CHILDREN ARE ELIGIBLE FOR FREE OR
2 REDUCED PRICE MEALS WITHIN THE SCHOOL LUNCH PROGRAM;
3 3. INFANT MORTALITY OR MORBIDITY RATES;
4 4. ECONOMIC INDICATORS INCLUDING, BUT NOT LIMITED TO, THE UNEMPLOYMENT
5 RATE, PREVAILING WAGES, AND RECENT LOSS OF JOB BASE;
6 5. HIGH CONCENTRATION OF AT RISK POPULATIONS; AND
7 6. UNAVAILABILITY OF FOOD ASSISTANCE PROGRAMS IN THE AREA BECAUSE OF
8 LACK OF PROVIDER PARTICIPATION OR KNOWLEDGE ABOUT THE EXISTENCE OF SUCH
9 PROGRAMS.

10 S 3. This act shall take effect immediately.

11 PART K

12 Section 1. The social services law is amended by adding a new section
13 36-c to read as follows:

14 S 36-C. SAVINGS PLAN DEMONSTRATION PROJECT. 1. NOTWITHSTANDING ANY
15 OTHER PROVISION OF LAW TO THE CONTRARY, IN ANY SOCIAL SERVICES DISTRICT
16 WITH A CITY HAVING A POPULATION OF ONE MILLION OR MORE, THE SOCIAL
17 SERVICES DISTRICT SHALL CONDUCT A DEMONSTRATION PROJECT AS SET FORTH IN
18 THIS SECTION, AND SHALL EVALUATE AND REPORT ON SUCH PROJECT, PURSUANT TO
19 A PLAN APPROVED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE AND
20 THE DIVISION OF BUDGET PRIOR TO THE IMPLEMENTATION OF THE PROJECT.

21 2. SUCH SOCIAL SERVICES DISTRICT, IN LIEU OF APPLYING THAT PORTION OF
22 A TEMPORARY HOUSING ASSISTANCE RECIPIENT'S EARNED INCOME THAT, BUT FOR
23 THE OTHER PROVISIONS OF THIS CHAPTER, WOULD BE APPLIED TO REDUCE THE
24 NEED FOR THE SHELTER COMPONENT OF TEMPORARY HOUSING ASSISTANCE PROVIDED
25 IN A TEMPORARY EMERGENCY SHELTER, SHALL DIRECT SUCH A RECIPIENT TO
26 PARTICIPATE IN A SAVINGS PLAN WITH SUCH FUNDS AND, AS LONG AS SUCH FUNDS
27 ARE NOT WITHDRAWN, THEY SHALL NOT BE APPLIED TO REDUCE THE NEED FOR THE
28 SHELTER COMPONENT OF THE TEMPORARY HOUSING ASSISTANCE GRANTED FOR THE
29 DURATION OF HIS OR HER RESIDENCE IN TEMPORARY EMERGENCY SHELTER;
30 PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY
31 TO A PERSON RECEIVING TEMPORARY HOUSING ASSISTANCE IN A SHELTER OR OTHER
32 FACILITY FUNDED AND OVERSEEN BY THE NEW YORK CITY DEPARTMENT OF HOMELESS
33 SERVICES OR THE NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND
34 DEVELOPMENT. FAILURE BY A RECIPIENT OF TEMPORARY HOUSING ASSISTANCE TO
35 CONTRIBUTE TO SUCH A SAVINGS PLAN SHALL NOT IN ITSELF RESULT IN THE
36 DISCONTINUANCE OF TEMPORARY HOUSING ASSISTANCE, UNLESS THE RECIPIENT
37 SEPARATELY FAILS TO COMPLY WITH CONDITIONS OF ELIGIBILITY THAT COULD
38 RESULT IN THE DISCONTINUANCE OF TEMPORARY HOUSING ASSISTANCE.

39 3. IN SUCH SOCIAL SERVICES DISTRICT, ANY SUCH FUNDS COLLECTED FROM THE
40 EARNED INCOME OF A RECIPIENT OF TEMPORARY HOUSING ASSISTANCE WHILE HE OR
41 SHE IS RESIDING IN A TEMPORARY EMERGENCY SHELTER SHALL BE DEPOSITED IN A
42 SAVINGS PLAN APPROVED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSIST-
43 ANCE AND THE DIVISION OF BUDGET; SHALL BE PAYABLE TO THE RECIPIENT FOR
44 THE RECIPIENT'S USE TO FACILITATE HIS OR HER TRANSITION TO, OR STABILIZE
45 HIS OR HER RESIDENCE IN, PERMANENT HOUSING UPON HIS OR HER DISCHARGE
46 FROM SHELTER OR UPON VERIFICATION OF SUCH RECIPIENT'S DATE OF DISCHARGE
47 FROM SHELTER; AND SHALL BE CONSIDERED EXEMPT AS INCOME OR A RESOURCE
48 UNTIL THE TWELFTH MONTH FOLLOWING THE MONTH IN WHICH THE RECIPIENT CEAS-
49 ES RECEIVING TEMPORARY HOUSING ASSISTANCE IN TEMPORARY EMERGENCY SHEL-
50 TER. FUNDS COLLECTED IN SUCH SAVINGS PLANS SHALL BE POOLED, TRACKED
51 INDIVIDUALLY, AND MAINTAINED IN A SAVINGS OR MONEY-MARKET ACCOUNT AT
52 INTEREST RATES SET BY THE INSTITUTION WITH WHICH SUCH FUNDS ARE DEPOSIT-
53 ED. ANY SAVINGS AND INTEREST ACCRUED IN SUCH ACCOUNT OR ACCOUNTS SHALL
54 BE DISTRIBUTED TO A TEMPORARY HOUSING ASSISTANCE RECIPIENT UPON HIS OR

1 HER DISCHARGE FROM TEMPORARY EMERGENCY SHELTER OR UPON VERIFICATION OF
2 SUCH RECIPIENT'S DATE OF DISCHARGE FROM SHELTER, IN ACCORDANCE WITH THE
3 PROVISIONS OF THIS SECTION.

4 4. SUCH SOCIAL SERVICES DISTRICT SHALL BE DEEMED IN COMPLIANCE WITH
5 SECTION ONE HUNDRED THIRTY-ONE-A OF THIS CHAPTER FOR REIMBURSEMENT OF
6 EXPENDITURES MADE FOR TEMPORARY HOUSING ASSISTANCE, PROVIDED THE
7 DISTRICT IS CONDUCTING THE PROJECT FULLY IN ACCORDANCE WITH THE
8 PROVISIONS OF THIS SECTION. UNEARNED INCOME OF A RECIPIENT OF TEMPORARY
9 HOUSING ASSISTANCE IN SUCH SOCIAL SERVICES DISTRICT SHALL NOT BE APPLIED
10 TO THE SAVINGS PLAN, AND SHALL NOT BE REQUIRED TO BE APPLIED TO THAT
11 PORTION OF THE SHELTER COSTS NOT PAID FOR WITH PUBLIC ASSISTANCE.
12 TEMPORARY HOUSING ASSISTANCE RECIPIENTS SHALL NOT BE REQUIRED TO
13 CONTRIBUTE TO THE COST OF SUCH SHELTER, AS PROVIDED FOR IN THIS SECTION.
14 SUCH PROJECT SHALL NOT BE IMPLEMENTED SO AS TO COMPROMISE THE FEDERAL
15 BENEFITS OF A RECIPIENT OR ANY OF HIS OR HER HOUSEHOLD MEMBERS.

16 S 2. This act shall take effect on the one hundred eightieth day after
17 it shall have become a law provided, however, that:

18 a. if the office of temporary and disability assistance and the divi-
19 sion of budget approve a demonstration project provided for in this act
20 prior to the one hundred eightieth day, this act shall take effect on
21 the date of such approval except that the office of temporary and disa-
22 bility assistance shall be authorized immediately to promulgate any rule
23 or regulation necessary for the implementation of this act;

24 b. the office of temporary and disability assistance and the division
25 of budget shall notify the legislative bill drafting commission upon the
26 occurrence of the approval of the demonstration project provided for in
27 this act in order that the commission may maintain an accurate and time-
28 ly effective data base of the official text of the laws of the state of
29 New York in furtherance of effectuating the provisions of section 44 of
30 the legislative law and section 70-b of the public officers law; and

31 c. this act shall expire and be deemed repealed March 31, 2016.

32

PART L

33 Section 1. Notwithstanding the requirements of sections 16 and 17 of
34 chapter 20 of the laws of 2010 relating to making appropriations for the
35 support of government, and repeal thereof, section 8 of chapter 20 of
36 the laws of 2010, providing an appropriation to the division of housing
37 and community renewal within such section shall be deemed to have been
38 in full force and effect on and after April 1, 2010 through March 31,
39 2011, and provided further, that section 8 of chapter 110 of the laws of
40 2010 shall be deemed for all purposes to have the same effect as final
41 legislative action upon appropriations submitted by the governor in
42 budget bills for the purposes identified in those appropriations.

43 S 2. Notwithstanding the requirements of sections 18 and 20 of chapter
44 108 of the laws of 2010 relating to making appropriations for the
45 support of government, and repeal thereof, section 11 of chapter 108 of
46 the laws of 2010, providing appropriations to the department of health
47 and the state office for the aging within such section shall be deemed
48 to have been in full force and effect on and after April 1, 2010 through
49 March 31, 2011, and provided further, that section 11 of chapter 108 of
50 the laws of 2010 shall be deemed for all purposes to have the same
51 effect as final legislative action upon appropriations submitted by the
52 governor in budget bills for the purposes identified in those appropri-
53 ations.

1 S 3. Notwithstanding the requirements of sections 22 and 24 of chapter
2 110 of the laws of 2010 relating to making appropriations for the
3 support of government, and repeal thereof, sections 15 through 20 of
4 chapter 110 of the laws of 2010, providing appropriations to the office
5 of children and family services; office of temporary and disability
6 assistance; office of alcoholism and substance abuse services; office of
7 mental health; office of mental retardation and developmental disabili-
8 ties; and commission on quality of care and advocacy for persons with
9 disabilities within such sections shall be deemed to have been in full
10 force and effect on and after April 1, 2010 through March 31, 2011, and
11 provided further, that sections 15 through 20 of chapter 110 of the laws
12 of 2010 shall be deemed for all purposes to have the same effect as
13 final legislative action upon appropriations submitted by the governor
14 in budget bills for the purposes identified in those appropriations.

15 S 4. Notwithstanding the requirements of sections 20 and 22 of chapter
16 133 of the laws of 2010 relating to making appropriations for the
17 support of government, and repeal thereof, section 11 of chapter 133 of
18 the laws of 2010, providing appropriations to the department of health
19 within such sections shall be deemed to have been in full force and
20 effect on and after April 1, 2010 through March 31, 2011, and provided
21 further, that section 11 of chapter 133 of the laws of 2010 shall be
22 deemed for all purposes to have the same effect as final legislative
23 action upon appropriations submitted by the governor in budget bills for
24 the purposes identified in those appropriations.

25 S 5. This act shall take effect immediately.

26 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
27 sion, section or part of this act shall be adjudged by any court of
28 competent jurisdiction to be invalid, such judgment shall not affect,
29 impair, or invalidate the remainder thereof, but shall be confined in
30 its operation to the clause, sentence, paragraph, subdivision, section
31 or part thereof directly involved in the controversy in which such judg-
32 ment shall have been rendered. It is hereby declared to be the intent of
33 the legislature that this act would have been enacted even if such
34 invalid provisions had not been included herein.

35 S 3. This act shall take effect immediately provided, however, that
36 the applicable effective date of Parts A through L of this act shall be
37 as specifically set forth in the last section of such Parts.